UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re **PATRIOT COAL CORPORATION, *et al.*,** **Debtors.**[1]	**Chapter 11** **Case No. 12-51502-659** **(Jointly Administered)** **Objection Deadline:** **March 7, 2013 at 4:00 p.m.** **(prevailing Eastern Time)** **Hearing Date (if necessary):** **March 19, 2013 at 10:00 a.m.** **(prevailing Central Time)** **Hearing Location:** **Courtroom 7 North**

PATRIOT COAL CORPORATION'S MOTION FOR AN ORDER AUTHORIZING THE TERMINATION OF ITS NONQUALIFIED DEFERRED COMPENSATION PLAN AND THE RELATED SERVICE AGREEMENT PURSUANT TO SECTION 363(b)(l) AND 503(b)(1)(A) OF THE BANKRUPTCY CODE

Patriot Coal Corporation ("**Patriot**"), a debtor and debtor in possession in these proceedings, respectfully represents:

Relief Requested

By this motion (the "**Motion**"), Patriot seeks entry of an order (the "**Proposed Order**")[2] authorizing Patriot, pursuant to section 363(b)(1) and 503(b)(1)(A) of title 11 of the United States Code (the "**Bankruptcy Code**"), to terminate the Plan (as defined

[1] The Debtors are the entities listed on Schedule 1 attached hereto. The employer tax identification numbers and addresses for each of the Debtors are set forth in the Debtors' chapter 11 petitions.

[2] The Proposed Order will be provided to the Core Parties (as defined below). A copy of the Proposed Order will be available at *www.patriotcaseinfo.com/orders.php*.

below), effective as of March 31, 2013, and to terminate the Service Agreement (as defined below).

Preliminary Statement

1. Both prior to and since the Debtors' chapter 11 filings on July 9, 2012 (the "**Petition Date**"), the Debtors have worked diligently to improve their cash position in the face of coal markets that continue to weaken. Over the last several months, the Debtors have sought cost savings and reduced expenses in every area of their businesses. Among many other initiatives, the Debtors have decreased capital expenditures, eliminated unprofitable contracts, reduced non-union wages and eliminated certain non-union employee benefits. Moreover, since November 2012, the Debtors have been engaged in negotiations with the United Mine Workers of America regarding modifications to wages and retiree healthcare benefits for union employees and retirees. Furthermore, as set forth in the proposed Order Directing Appointment of Committee of Retired Employees Pursuant to 11 U.S.C. § 1114 that was noticed with the Court on February 12, 2013, *see* Notice of Hearing to Consider Motion to Appoint Official Retiree Committee Pursuant to 11 U.S.C. § 1114 [ECF No. 2818],[3] the Debtors are also contemplating significant modifications to the retiree benefits that they provide to non-union retirees. Each of these initiatives is critical to Patriot's ability to survive and preserve thousands of jobs.

2. Against this backdrop, and in order to preserve liquidity and further the Debtors' goal of equitably spreading the burdens of their efforts to reorganize among the

[3] A copy of the proposed Order Directing Appointment of Committee of Retired Employees Pursuant to 11 U.S.C. § 1114 is available at *www.patriotcaseinfo.com/orders.php.*

Debtors' various stakeholders, on December 28, 2012 Patriot amended the Patriot Coal Corporation Supplemental 401(k) Retirement Plan (the "**Plan**"), which had theretofore allowed certain members of the Plan Debtors' management to defer compensation earned by them, and required the applicable Plan Debtor to match a specified percentage of such deferrals. That amendment precluded any compensation deferrals (or matches) for 2013 or any period thereafter.

3. By this Motion, Patriot seeks authority to terminate and liquidate the Plan, which will result in (i) approximately $2.5 million in respect of pre-petition compensation deferrals being treated as pre-petition claims against the applicable Plan Debtor's estate, rather than being paid in cash,[4] and (ii) the payment to the Participants (as defined below) of approximately $295,000 in post-petition administrative expense claims accrued since the Petition Date by the applicable Plan Debtor.[5]

Procedural History and Jurisdiction

4. On the Petition Date, Patriot and each of its subsidiaries that are debtors and debtors in possession in these proceedings (collectively, the "**Debtors**") commenced with the United States Bankruptcy Court for the Southern District of New York (the

[4] Upon entry of the Proposed Order, the Debtors will file amended Schedules of Assets and Liabilities for the Plan Debtors, which shall reflect the claims against each Plan Debtor that entry of the Proposed Order gives rise to. To the extent that any Participant (as defined below) disagrees with the amount or priority of its claim or the identity of the Plan Debtor against which it is asserted, such Participant shall have thirty days from the filing of the amended Schedules of Assets and Liabilities to file a proof of claim in accordance with the *Order Establishing Deadline for Filing Proofs of Claim and Approving the Form and Manner of Notice Thereof*, entered on October 18, 2012 [ECF No. 1388]. The Debtors will provide all Participants with notice of the entry of the Proposed Order and instructions on filing a proof of claim.

[5] In accordance with the *Final Order Authorizing (i) Debtors to (a) Pay Prepetition Wages, Salaries, Employee Benefits and Other Compensation, and (b) Maintain Employee Benefits Programs and Pay Related Administrative Obligations, (ii) Employees and Retirees to Proceed with Outstanding Workers' Compensation Claims and (iii) Financial Institutions to Honor and Process Related Checks and Transfers*, entered on August 2, 2012 [ECF No. 253] (the "**Wages Order**"), the amounts that were contributed to the Plan for the post-petition period are administrative expenses.

"**SDNY Bankruptcy Court**") a voluntary case under chapter 11 of the Bankruptcy Code. On December 19, 2012, the SDNY Bankruptcy Court entered an order transferring these chapter 11 cases to this Court (the "**Transfer Order**") [ECF No. 1789].[6] The Debtors are authorized to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. These chapter 11 cases are being jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") and the SDNY Bankruptcy Court's Joint Administration Order entered on July 10, 2012 [ECF No. 30].

5. Additional information about the Debtors' businesses and the events leading up to the Petition Date can be found in the Declaration of Mark N. Schroeder pursuant to Local Bankruptcy Rule 1007-2 of the SDNY Bankruptcy Court, filed on July 9, 2012 [ECF No. 4], which is incorporated herein by reference.

6. The Court has subject matter jurisdiction to consider this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Facts Specific to the Relief Requested

7. On November 1, 2007, Patriot and certain other Debtors (collectively, the "**Plan Debtors**")[7] adopted the Plan. A copy of the fully executed Plan, as amended through December 28, 2012, is attached hereto as Appendix A. The Plan was adopted for

[6] Pursuant to the Transfer Order, all orders previously entered in these chapter 11 cases remain in full force and effect in accordance with their terms notwithstanding the transfer of venue.

[7] The Plan Debtors include Appalachia Mine Services, LLC; Dodge Hill Mining Company, LLC; Eastern Associated Coal Corp.; Grand Eagle Mining, Inc.; Highland Mining Company; Ohio County Coal Company; Peabody Coal Company; Pine Ridge Coal Company; and Rivers Edge Mining, Inc., and certain other Debtors that have adopted the Plan from time to time.

the purpose of permitting compensation deferrals and providing deferred compensation to a select group of management or highly compensated employees of Patriot and its subsidiaries or affiliates, within the meaning of the Employee Retirement Income Security Act of 1974, whose benefits under the Patriot Coal Corporation 401(k) Retirement Plan are limited by the provisions of Section 401(a)(17) or 415 of the Internal Revenue Code of 1986, as amended ("**Eligible Participants**").

8. Under the terms of the Plan, Eligible Participants were allowed to make an annual irrevocable election to defer a specified amount of their Compensation (as defined in the Plan) until after the termination of their employment. A Plan Debtor provided matching credits equal to 100% of the first 6% of an Eligible Participant's Compensation he or she elected to defer and had the discretion to provide additional credits to an Eligible Participant based upon the Plan Debtor's or the Eligible Participant's performance ("**Annual Performance Contribution**"). Following a 2009 amendment to the Plan, the Plan Debtors made Annual Performance Contributions to employees employed at the grade level of Vice President or above who were otherwise ineligible to defer their Compensation under the Plan because they were not Eligible Participants (such employees, together with the Eligible Participants, the "**Participants**"). Deferred amounts in all Participants' accounts are notionally invested in designated investment funds. Approximately 47 current and former employees of the Plan Debtors currently have amounts deferred under the Plan. The aggregate balance of the Participant's accounts as of February 12, 2013 totals approximately $2,795,896, approximately $2.5 million of which reflects contributions (including gains or losses thereon) for the pre-petition period, and the remainder of which reflects contributions (including gains or

losses thereon) for the post-petition period that constitute administrative claims. The Plan is unfunded, meaning that neither Patriot nor any of the Plan Debtors have segregated or escrowed any funds to cover the liabilities associated with the Plan.

9. The Plan allows Patriot to amend or terminate the Plan at any time. *See Plan* § 12. Further, section 5.3 of the Plan provides that,

> Notwithstanding anything herein to the contrary, the payments to any Participant or beneficiary under the Plan shall be made from assets which shall continue, for all purposes, to be a part of the general, unrestricted assets of the Employer [i.e., the applicable Plan Debtor]; no person shall have any interest in any such assets by virtue of the provisions of this Plan. The Employer's obligation hereunder shall be an unfunded and unsecured promise to pay money in the future. To the extent that any person acquires a right to receive payments from the Employer under the provisions of this Plan, such right shall be no greater than the right of any unsecured general creditor of the Employer; no such person shall have nor acquire any legal or equitable right, interest or claim in or to any property or assets of the Employer.

10. Also on November 1, 2007, Patriot entered into The Vanguard Group, Inc. Service Agreement (the "**Service Agreement**") with The Vanguard Group, Inc. ("**Vanguard**") under which Vanguard provides certain recordkeeping and accounting services to the Plan. Under a separate fee agreement between Patriot and Vanguard, Patriot provides reasonable compensation to Vanguard for its services. A copy of the fully executed Service Agreement is attached hereto as Appendix B.

11. While the Service Agreement was intended to provide the Participants with records of the amounts of their deemed investments under the Plan, the Service Agreement provides that it may be terminated by Patriot or Vanguard "upon 90 days written notice (which notice may, however, be waived by the other parties hereto)." *See Service Agreement* at § 10. On January 24, 2013, Patriot notified Vanguard of its intent to terminate the Plan, and Vanguard waived the 90 days' notice requirement.

12. To prevent the accrual of any additional costs and liabilities with respect to the Plan and the Service Agreement, Patriot seeks to terminate the Plan and the Service Agreement. Termination of the Plan and the Service Agreement is in the best interests of the Plan Debtors and their estates and creditors, as it will eliminate any further liabilities with respect thereto.

Basis for Relief

13. The Plan and the Service Agreement, along with the contractual rights to terminate the Plan and the Service Agreement, constitute property of Patriot's estate within the meaning of section 541 of the Bankruptcy Code. Pursuant to section 363(c) of the Bankruptcy Code, Patriot may use property of the estate in the ordinary course of its business. 11 U.S.C. § 363(c). Although section 363(c) does not require notice and a hearing to approve a debtor's use of estate property in the ordinary course of business and termination of the Plan and the Service Agreement is consistent with Patriot's prepetition rights to unilaterally terminate, modify and amend the Plan and terminate the Service Agreement, out of an abundance of caution, Patriot seeks this Court's authorization to exercise such rights.

14. Section 363(b)(1) of the Bankruptcy Code permits a debtor in possession to use property of the estate "other than in the ordinary course of business" after notice and hearing. 11 U.S.C. § 363(b)(1). In order for a transaction out of the ordinary course of business to be approved pursuant to section 363(b), it must represent a reasonable exercise of the debtor's business judgment. *See In re Food Barn Stores, Inc*., 107 F.3d 558, 567 n.16 (8th Cir. 1997); *In re Channel One Comm., Inc.*, 117 B.R. 493, 496 (Bankr. E.D. Mo. 1990) (citing *In re Lionel Corp.*, 772 F.3d 1063, 1071 (2d Cir. 1983)). The

debtor must establish a valid purpose for the use of property of the estate outside of the ordinary course of business. *Lionel*, 772 F.2d at 1070-71.

15. Patriot respectfully submits that its decision to terminate the Plan constitutes an exercise of sound business judgment made in good faith. The Plan and the Service Agreement represent ongoing liabilities of the Plan Debtors that should be eliminated. Given the nature and circumstances of these cases, the Debtors believe it is no longer appropriate to continue maintaining and administering the Plan.

16. Further, Patriot's decision to terminate the Plan is in the best interests of the Plan Debtors' creditors and estates because it ensures that the Plan Debtors will be relieved from having to pay the approximately $2.5 million of pre-petition liabilities in cash, which would have to be paid or reinstated if the Plan Debtors were to seek to assume or otherwise allow the Plan to survive these bankruptcy cases. The Plan Debtors' fiduciary obligations include the duty to conserve estate assets and to preserve value for creditors. Given the disparate balance of costs and benefits to the Plan Debtors to continue maintaining and administering the Plan, Patriot has exercised reasonable and proper business judgment to eliminate the costs and liabilities associated with the Plan.

17. Patriot also submits that its decision to terminate the Service Agreement represents a reasonable exercise of its sound business judgment. Upon termination of the Plan, Patriot will no longer need the services provided under the Service Agreement. By exercising its right to terminate the Service Agreement, Patriot will no longer be required to compensate Vanguard, and, therefore, will save its estate resources.

18. Furthermore, the requested relief will not only result in critically needed savings for Patriot but is also consistent with the need to equitably spread the burdens of

the Debtors' reorganization among all stakeholders. Given the sacrifices that the Debtors need from their union and non-union employees and retirees, termination of the Plan and Service Agreement – although painful for the affected individuals – is entirely appropriate. Not only are the Participants in the aggregate having approximately $2.5 million converted from cash obligations to pre-petition claims, some Participants are losing amounts in the tens and hundreds of thousands of dollars, primarily of their own previously-earned deferred Compensation.

19. Finally, the termination of the Plan hereunder will also confirm that Participants in the Plan will not be subject to adverse tax consequences under Section 409A of the Internal Revenue Code of 1986, as amended ("**Section 409A**"). The Plan is subject to the requirements of Section 409A, which imposes a 20% tax plus interest (in addition to ordinary income tax) on the recipients of noncompliant nonqualified deferred compensation. This additional tax and interest are imposed on the recipients of distributions from a nonqualified deferred compensation plan that is terminated and liquidated "proximate to a downturn in the financial health" of the employer, unless, among other requirements, such distributions are approved by a bankruptcy court pursuant to section 503(b)(1)(A) of the Bankruptcy Code. Treas. Reg. § 1.409A-3(j)(4)(ix).

20. Section 503(b)(1)(A) of the Bankruptcy Code provides that "the actual, necessary costs and expenses of preserving the estate, including – wages, salaries, and commissions for services rendered after the commencement of the case…" constitute administrative expenses. Contributions were made to the Plan for the post-petition period due to irrevocable Compensation deferral elections that the Participants had made at the

end of 2012 (that could not thereafter be terminated). These contributions thus constitute administrative expenses under section 503(b)(1)(A) of the Bankruptcy Code, as was also set forth in the Wages Order.[8] Importantly, no liabilities other than those in respect of the post-petition period will be paid to the Participants.

21. Accordingly, Patriot respectfully submits that it has satisfied the business judgment standard required under section 363(b) of the Bankruptcy Code to proceed with the termination of the Plan and the Service Agreement.[9]

Waiver of Bankruptcy Rules 6004(a) and 6004(h)

22. Given the nature of the relief requested herein, Patriot respectfully requests a waiver of (a) the notice requirements under Bankruptcy Rule 6004(a) and (b) the 14-day stay under Bankruptcy Rule 6004(h).

Debtors' Reservation of Rights

23. Nothing contained herein is intended or should be construed as an admission as to the validity of any claim against any of the Debtors, a waiver of any of the Debtors' rights to dispute any claim or an approval or assumption of any agreement, contract or lease under section 365 of the Bankruptcy Code. The Debtors expressly reserve their rights to contest any claim of any Participant under applicable non-

[8] *See* 11 U.S.C. 503(b)(1)(A); *see also* Wages Order at 4 ("ORDERED that the Debtors are authorized, in the exercise of their reasonable business judgment, to continue to administer the [Plan]; *provided* that any postpetition amounts contributed to the [Plan] shall be deemed administrative expenses pursuant to section 503 of the Bankruptcy Code").

[9] To the extent that this Court determines that the Plan or the Service Agreement is an "executory contract" within the meaning of section 365 of the Bankruptcy Code, Patriot requests authority to reject such contracts. The business judgment standard would also apply to Patriot's decision to reject such contracts. *See In re Food Barn Stores*, 107 F.3d at 567 n.16; *see also In re Steaks to Go, Inc.*, 226 B.R. 35, 37 (Bankr. E.D. Mo. 1998) ("Generally, a Bankruptcy Court is to review a decision by a debtor in possession or a trustee to reject an executory contract, and order rejection if the rejection is based on the debtor or trustee's best business judgment in the circumstances."). This standard is satisfied when a debtor shows that rejection will benefit the estate. *See In re Audra-John Corp.*, 140 B.R. 752, 755-56 (Bankr. D. Minn. 1992).

bankruptcy law. Likewise, if the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended and should not be construed as an admission as to the validity of any claim or a waiver of any of the Debtors' rights to dispute such claim subsequently.

Notice

24. Consistent with the Order Granting Debtors' Motion for an Order Establishing Certain Notice, Case Management and Administrative Procedures entered on October 18, 2012 [ECF No. 1386] (as may be amended, the "**Case Management Order**"), the Debtors will serve notice of this Motion on (a) the Core Parties and (b) the Non-ECF Service Parties (as those terms are defined in the Case Management Order), including each Participant. All parties who have requested electronic notice of filings in these cases through the Court's ECF system will automatically receive notice of this motion through the ECF system no later than the day after its filing with the Court. A copy of this Motion and any order approving it will also be made available on the Debtors' Case Information Website (located at *www.patriotcaseinfo.com*). A copy of the Proposed Order will be provided to the Core Parties, and will be available at *www.patriotcaseinfo.com/orders.php* (the "**Patriot Orders Website**"). The Proposed Order may be modified or withdrawn at any time without further notice. If any significant modifications are made to the Proposed Order, an amended Proposed Order will be made available on the Patriot Orders Website, and no further notice will be provided. In light of the relief requested, the Debtors submit that no further notice is necessary. Pursuant to paragraph 22 of the Case Management Order, if no objections are timely filed and served in accordance therewith, the relief requested herein may be entered without a hearing.

No Prior Request

25. None of the Debtors has previously sought the relief requested herein from this Court or any other court.

WHEREFORE Patriot respectfully requests the Court grant Patriot the relief requested herein and such other and further relief as is just and proper.

Dated: February 25, 2013
New York, New York

Respectfully submitted,

DAVIS POLK & WARDWELL LLP

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Schedule 1
(Debtor Entities)

1. Affinity Mining Company
2. Apogee Coal Company, LLC
3. Appalachia Mine Services, LLC
4. Beaver Dam Coal Company, LLC
5. Big Eagle, LLC
6. Big Eagle Rail, LLC
7. Black Stallion Coal Company, LLC
8. Black Walnut Coal Company
9. Bluegrass Mine Services, LLC
10. Brook Trout Coal, LLC
11. Catenary Coal Company, LLC
12. Central States Coal Reserves of Kentucky, LLC
13. Charles Coal Company, LLC
14. Cleaton Coal Company
15. Coal Clean LLC
16. Coal Properties, LLC
17. Coal Reserve Holding Limited Liability Company No. 2
18. Colony Bay Coal Company
19. Cook Mountain Coal Company, LLC
20. Corydon Resources LLC
21. Coventry Mining Services, LLC
22. Coyote Coal Company LLC
23. Cub Branch Coal Company LLC
24. Dakota LLC
25. Day LLC
26. Dixon Mining Company, LLC
27. Dodge Hill Holding JV, LLC
28. Dodge Hill Mining Company, LLC
29. Dodge Hill of Kentucky, LLC
30. EACC Camps, Inc.
31. Eastern Associated Coal, LLC
32. Eastern Coal Company, LLC
33. Eastern Royalty, LLC
34. Emerald Processing, L.L.C.
35. Gateway Eagle Coal Company, LLC
36. Grand Eagle Mining, LLC
37. Heritage Coal Company LLC
38. Highland Mining Company, LLC
39. Hillside Mining Company
40. Hobet Mining, LLC
41. Indian Hill Company LLC
42. Infinity Coal Sales, LLC
43. Interior Holdings, LLC
44. IO Coal LLC
45. Jarrell's Branch Coal Company
46. Jupiter Holdings LLC
47. Kanawha Eagle Coal, LLC
48. Kanawha River Ventures I, LLC
49. Kanawha River Ventures II, LLC
50. Kanawha River Ventures III, LLC
51. KE Ventures, LLC
52. Little Creek LLC
53. Logan Fork Coal Company
54. Magnum Coal Company LLC
55. Magnum Coal Sales LLC
56. Martinka Coal Company, LLC
57. Midland Trail Energy LLC
58. Midwest Coal Resources II, LLC
59. Mountain View Coal Company, LLC
60. New Trout Coal Holdings II, LLC
61. Newtown Energy, Inc.
62. North Page Coal Corp.
63. Ohio County Coal Company, LLC
64. Panther LLC
65. Patriot Beaver Dam Holdings, LLC
66. Patriot Coal Company, L.P.
67. Patriot Coal Corporation
68. Patriot Coal Sales LLC
69. Patriot Coal Services LLC
70. Patriot Leasing Company LLC
71. Patriot Midwest Holdings, LLC
72. Patriot Reserve Holdings, LLC
73. Patriot Trading LLC
74. PCX Enterprises, Inc.
75. Pine Ridge Coal Company, LLC
76. Pond Creek Land Resources, LLC
77. Pond Fork Processing LLC
78. Remington Holdings LLC
79. Remington II LLC
80. Remington LLC
81. Rivers Edge Mining, Inc.
82. Robin Land Company, LLC
83. Sentry Mining, LLC
84. Snowberry Land Company
85. Speed Mining LLC
86. Sterling Smokeless Coal Company, LLC
87. TC Sales Company, LLC
88. The Presidents Energy Company LLC
89. Thunderhill Coal LLC
90. Trout Coal Holdings, LLC
91. Union County Coal Co., LLC
92. Viper LLC
93. Weatherby Processing LLC
94. Wildcat Energy LLC
95. Wildcat, LLC
96. Will Scarlet Properties LLC
97. Winchester LLC
98. Winifrede Dock Limited Liability Company
99. Yankeetown Dock, LLC

APPENDIX A

Plan

PATRIOT COAL CORPORATION
SUPPLEMENTAL 401(k) RETIREMENT PLAN

WHEREAS, Patriot Coal Corporation ("Company") desires to adopt the Patriot Coal Corporation Supplemental 401(k) Retirement Plan ("Plan") for the benefit of a select group of management or highly compensated employees of the Company and its subsidiaries or affiliates, within the meaning of the Employee Retirement Income Security Act of 1974, as amended, whose benefits under the Patriot Coal Corporation 401(k) Retirement Plan are limited by the provisions of Section 401(a)(17) or 415 of the Internal Revenue Code of 1986, as amended ("Code");

NOW, THEREFORE, effective November 1, 2007, the Plan is hereby adopted to read as follows:

PATRIOT COAL CORPORATION
SUPPLEMENTAL 401(k) RETIREMENT PLAN

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PATRIOT COAL CORPORATION
SUPPLEMENTAL 401(k) RETIREMENT PLAN

SECTION 1 - NAME OF PLAN

This Plan shall be known as the "Patriot Coal Corporation Supplemental 401(k) Retirement Plan."

SECTION 2 - DEFINITIONS

2.1. Basic Plan.

"Basic Plan" means the Patriot Coal Corporation 401(k) Retirement Plan.

2.2. Board.

"Board" means the board of directors of the Company or of any successor by merger, purchase or otherwise.

2.3. Code.

"Code" means the Internal Revenue Code of 1986, as amended.

2.4. Committee.

"Committee" means the Committee appointed pursuant to Section 10.5.

2.5. Company.

"Company" means Patriot Coal Corporation.

2.6. Compensation.

"Compensation" means base pay plus overtime received on or after November 1, 2007 by an Employee during the Plan Year for services rendered with respect to the Employer. Such amount shall include all amounts contributed to a cafeteria plan which meets the requirements of Section 125 of the Code. Such amount shall not include Employer credits under this Plan or Employer contributions or benefits under any plan qualified under Section 401 of the Code, awards under the incentive compensation plan or any similar incentive plans, payments under any savings plan, any special allowance for foreign service, or any payment during long-term disability.

2.7. Controlled Group.

"Controlled Group" means the Company and all other entities required to be aggregated with the Company under Sections 414(b), (c), or (m) of the Code or regulations issued pursuant to Section 414(o) of the Code.

2.8. Employee.

"Employee" means any person who is classified by the Employer as an employee.

2.9. Employer.

"Employer" means the Company or any other member of the Controlled Group which has, with the consent of the Board, adopted the Plan, as set forth on Exhibit A, as amended from time to time.

2.10. Normal Retirement Date.

"Normal Retirement Date" means the date on which a Participant terminates his or her employment with the Employer (except by death) provided such date is on or after (a) his attainment of age 62.

2.11. Participant.

"Participant" means an Employee who has satisfied the eligibility requirements of Section 3 and who has not become a former Participant under Section 3.3.

2.12. Plan Administrator.

"Plan Administrator" means Patriot Coal Corporation.

2.13. Plan Year.

"Plan Year" means the 12-month period commencing on January 1 and ending on December 31.

2.14. Pro-Rated Salary.

"Pro-Rated Salary" means:

(a) in the case of a Participant compensated on a salaried basis, such Participant's base salary determined as of the last day of the Employer's fiscal year; or

(b) in the case of a Participant compensated on an hourly basis, the product of such Participant's hourly rate determined as of the last day of the Employer's fiscal year multiplied by 2,080;

multiplied by a fraction, the numerator of which is the number of days on which the Participant was an Employee under the Basic Plan, as defined therein, during such fiscal year (including, for the fiscal year ending December 31, 2007, the number of days on which the Participant was an Employee as defined in the Peabody Investments Corp. Employee Retirement Account during the period from January 1, 2007 through October 31, 2007), and the denominator of which is 365 (or, in a leap year, 366). For purposes of this calculation only, a person shall not be considered an "Employee" during any period during which he or she is (a) on salary continuance for disability, (b) receiving accrued vacation or other similar amounts following retirement under the Employer's retirement program, (c) on a leave of absence described in Section 13.3 of the Basic Plan.

2.15. Valuation Date.

"Valuation Date" means any business day the New York Stock Exchange is open for trading.

2.16. Years of Service.

"Years of Service" means years of service as credited under the Basic Plan.

SECTION 3 - ELIGIBILITY

3.1. Prior Participants.

For the Plan Year ending December 31, 2007, each person who was a Participant in the Peabody Investments Corp. Supplemental Employee Retirement Account on October 31, 2007 and is an Employee on November 1, 2007 shall become a Participant on November 1, 2007.

3.2. New Participants.

With respect to any Plan Year beginning after December 31, 2007 (hereinafter referred to in this Section 3.2 as the "current Plan Year"):

(a) each Employee (1) who is a member of a select group of management or highly compensated employees of the Employer, within the meaning of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), (2) who is eligible to participate in the Basic Plan, and (3) whose Compensation for the Plan Year immediately preceding the current Plan Year (including, for purposes of determining eligibility for the Plan Year beginning January 1, 2008, Compensation as determined under the Peabody Investments Corp. Supplemental Employee Retirement Account during the period from January 1, 2007 through October 31, 2007) exceeded the limit under Section 401(a)(17) of the Code in effect for the current Plan Year (or, in the case of a newly hired Employee who commences employment with the Employer during the current Plan Year, whose Compensation for the current Plan Year is anticipated to exceed such limit), shall be eligible:

(i) to elect to defer his or her Compensation in accordance with Section 4.1; and

(ii) for Employer matching credits under Section 4.2 and performance credits under Section 4.3;

for the current Plan Year;

(b) any other Employee who is eligible for an allocation of the Performance Contribution under the Basic Plan, as defined therein, for the current Plan Year which exceeds the limit under Section 415 of the Code or whose Compensation for the current Plan Year exceeds the limit under Section 401(a)(17) of the Code in effect for the current Plan Year shall be eligible for performance credits under Section 4.3; or

(c) any Employee (1) who is a member of a select group of management or highly compensated employees of the Employer, within the meaning of ERISA, and (2) who is employed at the level of Director or above and is eligible for a long-term incentive plan maintained by the Company or a member of the Controlled Group, shall be eligible for discretionary credits under Section 4.4; provided however, that nothing in this Section 3.2(c) or elsewhere in the Plan shall constitute or be construed as a guarantee that any such Employee shall have discretionary credits credited to his or her account for any Plan Year.

3.3. Cessation Of Participation.

A person shall cease to be a Participant and shall become a former Participant when he or she

(a) has ceased to be employed by the Employer, and

(b) has no undistributed account balances under the Plan;

provided, however, that an Employee shall not be eligible for credits under Section 4 for any Plan Year with respect to which the Employee does not satisfy the applicable requirements of Section 3.1.

SECTION 4 - CREDITS

4.1. Deferral Credits.

A Participant may elect to have from 1% to 60% of his or her Compensation deferred and credited by the Employer to the Plan to the extent such amount (1) exceeds the amount of Compensation which the Participant was entitled to contribute to the Basic Plan under the limits of Sections 401(a)(17) of the Code, or (2) would exceed the amount of Compensation which the Participant would be entitled to contribute to the Basic Plan under the limits of Section 415 of the Code, determined on the basis of the Participant's elections in effect under the Basic Plan on the first day of the Plan Year and without regard to any changes in such elections on or after the first day of such Plan Year (or, in the case of a newly hired Participant who commences employment with the Employer during a Plan Year, the day such Participant makes his or her election with respect to such Plan Year). Each Participant shall elect in accordance with the rules and procedures established by the Plan Administrator in increments of 1% the percentage of his or her Compensation under this Section to be credited to his or her account as described under 5.1. Any such election under the Peabody Investments Corp. Supplemental Employee Retirement Account by a Participant described in Section 3.1 in effect immediately prior to November 1, 2007 (including an election of 0%) shall be deemed to have been made, and shall be effective, under this Section 4.1. Any amounts described in this Section 4.1 shall be credited to the Plan as of the date the Participants' contributions to the Basic Plan would be paid to the trustee.

4.2. Employer Matching Credits.

The Employer will credit to the Plan an amount equal to 100% of the first 6% of his or her Compensation that the Participant elects to have deferred and credited to the Plan under Section 4.1.

4.3. Performance Credits.

In addition to any amounts credited to the Plan by the Employer pursuant to Section 4.2, the Employer will credit an additional amount if the Employer meets or exceeds certain performance targets established by the Board on an annual basis. If the maximum performance target established by the Board for the Employer's fiscal year is met or exceeded, the Employer will credit to the Plan on behalf of each Participant described in Section 3.2(a) or (b) (or, for the Plan Year ending December 31, 2007, Participants described in Section 3.1 who were described in Section 3.1(a) or (b) of the Peabody Investments Corp. Supplemental Employee Retirement Account immediately prior to November 1, 2007) who is employed on the last day of such fiscal year an amount equal to 4% of the Participant's Pro-Rated Salary to the extent such amount exceeds the amount of Pro-Rated Salary which the Participant was entitled to have the Employer contribute on his or her behalf to the Basic Plan, if any, under the limits of Sections 401(a)(17) and 415 of the Code. If the Employer meets the minimum performance target established by the Board for the Employer's fiscal year but does not meet the maximum performance target, the Employer will credit to the Plan on behalf of each eligible Participant who is employed on the last day of such fiscal year a percentage of such Participant's Pro-Rated Salary to be determined by the Board (which percentage shall be less than 4% of the Participant's Pro-Rated Salary) based on the Employer's overall performance in relation to the maximum and

minimum performance target ranges to the extent such amount exceeds the amount of Pro-Rated Salary which the Participant was entitled to have the Employer contribute on his or her behalf to the Basic Plan, if any, under the limits of, Sections 401(a)(17) and 415 of the Code. Any amounts described in this Section 4.3 shall be credited to the Plan as soon as practicable following the determination of whether the Employer has met or exceeded the applicable performance targets. Notwithstanding the foregoing, (i) if the Employer does not meet the minimum performance target established by the Board for the Employer's fiscal year, the Board may, in its sole discretion, authorize the Employer to credit to the Plan on behalf of each eligible Participant who is employed on the last day of such fiscal year a percentage of such Participant's Pro-Rated Salary determined by the Board to the extent such amount exceeds the amount of Pro-Rated Salary which the Participant was entitled to have the Employer contribute on his or her behalf to the Basic Plan, if any, under the limits of Sections 401(a)(17) and 415 of the Code; (ii) if the Employer exceeds the maximum performance target established by the Board for the Employer's fiscal year, the Board may, in its sole discretion, authorize the Employer to credit to the Plan on behalf of each eligible Participant who is employed on the last day of such fiscal year an additional percentage of such Participant's Pro-Rated Salary determined by the Board to the extent such amount exceeds the amount of Pro-Rated Salary which the Participant was entitled to have the Employer contribute on his or her behalf to the Basic Plan, if any, under the limits of Sections 401(a)(17) and 415 of the Code; and (iii) in lieu of any credit otherwise determined under this Section 4.3, for the fiscal year ending December 31, 2007, the Employer shall credit to the Plan on behalf of each eligible Participant who is employed on the last day of such fiscal year such amount, if any, that is equal to that uniform percentage of such eligible Participant's Pro-Rated Salary as was determined under Section 4.5(iii) of the Basic Plan for such fiscal year to the extent such eligible Participant's Pro-Rated Salary exceeded the limit of Section 401(a)(17) of the Code or would have caused the contribution allocated to such eligible Participant under Section 4.5(iii) of the Basic Plan for such fiscal year to exceed the limits of Section 415 of the Code.

4.4. Discretionary Credits.

For any Plan Year, the Employer may credit to the Plan for one or more Participants described in Section 3.2(c) an amount determined by the Employer in its sole discretion for each such Participant. Nothing herein shall require the Employer to credit (i) any such amount for any Plan Year, (ii) the same amount, either as a dollar amount or a percentage of Compensation, for all such Participants, or (iii) any amount for any particular Participant. The fact that a Participant is credited with an amount under this Section 4.4 for any Plan Year shall not entitle that Participant to be credited with any such amount for any subsequent Plan Year.

4.5. Elections.

Each election by a Participant under Section 4.1 for a Plan Year must be made prior to the beginning of the Plan Year in accordance with the rules and procedures established by the Plan Administrator; provided, however, that in the case of a newly hired Participant who commences employment with the Employer during a Plan Year, such election may be made within 30 days after the Participant commences such employment. Any such election shall be effective and irrevocable for such Plan Year (or, in the case of a newly hired Participant, for the portion of the Plan Year following such election), and shall remain in effect for subsequent Plan

Years in which the Participant continues to satisfy the requirements of Section 3.2 unless the Participant makes a new election with respect to any such Plan Year in accordance with this Section 4.5.

SECTION 5 - ALLOCATION

5.1. Establishment Of Accounts.

The Plan Administrator shall establish and maintain for each Participant a Pre-Tax Matched Account, a Pre-Tax Unmatched Account, a Company Pre-Tax Matching Account, a Performance Credit Account and a Discretionary Account. All amounts by which an Employee elects to have his or her salary deferred under Section 4.1 up to the applicable percentage of Compensation set forth in Section 4.2 shall be credited to his or her Pre-Tax Matched Account, all amounts by which an Employee elects to have his or her salary deferred under Section 4.1 in excess of the applicable percentage set forth in Section 4.2 shall be credited to his or her Pre-Tax Unmatched Account, all Employer credits under Section 4.2 shall be credited to his or her Company Pre-Tax Matching Account, all Employer credits under Section 4.3 shall be credited to his or her Performance Credit Account and all Employer credits under Section 4.4 shall be credited to his or her Discretionary Account.

5.2. Crediting Earnings Or Losses.

All earnings or losses shall be based on appreciation or depreciation in the fair market value of the investment funds in which the Participant is deemed to have invested his or her accounts under Section 6 and shall be credited to accounts based on account balances on each Valuation Date.

5.3 Source of Payments.

Notwithstanding anything herein to the contrary, the payments to any Participant or beneficiary under the Plan shall be made from assets which shall continue, for all purposes, to be a part of the general, unrestricted assets of the Employer; no person shall have any interest in any such assets by virtue of the provisions of this Plan. The Employer's obligation hereunder shall be an unfunded and unsecured promise to pay money in the future. To the extent that any person acquires a right to receive payments from the Employer under the provisions of this Plan, such right shall be no greater than the right of any unsecured general creditor of the Employer; no such person shall have nor acquire any legal or equitable right, interest or claim in or to any property or assets of the Employer.

In the event that, in its discretion, the Employer purchases an insurance policy or policies insuring the life of any Participant (or any other property) to allow the Employer to recover the cost of providing benefits, in whole or in part, hereunder, neither the Participant nor any beneficiary hereunder shall have any rights whatsoever therein or in the proceeds therefrom. The Employer shall be the sole owner and beneficiary of any such insurance policy or other property and shall possess and may exercise all incidents of ownership therein. No such policy, policies or other property shall be held in any trust for the Participants, any beneficiary or any other person nor as collateral security for any obligation of the Employer hereunder.

SECTION 6 - EARNINGS ON ACCOUNTS

6.1. Investment Funds.

A Participant may elect to have earnings or losses credited on all of his or her accounts as if such accounts had been invested in such funds as are made available from time to time under the Basic Plan, excluding the Patriot Coal Corporation Stock Fund and the Peabody Energy Stock Fund.

6.2. Participant's Selection Of Investment Fund.

Each Participant shall designate in 1% increments the percentages of amounts credited to his or her accounts under Section 4 for such Plan Year which are to be treated as if invested among the applicable investment funds. Such a designation shall be made in accordance with the rules and procedures established by the Plan Administrator. Any such designation shall continue in effect for successive Plan Years unless changed in the same manner by the Participant. If any Participant fails to designate investment funds under this Section 6.2, amounts credited to his or her accounts under this Plan shall be treated as if invested in the applicable investment funds designated by the Participant for his or her contributions to the Basic Plan; provided, however, that in the case of a Participant who has not made an election to contribute to the Basic Plan, but for whom Employer credits under Section 4.3 or 4.4 have been credited to the Participant's Performance Credit Account or Discretionary Account, or for whom any amount would be treated as if invested in the Patriot Coal Corporation Stock Fund, such credits or amount will be treated as if invested in the investment fund designated by the Committee under Section 8.2 of the Basic Plan unless the Participant designates a different investment fund in accordance with this Section 6.2 or makes a deemed transfer of such portion of his or her accounts to a different investment fund in accordance with Section 6.3.

6.3. Deemed Transfers Between Investment Funds.

A Participant may elect in accordance with the rules and procedures established by the Plan Administrator to make a deemed transfer of all or any portion of his or her accounts that is treated as if invested in an investment fund by designating that such amount be treated as if subsequently invested in any other investment fund.

6.4 Investments and Charges.

Nothing in this Section 6 shall require the Employer to actually invest any amount credited to a Participant's accounts in accordance with the Participant's election; provided, however, that if the Employer in its sole discretion does make any such investment in order to assist it in the meeting of its liabilities under the Plan, the Participant's accounts shall be reduced for any charges imposed by the applicable investment fund.

SECTION 7 - DISTRIBUTIONS AT RETIREMENT

7.1. Normal Retirement Distributions.

Upon a Participant's Normal Retirement Date, the Participant's accounts shall become fully vested (if not already fully vested) and shall be distributed to him or her in a lump sum. Such distribution shall be made on the later of:

(a) the date which is six months after the Participant's Normal Retirement Date; and

(b) January 31 of the calendar year immediately following the calendar year in which the Participant's Normal Retirement Date occurs;

or as soon as administratively feasible thereafter, but in no event later than the last day of the calendar year in which the date on which such distribution would be made in accordance with the foregoing occurs. A distribution hereunder shall be based on the value of the Participant's accounts as of the Valuation Date as of which such distribution is being made.

SECTION 8 - DISTRIBUTIONS AT TERMINATION OF EMPLOYMENT (VESTING)

8.1. Distributions Upon Termination Of Employment.

A Participant whose employment with the Employer is terminated prior to the earlier of his or her death or Normal Retirement Date shall receive the vested portion of his or her accounts in a lump sum. Such distribution shall be made on the later of:

(a) the date which is six months after the date of the Participant's termination of employment; and

(b) January 31 of the calendar year immediately following the calendar year in which the Participant's termination of employment occurs;

or as soon as administratively feasible thereafter, but in no event later than the last day of the calendar year in which the date on which such distribution would be made in accordance with the foregoing occurs. A distribution hereunder shall be based on the value of the Participant's accounts as of the Valuation Date as of which such distribution is being made.

8.2. Determination Of Vested Portion.

(a) A Participant's Pre-Tax Matched Account. Pre-Tax Unmatched Account and Performance Credit Account shall be 100% vested and nonforfeitable at all times.

(b) The portion of a Participant's Company Pre-Tax Matching Account which shall be vested and nonforfeitable shall be determined in accordance with the following schedule:

Years of Service	Percentage of Account Vested
Less than 1	0%
1	20%
2	40%
3	60%
4	80%
5 or more	100%

(c) The portion of a Participant's Discretionary Account which shall be vested and nonforfeitable shall be determined in accordance with a separate agreement entered into with the Participant.

(d) Notwithstanding any provision herein to the contrary, a Participant's accounts shall be 100% vested and nonforfeitable upon such Participant's death or Normal Retirement Date.

8.3. Forfeitures.

The nonvested portion of the Company Pre-Tax Matching Account and Discretionary Account of a Participant whose employment with the Employer is terminated prior

to the earlier of his or her death or Normal Retirement Date shall be forfeited immediately when such Participant has terminated employment.

SECTION 9 - DISTRIBUTIONS AT DEATH

9.1. Distributions Upon Death.

Upon the death of a Participant while in the employment of the Employer, the Participant's accounts shall become fully vested (if not already fully vested) and shall be distributed in a lump sum to his or her beneficiaries in accordance with Sections 9.2 and 9.3. Upon the death of a Participant after termination of his or her employment with the Employer but prior to distribution under Section 7 or 8 being made, the vested portion of the Participant's account balances shall be distributed in a lump sum to his or her beneficiaries in accordance with Sections 9.2 and 9.3. Such distribution shall be made 15 days following the date of the Participant's death or as soon as administratively feasible thereafter, but in no event later than the last day of the calendar year in which the date on which such distribution would be made in accordance with the foregoing occurs or, if later the 15th day of the third calendar month following such date. A distribution hereunder shall be based on the value of the Participant's accounts as of the Valuation Date as of which such distribution is being made.

9.2. Designation Of Beneficiary.

Each Participant shall have the right to name and change primary and contingent beneficiaries under the Plan in accordance with the rules and procedures established by the Plan Administrator. Upon the death of the Participant, the vested balance of his or her accounts shall be divided among the primary or contingent beneficiaries designated by such Participant who survive the Participant.

9.3. Beneficiary Not Designated.

In the event the Participant has either failed to designate a beneficiary or no designated beneficiary survives him or her, the amounts otherwise payable to a beneficiary under the provisions of this Section shall be paid to the Participant's surviving spouse or, if the Participant is not survived by his or her spouse, to the Participant's executor or administrator.

SECTION 10 - ADMINISTRATION

10.1 Plan Administrator.

The Company shall be the Plan Administrator of the Plan within the meaning of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), and, except as otherwise specifically set forth herein, shall be solely responsible for and have sole control of the operation and administration of the Plan and the establishment of such procedures and processes as may be necessary for the efficient operation and administration of the Plan.

10.2 Construction.

The Plan Administrator shall have the discretionary authority to construe, interpret and administer all provisions of the Plan and to determine a Participant's eligibility for benefits on a uniform, non-discriminatory basis in similar fact situations.

10.3 Delegation By The Plan Administrator.

The Plan Administrator may appoint such agents as it may deem necessary for the effective exercise of its duties, and may, to the extent not inconsistent herewith, delegate to such agents any powers and duties, both ministerial and discretionary, as the Plan Administrator may deem expedient or appropriate.

10.4 Records Of The Plan Administrator.

All acts and determinations of the Plan Administrator shall be duly recorded, and all such records, together with such other documents as may be necessary for the proper administration of the Plan, shall be preserved in the custody of the Plan Administrator. Such records and documents shall at all times be open for inspection and copying by any person designated by the Board.

10.5 Committee.

The Board shall appoint a Committee of one (1) or more persons who shall serve without remuneration at the pleasure of the Board to review claims determinations in accordance with Sections 11.3 and 11.4 and to perform such other duties as may be delegated to it by the Plan Administrator. Upon death, resignation, removal or inability of a member of the Committee to continue, the Board shall appoint a successor. The Committee shall appoint its own Chairman from among the regular members of the Committee and shall also appoint a Secretary who may be, but need not be, a member of the Committee. The Chief Executive Officer of the Company may appoint persons as alternate members for designated regular members of the Committee for the sole and limited purpose of acting in place of such regular member at a Committee meeting called under Section 10.7 which such regular member is unable to attend. Alternate members shall serve without remuneration at the pleasure of the Chief Executive Officer. If, at any time, the Board has not appointed a Committee, or there is no Committee, then the Plan Administrator shall exercise all of the duties, responsibilities, powers and authorities given to the Committee.

10.6 Decisions By The Committee.

A decision of the Committee may be made by a written document signed by a majority of the members of the Committee or by majority vote at a meeting of the Committee. The Secretary of the Committee shall keep all records of meetings and of any action by the Committee and any and all other records desired by the Committee. No member of the Committee shall make any decision or take any action covering exclusively his or her own benefits under the Plan. All such matters shall be decided by a majority of the remaining members of the Committee or, in the event of inability to obtain a majority, by the Board.

10.7 Meetings Of The Committee.

The Committee shall hold meetings upon such notice, at such place or places and at such times as the Committee may determine. Meetings may be called by the Chairman or any member of the Committee. A majority of the Committee shall constitute a quorum for the transaction of business.

10.8 Expenses.

Any expense incurred by the Plan Administrator or the Committee with respect to employment of agents, attorneys or other persons shall be paid by the Employer.

SECTION 11 - CLAIM PROCEDURES

11.1 Claim.

A Participant, beneficiary or other person who believes that he or she is being denied a benefit to which he or she is entitled (hereinafter referred to as "Claimant"), or his or her duly authorized representative, may file a written request for such benefit with the Plan Administrator, setting forth his or her claim. The request must be addressed to:

Director of Benefits Administration
Patriot Coal Corporation Supplemental 401(k) Retirement Plan
12312 Olive Boulevard
St. Louis, Missouri 63141

11.2 Claim Decision.

Upon receipt of a claim, the Director of Benefits shall advise the Claimant that a reply will be forthcoming within a reasonable period of time, but ordinarily not later than 90 days, and shall, in fact, deliver such reply in writing within such period. However, the Director of Benefits may extend the reply period for an additional 90 days for reasonable cause. If the reply period will be extended, the Director of Benefits shall advise the Claimant in writing during the initial 90-day period indicating the special circumstances requiring an extension and the date by which the Director of Benefits expects to render the benefit determination. If the claim is denied in whole or in part, the Director of Benefits will render a written opinion, using language calculated to be understood by the Claimant, setting forth:

(a) the specific reason or reasons for the denial;

(b) the specific references to pertinent Plan provisions on which the denial is based;

(c) a description of any additional material or information necessary for the Claimant to perfect the claim and an explanation why such material or such information is necessary;

(d) appropriate information as to the steps to be taken if the Claimant wishes to submit the claim for review, including a statement of the Claimant's right to bring a civil action under Section 502(a) of ERISA following an adverse benefit determination on review; and

(e) the time limits for requesting a review of the denial under Section 11.3 hereof and for the actual review of the denial under Section 11.4 hereof.

11.3 Request For Review.

Within 60 days after the receipt by the Claimant of the written opinion described above, the Claimant may request in writing that the Committee review the Director of Benefits' prior determination. Such request must be addressed to:

Committee
Patriot Coal Corporation Supplemental 401(k) Retirement Plan
12312 Olive Boulevard
St. Louis, Missouri 63141

The Claimant or his or her duly authorized representative may submit written comments, documents, records or other information relating to the denied claim, which such information shall be considered in the review under this subsection without regard to whether such information was submitted or considered in the initial benefit determination. The Claimant or his or her duly authorized representative shall be provided, upon request and free of charge, reasonable access to, and copies of, all documents, records and other information which (i) was relied upon by the Director of Benefits in making its initial claims decision, (ii) was submitted, considered or generated in the course of the Director of Benefits making its initial claims decision, without regard to whether such instrument was actually relied upon by the Director of Benefits in making its decision or (iii) demonstrates compliance by the Director of Benefits with its administrative processes and safeguards designed to ensure and to verify that benefit claims determinations are made in accordance with governing Plan documents and that, where appropriate, the Plan provisions have been applied consistently with respect to similarly situated claimants. If the Claimant does not request a review of the Director of Benefits' determination by the Committee within such 60-day period, he or she shall be barred and estopped from challenging such determination.

11.4 Review Of Decision.

Within a reasonable period of time, ordinarily not later than 60 days, after the Committee's receipt of a request for review, it will review the Director of Benefits' determination. If special circumstances require that the 60-day time period be extended, the Committee will so notify the Claimant within the initial 60-day period indicating the special circumstances requiring an extension and the date by which the Committee expects to render its decision on review, which shall be as soon as possible but not later than 120 days after receipt of the request for review. In the event that the Committee extends the determination period on review due to a Claimant's failure to submit information necessary to decide a claim, the period for making the benefit determination on review shall not take into account the period beginning on the date on which notification of extension is sent to the Claimant and ending on the date on which notification of extension is sent to the Claimant and ending on the date on which the Claimant responds to the request for additional information. The Committee has discretionary authority to determine a Claimant's eligibility for benefits and to interpret the terms of the Plan. Benefits under the Plan will be paid only if the Committee decides in its discretion that the Claimant is entitled to such benefits. The decision of the Committee shall be final and non-reviewable, unless found to be arbitrary and capricious by a court of competent review. Such decision will be binding upon the Employer and the Claimant.

If the Committee makes an adverse benefit determination on review, the Committee will render a written opinion, using language calculated to be understood by the Claimant, setting forth:

(a) the specific reason or reasons for the denial;

(b) the specific references to pertinent Plan provisions on which the denial is based;

(c) a statement that the Claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records and other information which (i) was relied upon by the Committee in making its decision, (ii) was submitted, considered or generated in the course of the Committee making its decision, without regard to whether such instrument was actually relied upon by the Committee in making its decision or (iii) demonstrates compliance by the Committee with its administrative processes and safeguards designed to ensure and to verify that benefit claims determinations are made in accordance with governing Plan documents, and that, where appropriate, the Plan provisions have been applied consistently with respect to similarly situated claimants; and

(d) a statement of the Claimant's right to bring a civil action under Section 502(a) of ERISA following the adverse benefit determination on such review.

SECTION 12 - AMENDMENT AND TERMINATION

12.1 Amendment.

The Company shall have the right, by a resolution adopted by action of the Board or anyone to whom corporate authority to amend the Plan has been delegated by the Board, at any time and from time to time to amend, in whole or in part, any or all of the provisions of the Plan. No such amendment, however, shall cause any reduction in the amount credited to any Participant's account.

12.2 Termination; Discontinuance Of Credits.

The Company shall have the right at any time to terminate this Plan. Upon termination, partial termination, or complete discontinuance of credits, all Participants' accounts (or, in the case of a partial termination, the accounts of all affected Participants) shall become fully vested, and shall not thereafter be subject to forfeiture.

SECTION 13 - MISCELLANEOUS

13.1 Participants' Rights.

Neither the establishment of the Plan hereby created, nor any modification thereof, nor the creation of any fund or account, nor the payment of any benefits, shall be construed as giving to any Participant or other person any legal or equitable right against the Employer, any officer or Employee thereof or the Board except as herein provided. Under no circumstances shall the terms of employment of any Participant be modified or in any way affected hereby.

13.2 Spendthrift Clause.

No benefit or beneficial interest provided under the Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, either voluntary or involuntary, and any attempt to so alienate, anticipate, sell, transfer, assign, pledge, encumber or charge the same shall be null and void. No such benefit or beneficial interest shall be liable for or subject to the debts, contracts, liabilities, engagements, or torts of any person to whom such benefits or funds are or may be payable.

Notwithstanding the foregoing, if, at such time as the Participant or his or her beneficiary becomes entitled to benefit payments hereunder, the Participant has any debt, obligation or other liability representing an amount owing to the Company or any other Employer, and if such debt, obligation or other liability is due and owing at the time benefit payments are payable hereunder, the Company may offset the amount owed it or the other Employer against the amount of benefits otherwise payable hereunder.

13.3 Delegation Of Authority By Employer.

Whenever the Employer, under the terms of this Plan, is permitted or required to do or perform any act, it shall be done and performed by any officer duly authorized by the board of directors of the Employer.

13.4 Distributions To Minors.

In the event that any portion of the Plan becomes distributable to a minor or other person under legal disability (as determined by the laws of the jurisdiction in which he or she then resides), the Plan Administrator shall direct that such distribution be made to the legal representative of such minor or other person.

13.5 Construction Of Plan.

This Plan shall be construed according to the laws of the State of Missouri, and all provisions of the Plan shall be administered according to the laws of such state.

13.6 Gender, Number And Headings.

Whenever any words are used herein in the masculine gender, they shall be construed as though they were also used in the feminine gender in all cases where they would so

apply, and wherever any words are used herein in the singular form, they shall be construed as though they were also used in the plural form in all cases where they would so apply. Headings of Sections and Subsections are inserted for convenience of reference, constitute no part of the Plan and are not to be considered in the construction of the Plan.

13.7 Separability Of Provisions.

If any provision of this Plan shall be for any reason invalid or unenforceable, the remaining provisions shall nevertheless be carried into effect.

13.8 Service Of Process.

The General Counsel of the Company shall constitute the Plan's agent for service of process.

13.9. Qualified Domestic Relations Order.

Notwithstanding anything in the Plan to the contrary, benefits may be distributed in accordance with the terms of an order that would constitute a qualified domestic relations order, within the meaning of Section 414(p) of the Code, with respect to the Basic Plan, as determined thereunder.

13.10 No Trust.

Nothing contained in this Plan, and no action taken pursuant to its provisions, shall create, or be construed to create, a trust of any kind, or a fiduciary relationship between the Company or the Employer and the Participants, their beneficiaries hereunder or any other person.

IN WITNESS WHEREOF, the Company has caused this Amendment to be executed by one of its duly authorized officers this 1 day of November, 2007.

PATRIOT COAL CORPORATION

By Sara E. Wade

EXHIBIT A

Appalachia Mine Services, LLC
Dodge Hill Mining Company, LLC
Eastern Associated Coal Corp.
Grand Eagle Mining, Inc.
Highland Mining Company
Ohio County Coal Company
Peabody Coal Company
Pine Ridge Coal Company
Rivers Edge Mining, Inc.

AMENDMENT NO. 1 TO THE
PATRIOT COAL CORPORATION
SUPPLEMENTAL 401(k) RETIREMENT PLAN

WHEREAS, Patriot Coal Corporation ("Company") previously adopted the Patriot Coal Corporation Supplemental 401(k) Retirement Plan ("Plan"); and

WHEREAS, the Company reserved the right to amend the Plan pursuant to Section 12.1 thereof; and

WHEREAS, the Company desires to amend the Plan in accordance with certain provisions of Section 409A of the Internal Revenue Code of 1986, as amended;

NOW, THEREFORE, effective as January 1, 2009, the Company amends the Plan as follows:

1. Section 8.1 is amended by adding the following sentence at the end thereof:

> For purposes of this Plan, a "termination of employment" shall mean a "separation from service" within the meaning of Section 409A of the Code. A termination of employment shall not be deemed to have occurred for purposes of any provision of this Plan providing for payment of any amounts or benefits subject to Section 409A of the Code upon or following a termination of employment unless such termination is also a "separation from service" within the meaning of Section 409A of the Code and, for purposes of any such provision of this Plan, references to a Participant's "termination, "termination of employment" or like terms shall mean "separation from service."

2. Section 12.2 is amended by adding the following sentence at the end thereof:

> No such termination shall affect (i) the timing of any distribution of any benefits hereunder, or (ii) any deferral elections for the year in which the termination occurs, unless such termination meets the requirements of Section 409A of the Code and other applicable guidance.

IN WITNESS WHEREOF, the Company has caused this amendment to be executed this 5th day of December, 2008.

PATRIOT COAL CORPORATION

By: Mary Kohlmiller

AMENDMENT NO. 2 TO THE
PATRIOT COAL CORPORATION
SUPPLEMENTAL 401(k) RETIREMENT PLAN

WHEREAS, Patriot Coal Corporation ("Company") previously adopted the Patriot Coal Corporation Supplemental 401(k) Retirement Plan ("Plan"); and

WHEREAS, the Company reserved the right to amend the Plan, by a resolution adopted by action of the Board of Directors of the Company or anyone to whom the corporate authority to amend the Plan has been delegated by the Board of Directors, pursuant to Section 12.1 thereof; and

WHEREAS, the Board of Directors of the Company has delegated the authority to amend the Plan to the Retirement Committee appointed pursuant to Section 10.5 of the Plan; and

WHEREAS, the Retirement Committee has approved the amendment of the Plan to change the eligibility for, and the determination of, performance credits for certain employees and to fully vest participants in all accounts under the Plan;

WHEREAS, the undersigned representative of the Retirement Committee is authorized to execute an appropriate amendment to the Plan;

NOW, THEREFORE, effective as January 1, 2009, the Company amends the Plan as follows:

1. The second sentence of Section 2.14 is deleted in its entirety and replaced with the following:

For purposes of this calculation only:

(c) a person shall not be considered an "Employee" during any period during which he or she: (i) is on salary continuance for disability; (ii) is receiving accrued vacation or other similar amounts following retirement under the Employer's retirement program; (iii) is on a leave of absence described in Section 13.3 of the Basic Plan; or (iv) is employed by Catenary Coal Company, LLC, IO Coal LLC, Thunderhill Coal LLC, Pond Fork Processing LLC, Little Creek LLC, Midland Trail Energy LLC, Remington LLC, Highwall Mining LLC, Weatherby Processing LLC, Wildcat LLC, Speed Mining LLC and Coal Clean LLC, is compensated on an hourly basis and is not a member of a collective bargaining unit; and

(d) notwithstanding anything in this Plan or the Basic Plan to the contrary, a person shall be considered an "Employee" during any period during which he or she is employed by an Employer at the grade level of vice president or above. In the case of any such person who is employed by an Employer during a

fiscal year both at a grade level below vice president and at the grade level of vice president or above, the Pro-Rated Salary for such person for such fiscal year shall be determined separately for:

(i) the portion of such fiscal year during which such person was employed by an Employer at a grade level below vice president for purposes of Section 4.3(a); and

(ii) the portion of such fiscal year during which such person was employed by an Employer at the grade level of vice president or above for purposes of Section 4.3(b);

by multiplying such person's base salary determined as of the last day of such fiscal year by a fraction, the numerator of which is the number of days during each such portion of such fiscal year, and the denominator of which is 365 (or, in a leap year, 366).

2. Section 3.2 is deleted in its entirety and replaced with the following:

3.2 New Participants.

With respect to any Plan Year beginning after December 31, 2008 (hereinafter referred to in this Section 3.2 as the "current Plan Year"):

(a) each Employee (1) who is a member of a select group of management or highly compensated employees of the Employer, within the meaning of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), (2) who is eligible to participate in the Basic Plan, and (3) whose Compensation for the Plan Year immediately preceding the current Plan Year exceeded the limit under Section 401(a)(17) of the Code in effect for the current Plan Year (or, in the case of a newly hired Employee who commences employment with the Employer during the current Plan Year, whose Compensation for the current Plan Year is anticipated to exceed such limit), shall be eligible:

(i) to elect to defer his or her Compensation in accordance with Section 4.1; and

(ii) for Employer matching credits under Section 4.2 and, for the portion of the fiscal year, if any, during which such Employee is employed by an Employer at a grade level below vice president, performance credits under Section 4.3(a);

for the current Plan Year;

(b) any other Employee who is eligible for an allocation of the Performance Contribution under the Basic Plan, as defined therein, for the current Plan Year which exceeds the limit under Section 415 of the Code or whose Compensation for the current Plan Year exceeds the limit under Section 401(a)(17) of the Code in effect for the current Plan Year shall be eligible for performance credits under Section 4.3(a) for the portion of the fiscal year, if any, during which such Employee is employed by an Employer at a grade level below vice president;

(c) any Employee (1) who is a member of a select group of management or highly compensated employees of the Employer, within the meaning of ERISA, and (2) who is employed at the grade level of Director or above and is eligible for a long-term incentive plan maintained by the Company or a member of the Controlled Group, shall be eligible for discretionary credits under Section 4.4; provided however, that nothing in this Section 3.2(c) or elsewhere in the Plan shall constitute or be construed as a guarantee that any such Employee shall have discretionary credits credited to his or her account for any Plan Year; or

(d) any Employee who is employed by an Employer at the grade level of vice president or above for all or any portion of the fiscal year shall be eligible for performance credits under Section 4.3(b) for such fiscal year or portion thereof.

3. Section 4.3 is deleted in its entirety and replaced with the following:

4.3 Performance Credits.

In addition to any amounts credited to the Plan by the Employer pursuant to Section 4.2, the Employer will credit an additional amount if the Employer meets or exceeds certain performance targets established by the Board on an annual basis.

(a) If the maximum performance target established by the Board for the Employer's fiscal year is met or exceeded, the Employer will credit to the Plan on behalf of each Participant described in Section 3.2(a) or (b) who is employed on the last day of such fiscal year an amount equal to 6% of the Participant's Pro-Rated Salary to the extent such amount exceeds the amount of Pro-Rated Salary which the Participant was entitled to have the Employer contribute on his or her behalf to the Basic Plan, if any, under the limits of Sections 401(a)(17) and 415 of the Code. If the Employer meets the minimum performance target established by the Board for the Employer's fiscal year but does not meet the maximum performance target, the Employer will credit to the Plan on behalf of each eligible Participant under this Section 4.3(a) who is employed on the last day of such fiscal year a percentage of such Participant's Pro-Rated Salary to be determined by the Board (which percentage shall be less than 6% of the Participant's Pro-Rated Salary) based on the Employer's overall performance in relation to the maximum and minimum performance target ranges to the extent such amount

exceeds the amount of Pro-Rated Salary which the Participant was entitled to have the Employer contribute on his or her behalf to the Basic Plan, if any, under the limits of, Sections 401(a)(17) and 415 of the Code. Any amounts described in this Section 4.3(a) shall be credited to the Plan as soon as practicable following the determination of whether the Employer has met or exceeded the applicable performance targets. Notwithstanding the foregoing: (i) if the Employer does not meet the minimum performance target established by the Board for the Employer's fiscal year, the Board may, in its sole discretion, authorize the Employer to credit to the Plan on behalf of each eligible Participant under this Section 4.3(a) who is employed on the last day of such fiscal year a percentage of such Participant's Pro-Rated Salary determined by the Board to the extent such amount exceeds the amount of Pro-Rated Salary which the Participant was entitled to have the Employer contribute on his or her behalf to the Basic Plan, if any, under the limits of Sections 401(a)(17) and 415 of the Code; and (ii) if the Employer exceeds the maximum performance target established by the Board for the Employer's fiscal year, the Board may, in its sole discretion, authorize the Employer to credit to the Plan on behalf of each eligible Participant under this Section 4.3(a) who is employed on the last day of such fiscal year an additional percentage of such Participant's Pro-Rated Salary determined by the Board to the extent such amount exceeds the amount of Pro-Rated Salary which the Participant was entitled to have the Employer contribute on his or her behalf to the Basic Plan, if any, under the limits of Sections 401(a)(17) and 415 of the Code. Notwithstanding anything herein to the contrary, a Participant shall not be entitled to a performance credit under this Section 4.3(a) for the portion of such fiscal year during which such Participant: (a) is employed by an Employer at the grade level of vice president or above; or (b) is employed by Catenary Coal Company, LLC, IO Coal LLC, Thunderhill Coal LLC, Pond Fork Processing LLC, Little Creek LLC, Midland Trail Energy LLC, Remington LLC, Highwall Mining LLC, Weatherby Processing LLC, Wildcat LLC, Speed Mining LLC or Coal Clean LLC, is compensated on an hourly basis and is not a member of a collective bargaining unit.

(b) If the maximum performance target established by the Board for the Employer's fiscal year is met or exceeded, the Employer will credit to the Plan on behalf of each Participant described in Section 3.2(d) who is employed on the last day of such fiscal year an amount equal to 6% of the Participant's Pro-Rated Salary. If the Employer meets the minimum performance target established by the Board for the Employer's fiscal year but does not meet the maximum performance target, the Employer will credit to the Plan on behalf of each eligible Participant under this Section 4.3(b) who is employed on the last day of such fiscal year a percentage of such Participant's Pro-Rated Salary to be determined by the Board (which percentage shall be less than 6% of the Participant's Pro-Rated Salary) based on the Employer's overall performance in relation to the maximum and minimum performance target ranges. Any amounts described in this Section 4.3(b) shall be credited to the Plan as soon as practicable following the

determination of whether the Employer has met or exceeded the applicable performance targets. Notwithstanding the foregoing: (i) if the Employer does not meet the minimum performance target established by the Board for the Employer's fiscal year, the Board may, in its sole discretion, authorize the Employer to credit to the Plan on behalf of each eligible Participant under this Section 4.3(b) who is employed on the last day of such fiscal year a percentage of such Participant's Pro-Rated Salary determined by the Board; and (ii) if the Employer exceeds the maximum performance target established by the Board for the Employer's fiscal year, the Board may, in its sole discretion, authorize the Employer to credit to the Plan on behalf of each eligible Participant under this Section 4.3(b) who is employed on the last day of such fiscal year an additional percentage of such Participant's Pro-Rated Salary determined by the Board. Notwithstanding anything herein to the contrary, a Participant shall not be entitled to a performance credit under this Section 4.3(b) for the portion of such fiscal year during which such Participant is employed by an Employer at a grade level below vice president.

4. Section 8.2 is deleted in its entirety and replaced with the following:

8.2 Determination of Vested Portion.

(a) A Participant's Pre-Tax Matched Account, Pre-Tax Unmatched Account, Company Pre-Tax Matching Account and Performance Credit Account shall be 100% vested and nonforfeitable at all times.

(b) The portion of a Participant's Discretionary Account which shall be vested and nonforfeitable shall be determined in accordance with a separate agreement entered into with the Participant. Notwithstanding the foregoing, a Participant's Discretionary Account shall be 100% and nonforfeitable upon such Participant's death or Normal Retirement Date.

IN WITNESS WHEREOF, the Company has caused this amendment to be executed this 8th day of May, 2009.

PATRIOT COAL CORPORATION

By: _____
Joseph W. Bean

AMENDMENT NO. 3 TO THE PATRIOT COAL CORPORATION SUPPLEMENTAL 401(k) RETIREMENT PLAN

WHEREAS, Patriot Coal Corporation ("Company") previously adopted the Patriot Coal Corporation Supplemental 401(k) Retirement Plan ("Plan"); and

WHEREAS, the Company reserved the right to amend the Plan, by a resolution adopted by action of the Board of Directors of the Company, pursuant to Section 12.1 thereof; and

WHEREAS, the Company has determined that it is necessary and desirable to amend the Plan to suspend matching credits thereunder;

NOW, THEREFORE, effective as July 1, 2009, the Company amends the Plan by adding the following sentence at the end of Section 4.2:

> Notwithstanding anything in the Plan to the contrary, matching credits shall be suspended effective for pay dates on or after July 1, 2009, and no such amounts shall be credited by the Employer with respect to deferrals by Participants attributable to Compensation payable on or after such date.

IN WITNESS WHEREOF, this amendment is hereby executed as of this 15th day of June, 2009.

PATRIOT COAL CORPORATION

By: _____

Joseph W. Bean
Senior Vice President – Law & Administration

AMENDMENT NO. 4 TO THE PATRIOT COAL CORPORATION SUPPLEMENTAL 401(k) RETIREMENT PLAN

WHEREAS, Patriot Coal Corporation ("Company") previously adopted the Patriot Coal Corporation Supplemental 401(k) Retirement Plan ("Plan"); and

WHEREAS, the Company reserved the right to amend the Plan, by a resolution adopted by action of the Board of Directors of the Company, pursuant to Section 12.1 thereof; and

WHEREAS, the Company has determined that it is necessary and desirable to amend the Plan to provide for matching credits thereunder;

NOW, THEREFORE, effective as the dates set forth herein, the Company amends the Plan as follows:

1. Effective January 1, 2010, Section 4.2 is deleted in its entirety and replaced with the following:

4.2 Employer Matching Credits.

The Employer will credit to the Plan an amount equal to 100% of the first 3% of his or her Compensation that the Participant elects to have deferred and credited to the Plan under Section 4.1.

2. Effective April 1, 2010 with respect to deferrals under Section 4.1 attributable to Compensation (as defined in Section 2.6) payable on or after such date, Section 4.2 is deleted in its entirety and replaced with the following:

4.2 Employer Matching Credits.

The Employer will credit to the Plan an amount equal to 100% of the first 6% of his or her Compensation that the Participant elects to have deferred and credited to the Plan under Section 4.1.

IN WITNESS WHEREOF, this amendment is hereby executed as of this 1st day of March, 2010.

PATRIOT COAL CORPORATION

By: _____

Joseph W. Bean

APPENDIX B

Service Agreement

THE VANGUARD GROUP, INC.

SERVICE AGREEMENT

THIS AGREEMENT effective the 1st day of November, 2007, by and between PATRIOT COAL CORPORATION (the "Company"), and THE VANGUARD GROUP, INC., a Pennsylvania Corporation ("Vanguard"),

WITNESSETH:

WHEREAS, the Company has adopted and is maintaining the PATRIOT COAL CORPORATION SUPPLEMENTAL 401(k) RETIREMENT PLAN (the "Plan"), an unfunded nonqualified plan established for the benefit of certain of its employees; and

WHEREAS, the COMPANY (the "Plan Administrator") is the entity designated by the Company under the Plan as having the authority to control and manage the operation and administration of Plan; and

WHEREAS, it is intended that the Plan utilize certain recordkeeping and participant accounting, services provided by Vanguard in connection with Plan assets deemed to be invested in certain available investment funds (the "Investment Funds"); and

WHEREAS, Vanguard is willing to provide recordkeeping and participant accounting services to the Plan in accordance with the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto, intending to be legally bound, hereby agree and declare as follows:

1. Selection Of Investment Funds. The Company or the Plan Administrator shall designate the Investment Funds available for deemed investment by participants under the Plan, which designation shall be made on a separate Selection of Investment Funds form or similar written document delivered to Vanguard. The Company or the Plan Administrator shall give Vanguard 30 days written notice

(which notice may, however, be waived by Vanguard) prior to changing the list of Investment Funds that are available for deemed investment under the Plan.

2. Participant Accounting. In accordance with the instructions furnished by the Company or the Plan Administrator, Vanguard shall establish and maintain separate accounts in the name of each participant in the Plan to record the amounts credited to the participant under the Plan and any deemed earnings, losses and expenses credited thereto. The maintenance of separate accounts by Vanguard under this Agreement shall be for accounting purposes only. The Company or the Plan Administrator shall furnish Vanguard with participant enrollment data via hardcopy or electronic file identifying the name, address, social security number, and Investment Fund selections with respect to each Plan participant for whom one or more separate accounts is to be established by Vanguard under this Agreement.

3. Transmittal of Participant Information to Vanguard. With respect to all Plan allocations that are transmitted to Vanguard for investment in the Investment Funds, the Company or the Plan Administrator shall furnish Vanguard with participant allocation data via hardcopy or electronic file, identifying each Plan participant and the dollar amount to be credited to each of the participant's separate accounts under the Plan. In allocating amounts to be credited to participants' separate accounts under the Plan, Vanguard shall be fully entitled to rely on the participant enrollment and allocation data furnished to it by the Company or the Plan Administrator and shall be under no duty to make any inquiry or investigation with respect thereto

4. Deemed Investment Exchanges by Participants. Participants in the Plan shall be permitted to direct Vanguard to make deemed investment exchanges of amounts credited to their separate accounts under the Plan from one Fund to any other Fund selected by the Company or the Plan Administrator as eligible deemed investments under the Plan in accordance with item 1 of this Agreement. Any such deemed investment exchange by a participant may be transmitted directly by the participant to Vanguard via the web, in writing or by telephone in accordance with rules and procedures that are established by Vanguard and communicated to and approved by the Company or the Plan Administrator. In making any such deemed investment exchanges, Vanguard shall be fully entitled to rely on directions furnished to it by participants in accordance with the approved rules and procedures, and shall be under no duty to make any inquiry or investigation with respect thereto.

5. Participant Statements. Vanguard shall make available to each participant in the Plan quarterly statements reflecting the current fair market value of the participant's separate accounts under the Plan that are allocated to the Investment Funds and all activities occurring within such accounts during the most recent quarter, including deemed earnings, exchanges, distributions and transfers.

6. Accounting. Vanguard shall furnish the Company, or otherwise make available, a quarterly accounting summarizing all transactions effected with respect to the Plan recorded on Vanguard's recordkeeping system during the most recent quarter, including consolidated financial information.

7. Vanguard Records. Vanguard shall keep full and accurate accounts of all receipts, investments, disbursements and other transactions occurring with respect to the Plan under this Agreement, including such specific records as may be agreed upon in writing with the Company. All such accounts, books and records shall be open to inspection and audit at all reasonable times by any authorized representative of the Company.

8. Limitation Of Obligations And Duties Of Vanguard. The obligations and duties of Vanguard with respect to the Plan shall be those specifically listed in this Agreement, and Vanguard shall have no other obligation, duty, responsibility or liability with respect to any other aspect of the operation or administration of the Plan. In making any crediting of amounts under the Plan, Vanguard shall be fully entitled to rely on the instructions furnished to it by the Company or the Plan Administrator in accordance with the terms and conditions of this Agreement, and shall be under no duty to make any inquiry or investigation with respect thereto.

9. Vanguard Compensation. Vanguard shall be entitled to reasonable compensation for its recordkeeping and participant accounting services as set forth in a separate Fee Agreement between Vanguard and the Company.

10. Amendment and Termination of Agreement. The Company and Vanguard may agree in writing to amend this Agreement at any time in whole or in part. Any party hereto may terminate this Agreement upon 90 days written notice (which notice may, however, be waived by the other parties hereto).

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective the day and year first above written.

Attest: Mary Kohnville

PATRIOT COAL CORPORATION

By: Sara E. Wade

Title: SVP - Human Resources

Attest:

THE VANGUARD GROUP, INC.

By:

Title: Principal – Legal

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