

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

In re:

PATRIOT COAL CORPORATION, *et al.*,

Debtors.

**Chapter 11
Case No. 12-51502-659
(Jointly Administered)**

Hearing Date: August 20, 2013

Hearing Time: 10:00 a.m.

Objection Deadline: August 13,
2013

Location: Courtroom 7 North, St.
Louis

**THE SALARIED RETIREE COMMITTEE'S MOTION TO
APPROVE VEBA TRUST AND TO TAKE POSSESSION OF FUNDS**

The official Patriot Coal Salaried Retiree Committee ("Retiree Committee") of Debtor Patriot Coal Corporation and its Affiliated Debtors (collectively, the "Debtors"), sets forth the following Motion to Approve VEBA Trust and Take Possession of Funds, and in support thereof, the Retiree Committee states as follows:

I. INTRODUCTION

1. On July 9, 2012, Debtors Patriot Coal Corporation and 99 subsidiaries and affiliates ("Patriot Coal" or "Debtors") filed for Chapter 11 bankruptcy protection in New York. The Chapter 11 Bankruptcy Case was transferred to the Eastern District of Missouri in December 2012.

2. After Patriot announced its intentions to terminate the retiree medical benefits and reduce retiree life insurance of certain Patriot Coal salaried retirees, an

Agreed Order was entered on February 27, 2013, providing for, in relevant part, the creation of an official salaried Retiree Committee. The Agreed Order, in material part, bifurcated the process normally associated with the termination of retiree benefits under Section 1114 of the Bankruptcy Code--providing that the parties would first adjudicate the issue of whether the retiree benefits were 'vested' before expending resources or requiring application of the economic necessity and the like of same.

3. On March 7, 2013, the United States Trustee appointed a group of seven (7) salaried retirees to serve on the Retiree Committee. [Docket No. 3093] The Retiree Committee engaged in substantial efforts thereafter to investigate and litigate the issue of the welfare benefit benefits at issue, with its focus on determining the vesting nature of all welfare benefit plans. In this respect, the Debtors asserted that all salaried welfare retiree benefits at issue were not vested and were subject to unilateral termination.

4. Only a portion of the Patriot Coal's salaried retirees were in danger of loosing health insurance benefits through this Bankruptcy case. In this respect, Patriot Coal is a spin-off of a non-bankruptcy entity, Peabody Energy, Inc. As part of that spin-off, Peabody Coal retained responsibility for a portion of the salaried retiree health and life insurance benefits. In this case, Patriot Coal sought to shed a vast majority of its remaining retiree welfare obligations with respect to retirees receiving life insurance benefits, health insurance benefits, and some retirees receiving both.

5. On April 2, 2013, Debtors filed a Motion to terminate all health insurance benefits to the salaried retirees (that it had previously been providing) as well as a material portion of the life insurance benefits ("Debtors' Motion"). [Docket No. 3503] When negotiating with the Debtors, the Retiree Committee expressed its bottom-line

priority of maximizing the overall monetary value of any resolved settlement without regard to maintenance of any particular welfare plan. In this respect, Retiree Committee focused its goals on minimizing the impact upon the salaried retirees faced with losing health care insurance over the retirees losing life-insurance benefits (in whole or in part). This priority was borne out of the pragmatic reality that no retirees would physically suffer (or even die) from a lack of life insurance, but that a lack of health insurance could cause physical harm or death.

6. Indeed during negotiations Debtors asserted to that none of the life insurance benefits were vested and further argued that even if such benefits were not the subject of complete elimination during the Chapter 11 proceeding, that such benefits could be terminated, in whole, after the Chapter 11 proceedings were completed. The Debtors further expressed that there was no specific legal reason why it was willing to maintain any life insurance coverage benefits versus other welfare benefits. Accordingly, during negotiations Debtors agreed it would be neutral to the re-direction of any life insurance obligations negotiated into other welfare benefits as part of a global settlement so long as it would be cost-neutral to the Debtors. At the time of the settlement, the Retiree Committee did not then have an ERISA plan to move such monies into, and the Debtors also required that any redirection of life insurance premium funds occur after completion of the then pending Union retiree negotiations.

7. On April 26, 2013, an Order was entered by the Court reflecting an agreement settlement of the dispute between the Retiree Committee and the Debtors (“Salaried Retiree Order”), attached as Exhibit A hereto. [Docket No. 3849]. That Order, in part, reflected that \$250,000 would be contributed to a VEBA Trust to be set up by the

Retiree Committee and that \$3,750,000.00 of cash or equity would be provided to the same VEBA Trust upon the effective date of a plan of reorganization. (See Ex. A, pars. 6 & 7). The Salaried Retiree Order also provides that Debtors cooperate (engage in good faith discussions and negotiate) toward the reallocation certain remaining non-Union life insurance benefit obligations to other types of welfare benefits. (Id. at par. 10.) In accordance with same, the Retiree Committee has since determined that all such funds, including the monies currently being directed for life insurance premiums, should be redirected and made available solely for health insurance benefit purposes as soon as possible.

8. After entry of the April 23, 2012 Order, the Retiree Committee requested extensive information about the affected retirees from the Debtors to enable the creation of a VEBA Trust and to design an equitable welfare plan to cost effectively provide said benefits. Having recently received the required information from Debtors, the Retiree Committee caused a Voluntary Employee Beneficiary Trust ("VEBA Trust") to be created to serve as a mechanism for Debtors and the re-organized Debtors to provide the negotiated financial obligations reflected in the Salaried Retiree Order on an income tax free basis. (An accurate and unexecuted copy of the VEBA Trust Agreement adopted by the Retiree Committee is attached hereto as Ex. B.)

9. The amount of funds expected to be received by the VEBA Trust is *significantly* smaller than the amount of health care subsidies that Patriot Coal was previously providing to its retirees. Creating replacement healthcare plans was not financially feasible, and a mechanism was required to ensure those impacted the most would have at least some access to subsidized healthcare. Accordingly, pursuant to the

VEBA Trust Agreement, the funds obtained by the Trust will be used to provide reimbursements to affected salaried retirees, including eligible spouses, surviving spouses and/or dependants. However, reimbursement may only be sought from affected retirees to: obtain reimbursement for COBRA premium costs, reimbursement of third-party Medicare gap insurance premiums (non-employer sponsored), and/or any other non-employer sponsored third party health insurance premiums.

10. Using the above specified mechanism, funds obtained by the VEBA Trust can be utilized in a way that the relatively small portion of benefit monies retained can be provided to those being impacted the most and in a manner that provides said benefits on a tax free basis. Subject to the allowable uses of trust funds reflected above herein, a mathematical formula, will be utilized giving each eligible and affected retiree equal access to the VEBA Trust funds, but weighted mathematically to provide a greater level of benefits to pre-Medicare retirees in recognition of the greater impact of the bankruptcy proceedings upon that group of retirees.

11. All affected salaried retirees (dependents and surviving spouses) that have lost subsidized healthcare insurance benefits through this Chapter 11 process will be provided with enrollment materials and the aforementioned benefits will then be provided to affected retirees per the terms of the VEBA Trust and/or any welfare plan terms consistent therewith. The VEBA hopes to be operation shortly after Debtors have a plan of reorganized approved by this Court.

12. The VEBA Trust is governed by a Board of Trustees, initially appointed by the Retiree Committee. The VEBA Trust terms have been drafted to provide flexibility to the Board of Trustees for the long term implementation of its goals.

13. The Retiree Committee seeks this Courts approval to turn over funds under its possession and/or control to the VEBA Trust and associated the VEBA Trustees to implement the above noted goals herein.

WHEREFORE, the Retiree Committee respectfully requests this Court to approve the VEBA Trust proposed by the Retiree Committee so that it may obtain and subsequently distribute the monetary benefits negotiated and that are reflected in the April 23, Order and done so in the manner reflected in the VEBA Trust, to thereafter be administered by a Board of Trustees appointed by the Retiree Committee.

Dated: July 31, 2013

OFFICIAL COMMITTEE OF SALARIED RETIREES

/s/ Thomas H. Riske

By:

Robert E. Eggmann, Bar #37374

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**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
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Debtors.

**Chapter 11
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EXHIBIT A

**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)

Re: ECF No. 3503

**ORDER AUTHORIZING THE MODIFICATION AND TERMINATION OF CERTAIN
NON-VESTED BENEFITS FOR NON-UNION RETIREE BENEFIT PARTICIPANTS
PURSUANT TO 11 U.S.C. §§ 105(a) AND 363(b)**

Upon the motion (the “**Motion**”)² of the Debtors³ for entry of an order (this “**Order**”) authorizing, but not directing, the Debtors to modify the Non-Union Retiree Life Insurance Benefits and terminate the Non-Union Retiree Medical Benefits; and upon consideration of the Luna Declaration; and upon consideration of The Salaried Retiree Committee’s Reply to the Motion of the Debtors and Debtors in Possession for an Order, Pursuant to 11 U.S.C. § 363, Authorizing Debtors to Terminate Benefits of Non-Union Retirees [ECF No. 3681]; and it appearing that this Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that venue of these Chapter 11 cases and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that this matter is a core

¹ The Debtors are the entities listed on Schedule 1 attached to the Motion. The employer tax identification numbers and addresses for each of the Debtors are set forth in the Debtors’ Chapter 11 petitions.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

³ As used herein, the term “Debtors” shall refer to, as applicable, the specific Debtors that are obligors under the Relevant Plan.

proceeding pursuant to 28 U.S.C. § 157(b); and this Court having determined that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors and other parties in interest; and it appearing that proper and adequate notice of the Motion has been given and that, except as otherwise ordered herein, no other or further notice is necessary; and after due deliberation thereon; and good and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED, in part, as set forth herein.
2. Without addressing the merits of whether the welfare benefit plans at issue in the Motion are vested or otherwise subject to Section 1114 of the Bankruptcy Code, the modification of the Non-Union Retiree Life Insurance Benefits and termination of the Non-Union Retiree Medical Benefits as set forth in the Motion constitute sound exercises of the Debtors' business judgment under Section 363(b) of the Bankruptcy Code.
3. Effective as of July 31, 2013, the Debtors are hereby authorized, but not directed, to (i) modify the Relevant Plans that provide Non-Union Retiree Life Insurance Benefits in order to cap the maximum benefit associated with the Non-Union Retiree Life Insurance Benefits at \$30,000.00 for the Non-Union Retirees and terminate the Non-Union Retiree Life Insurance Benefits for the current active non-union employees and (ii) terminate the Non-Union Retiree Medical Benefits, as described in the Motion, and to take all actions necessary to implement the relief granted herein; *provided, however*, that the Debtors shall remain responsible for the payment of claims for Non-Union Retiree Benefits that are (i) incurred by Non-Union Retirees through July 31, 2013 and (ii) presented for payment no later than the last date for submitting such claims under the terms of the Relevant Plans.

4. As soon as practicable after entry of this Order, the Non-Union Retiree Committee shall establish a voluntary employees' beneficiary association within the meaning of Section 501(c)(9) of the U.S. Internal Revenue Code of 1986, as amended (the "Code"), for and on behalf of all Non-Union Retirees⁴ (the "Non-Union Retiree VEBA"), with the Debtors paying up to the first ten thousand dollars (\$10,000.00) incurred by the Non-Union Retiree Committee for same but with all costs, fees and expenses of the Non-Union Retiree VEBA thereafter to be borne by the Non-Union Retiree VEBA. Nothing in this Order is intended to mandate or provide for the type, nature or duration of benefits or payments that may be offered or provided by the Non-Union Retiree VEBA; all decisions with respect thereto shall be made within the sole discretion of the trustees of the Non-Union Retiree VEBA. The Non-Union Retiree VEBA shall benefit only those Non-Union Retirees that were expressly anticipated as having been subject to losing Non-Union Retiree Benefits by and through the Motion. For the avoidance of doubt, the Non-Union Retiree VEBA shall benefit only the Non-Union Retirees whose Non-Union Retiree Benefits are modified or terminated pursuant to this Order.

5. The Non-Union Retiree Committee shall be responsible for electing or appointing any trustee or trustees of the Non-Union Retiree VEBA, and the Debtors shall have no obligations regarding the establishment or administration of the Non-Union Retiree VEBA.

6. Within ten (10) business days of having received written notice, including the Non-Union Retiree VEBA trust documents, which documents shall be reasonably acceptable to the Debtors, from the Non-Union Retiree Committee that (i) the Non-Union Retiree VEBA has

⁴ As used herein, the term "Non-Union Retirees" shall include only those Non-Union Retirees that retired from the Debtors on or before April 23, 2013 (including any and all surviving spouses and eligible dependents).

been established and (ii) the Non-Union Retiree VEBA can accept contributions made as instructed in such written notice, the Debtors shall cause the sum of two hundred and fifty thousand dollars (\$250,000.00) in cash to be contributed to the Non-Union Retiree VEBA by wire transfer as instructed in such written notice. With respect to the Non-Union Retiree VEBA, the remaining obligations of the Non Union Retiree Committee with respect to the Non-Union Retirees and the Non-Union Retiree Committee's efforts to set up and equitably administer the Non-Union Retiree VEBA, the Debtors shall timely provide to the Non-Union Retiree Committee such participant and/or plan cost information relating to the Non-Union Retiree Benefits as the Non-Union Retiree Committee reasonably requests. The Debtors will further continue to allow for and pay for the reasonable use of the Debtors' claims and noticing agent, GCG, Inc., to provide a means for the Non-Union Retiree Committee to adequately communicate to the Non-Union Retirees about this Order and subsequent case developments, including but not limited to the manner and form in which the Non-Union Retiree VEBA will be created; *provided, however*, that such communications shall be limited to two (2) mailings to the Non-Union Retirees.

7. Upon the effective date of a plan of reorganization for the Debtors, the Debtors shall cause shares of the equity of the reorganized Debtors that equal three million and seven hundred and fifty thousand dollars (\$3,750,000.00), as determined using the valuation in the Debtors' disclosure statement, or, in the Debtors' sole discretion (upon consulting with the UCC), the sum of three million and seven hundred and fifty thousand dollars (\$3,750,000.00) in cash, to be contributed to the Non-Union Retiree VEBA by the applicable Debtors.

8. Other than with respect to compliance with the terms and conditions of this Order, the Debtors, their estates, the Non-Union Retiree Benefit Plans and the Non-Union Retiree

Benefit Plan administrators, and each of their respective past and present parents, subsidiaries, affiliates, general partners, limited partners, shareholders, administrators, liquidators, directors, officers, employees, managers, agents, attorneys, solicitors, trustees, fiduciaries, accountants and advisors, and each of the predecessors, successors (including the reorganized Debtors) and assigns of the foregoing shall neither have, nor incur any liability for any obligation or claim arising under or relating to the Non-Union Retiree Benefit Plans, or the provision of Non-Union Retiree Benefits thereunder, to any Non-Union Retiree Benefit Participant or any of his or her respective spouses, dependents, heirs, distributees, executors, administrators, officers, directors, agents, representatives, successors and assigns; such that from and after the date of entry of this Order, the Non-Union Retiree Committee and all Non-Union Retiree Benefit Participants shall be forever estopped and barred from seeking further relief, pursuant to Sections 105(a), 363(b) and 1114 of the Bankruptcy Code or otherwise under any other statute or regulation, relating to the Non-Union Retiree Benefit Plans or the provision of Non-Union Retiree Benefits thereunder. Notwithstanding the foregoing, the Debtors will comply with Section 4980B of the Code of 1986, Part 6 of Title I of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), and the regulations issued respectively thereunder, with regard to making available to the Non-Union Retiree Benefit Participants continuation coverage as described by Section 4980B of the Code and Section 602 of ERISA (or any successor provisions thereto) under the Non-Union Retiree Benefit Plans (but not the Medical Premium Reimbursement Allowances and the Retiree Choice Accounts), which shall be at any such Non-Union Retiree Benefit Participant’s own expense (calculated in accordance with Section 4980B(f)(4) of the Code or any successor provision thereto); *provided, however*, that the foregoing shall not apply if: (i) it is otherwise not required by, inconsistent with or contrary to applicable law, (ii) the Debtors cease

to provide any group health plan to their employees, (iii) a Non-Union Retiree Benefit Participant fails to pay a COBRA premium or (iv) a Non-Union Retiree Benefit Participant becomes covered under any other group health plan; it being understood that a Non-Union Retiree Benefit Participant's eligibility for coverage under a group health plan offered or funded directly or indirectly by the Non-Union Retiree VEBA shall not, by itself, in the absence of such Non-Union Retiree Benefit Participant's electing coverage under such plan constitute a waiver of such Non-Union Retiree's entitlement, if any, to such continuation coverage under the Non-Union Retiree Benefit Plans in accordance with the preceding sentence.

9. Subject to the limitations and restrictions set forth in the Committee Order, the cap on the Non-Union Retiree Committee's counsel fees and expenses set forth in paragraph 2(c) thereof shall be increased to \$300,000.00.

10. The Debtors and the Non-Union Retiree Representative agree to engage in good faith discussions and negotiation to (i) modify, transmute or replace some or all of the Non-Union Retiree Life Insurance Benefits for the Non-Union Retirees that are not modified pursuant to this Order with other retiree benefits (including retiree life insurance benefits) that are economically neutral or more advantageous to the Debtors, including, but not limited to, being of equal or lesser cash cost to the Debtors and/or (ii) consider accelerating the payment or provision of any such existing or replacement benefits if economically beneficial to the Debtors, and are hereby authorized to implement such replacement benefits without further order of this Court; *provided*, that the Debtors agree not to terminate the Non-Union Retiree Life Insurance Benefits for the Non-Union Retirees that are not modified pursuant to this Order except to the extent that such benefits are modified, transmuted or replaced pursuant to this paragraph. For purposes of this paragraph, the "Non-Union Retiree Representative" shall refer to the Non-Union Retiree

Committee until its dissolution, and thereafter to the trustee(s) of the Non-Union Retiree VEBA, who are hereby authorized to reach an agreement with the Debtors consistent with this paragraph that is binding on all of the Non-Union Retirees and without any liability to such Non-Union Retiree Representative for entering into such agreement.

11. The Non-Union Retiree Committee hereby agrees to support any Chapter 11 plan of reorganization filed by the Debtors, provided that such plan is not inconsistent with the terms of this Order.

12. Notwithstanding the Committee Order, the modification or termination of the Non-Union Retiree Benefits as set forth herein shall not give rise to any claim against any of the Debtors, and neither the Debtors nor the Non-Union Retiree Committee, nor the Debtors' or the Non-Union Retiree Committee's affiliates, successors (including the reorganized Debtors), directors, officers, employees, agents, representatives, retained professionals, attorneys, actuaries, financial advisors and assigns, shall have or incur any liability to any person (as "person" is defined in Section 101(41) of the Bankruptcy Code) or entity for any pre- or post-petition act taken or omitted to be taken in connection with, or related to formulating, negotiating, preparing, disseminating, implementing or administering this Order; or any contract, instrument, release or other agreement or document created or entered into in connection with this Order, or any other pre- or post-petition act taken or omitted to be taken in connection with or in contemplation of this Order; *provided, however*, that any plan of reorganization for the Debtors shall reflect continuation of the obligations in paragraph 10 hereof as obligations of the reorganized Debtors (unless otherwise resolved with the Non-Union Retiree Representative).

13. Nothing in the Motion or this Order shall be deemed or construed as an approval or assumption of any agreement or contract pursuant to Section 365 of the Bankruptcy Code or a waiver of the right of the Debtors.

14. Proper, timely, adequate and sufficient notice of the Motion has been provided in accordance with the Bankruptcy Code, the Bankruptcy Rules and the Local Rules; and no other or further notice of the Motion or the entry of this Order shall be required.

15. The requirements set forth in Bankruptcy Rule 6004(a) are satisfied.

16. This Order shall be immediately effective and enforceable, notwithstanding the possible applicability of Bankruptcy Rule 6004(h).

17. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation and/or interpretation of this Order.

Order prepared by:
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Elliot Moskowitz
Brian M. Resnick
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**UNITED STATES BANKRUPTCY COURT
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EXHIBIT B

PATRIOT COAL SALARIED RETIREE VEBA TRUST

AGREEMENT AND INDENTURE OF TRUST, was made and executed as of the July __, 2013, , by and through the Official Patriot Coal Salaried Retiree Committee (the "1114 Committee").

WHEREAS, on July 2012, Patriot Coal Corp., and 99 of its subsidiaries and affiliates (collectively "Patriot Coal ") filed petitions for relief under chapter 11 of the United States Bankruptcy Code, 11 U.S.C. § 101-1330, in the Bankruptcy Court for the Southern District of New York, and where such case was subsequently transferred to the Bankruptcy Court, Eastern District of Missouri (the "Court"), Case No. 12-51502 (Jointly Administered) (the "Bankruptcy Cases");

WHEREAS, Patriot Coal sought to reduce or eliminate its retiree benefit obligations for, among others, its salaried retirees. The 1114 Committee was appointed by the United States Trustees and the presiding judge in the Bankruptcy Cases to represent affected salaried retirees, their spouses and their dependents who were receiving or eligible to receive retiree welfare benefits from Patriot Coal;

WHEREAS, the 1114 Committee and Patriot Coal resolved their differences which was reflected in an Agreed Order (the "April 23, 2013 Order") that was approved by the Court pursuant to Bankruptcy Rule 9019 whereby, in material part, Patriot Coal was relieved of its obligation to provide retiree benefits for certain salaried retirees in return for providing certain funding to a voluntary employee beneficiary association ("VEBA") trust (the "VEBA Trust") to be created and administered by the 1114 Committee and/or a designate thereof;

WHEREAS, the 1114 Committee has authorized and mandated the creation of a VEBA Trust Board of Trustees to administer the Trust which shall provide retiree welfare benefits for eligible Patriot Coal salaried retirees, their eligible spouses and their eligible dependents (the "Benefits") resulting from the loss of retiree benefits from Patriot Coal;

WHEREAS, Patriot Coal has agreed through the April 23, 2013 Order to make certain contributions at various times in various amounts to the VEBA Trust to finance retiree welfare benefits;

WHEREAS, the VEBA Trust shall enable the VEBA Trustee to provide certain welfare benefits through a plan ("Plan") to provide retiree welfare benefits as set forth herein, with the obligation and discretion to determine and modify the benefits provided by the VEBA Trust, and the VEBA Trustees shall be the administrator and named fiduciary of the Plan;

WHEREAS, the VEBA Board is willing to enter into this VEBA Trust Agreement to establish the VEBA Trust for the purposes of providing the welfare benefits described herein; and

WHEREAS, it is intended that this VEBA Trust shall qualify as a single employer employee welfare benefit plan under the applicable provisions of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”).

NOW, THEREFORE, the 1114 Committee hereby establishes and modifies this VEBA Trust upon the following terms and conditions:

**Article I
Creation of Trust and Purpose**

1. There is hereby created and established the “Patriot Coal Salaried Retiree VEBA Trust.” The situs of the Trust shall be located in Illinois and shall have such address as the VEBA Board of Trustees shall establish from time to time. The VEBA Board of Trustees may modify the situs of the VEBA Trust as it sees fit and prudent. The initial address for the VEBA Trust is reflected in Exhibit A hereto.

2. The Purpose of the VEBA Trust (as fully described in this paragraph) is to provide a cost effective means of providing monetary relief to those Patriot Coal salaried retirees (eligible dependents and surviving spouses) who lost their healthcare benefits (or lost eligibility of such benefits) through the Bankruptcy Cases. (“Intended Beneficiaries”). Intended Beneficiaries is further only intended to cover the dependents, spouses and/or surviving spouses that were eligible for coverage under their respective Patriot Coal health insurance welfare plans then in effect on April 23, 2013.

3. It is intended that this VEBA Trust shall qualify as a tax exempt voluntary employees’ beneficiary association under section 501(c)(9) of the Internal Revenue Code of 1986, as amended (the “Code”).

4. For a period of years to be determined by the Board of Trustees, the VEBA Trust shall be initially (or always) managed to provide reimbursement for qualified health insurance premiums for so long as economically practicable, which may be effected by factors such as material changes in circumstance, changes in health care law legislation, IRS taxation rules, the potential receipt of lump sum payments in the future from Patriot Coal, or the like. The Board of Trustees of the VEBA Trust is not prohibited from amending the VEBA Trust to provide a different manner of equitably distributing monies or benefits if there is a change in circumstance such that the VEBA Board of Trustees determines, in its reasonable judgment, that such benefits can be offered without altering the intended purpose of the VEBA Trust.

**Article II
Acceptance of Trust**

The Board of Trustees shall be collectively the Trustees of the Trust. The Trustees accept the VEBA Trust hereby created and covenants to hold or to direct the holding of all cash and other property which it may receive hereunder upon the terms of and in accordance with the conditions hereinafter set forth.

**Article III
Definitions**

1. The following words and phrases shall have the meaning set forth below:
 - (A) *Benefits*: The welfare benefits described in the Plans.
 - (B) *Company*: Patriot Coal Corp., and its affiliates and direct and indirect subsidiaries and/or any successors.
 - (C) *Intended Beneficiaries*. Those Patriot Coal salaried retirees (eligible dependents and surviving spouses) who lost their healthcare benefits (or lost eligibility of such benefits) through the Bankruptcy Cases. Intended Beneficiaries is further only intended to cover the dependents, spouses and/or surviving spouses that were eligible for coverage under their respective Patriot Coal health insurance welfare plans then in effect on April 23, 2013.
 - (D) *Investment Manager*: Any other entity who is either:
 - (i) an investment adviser registered as such under the Investment Advisors Act of 1940 (hereinafter "Act"); or
 - (ii) a bank, as defined in the Act; or an insurance company qualified to manage, acquire, or dispose of any asset of an employee benefit plan under the laws of more than one State.
 - (E) *Third Party Administrator*: Any entity or persons appointed by the Board of Trustees to administer the Benefits.
 - (F) *Member*: A Trustee on the Board of Trustees.
 - (G) *Participant*: An Intended Beneficiary (as defined above herein) who is participating in the VEBA Trust Plan.
 - (H) *Plan*: The benefit plan(s) established by the Board of Trustees, setting forth the terms and conditions of retiree welfare benefits for Intended Beneficiaries, as may be amended from time to time.
 - (I) *Trustee*: Collectively, the Board of Trustees of the VEBA Trust. These terms may be used interchangeably and shall carry the same force and effect.
 - (J) *Trust Fund*: Any funds received or held by the VEBA Trust, whether or not increased or decreased by investment earnings (or losses) thereon to be used for Benefits and administration expenses.
 - (K) *Board of Trustees*: The individuals named in Article XI herein, as duly authorized by the 1114 Committee, and their successors as appointed or elected from time to time pursuant to the terms of this Agreement, acting collectively as

Trustee, to control and manage the long-term operation and overall design and long-term administration of the VEBA Trust and the Plan(s).

Article IV
Eligibility for Benefits

1. The VEBA Trust Fund is to benefit only Intended Beneficiaries: the Patriot Coal salaried retirees (eligible dependents and surviving spouses) who lost their healthcare benefits through the Bankruptcy Cases and those that were eligible for such benefits as of April 23, 2013. **The funds are only intended for those who retired on or before April 23, 2013.**

2. Any and all eligibility determinations and/or modification(s) of the term "Intended Beneficiary" shall be solely and exclusively the responsibility of the Board of Trustees in accordance with the terms of this Trust. In any such decisions the Board of Trustees shall be bound by a reasonable interpretation of the purposes of this Trust.

Article V
Contributions and Funding

1. *Contributions:* The VEBA Trust shall be funded by contributions from the Company and all such contributions shall be irrevocable. Company contributions to the Trust shall be in securities and/or cash as provided in the Order entered in the Bankruptcy Cases on April 23, 2013. Upon the discretion of the Board of Trustees, all contributions so received, together with the income therefrom (if any) and any other increments thereon, shall be held, invested, reinvested and administered by the Board of Trustees pursuant to the terms of this Trust, without distinction between principal and income. The Board of Trustees, in consultation with the 1114 Committee (as long as it shall be active), shall have the enforcement power to require the Company to make or cause to be made contributions to the VEBA Trust in accordance with the terms of the April 23, 2013 Order. The 1114 Committee hereby specifically assigns to the VEBA Trust any and all rights to enforce the terms and/or benefits of the April 23, 2013 Order on behalf of the VEBA Trust and all Intended Beneficiaries.

2. *Investment Guidelines:* It is initially the case that because monies coming into the VEBA Trust will be required to be disbursed in relatively short time frames, due to the instability of the general economic marketplace and worldwide economics, there shall be no requirement that the Board of Trustees invest any VEBA Trust funds to avoid attendant risks. However, in the event that it deems it advisable in the future, the VEBA Board shall then adopt investment guidelines governing the investment of the VEBA Trust fund. All such investments shall be consistent with ERISA (Employee Retirement Income Security Act of 1974, as amended) and any other applicable laws and regulations.

3. *No Reversion or Prohibited Inurement:* No part of the VEBA Trust fund shall revert to or inure to the benefit of any organization or individual other than through the payment of Benefits and reasonable administration expenses of the VEBA Trusts.

**Article VI
Trustee**

1. *General Duties of Trustees:*

(A) The Trustees shall hold, manage, invest and reinvest the Trust fund through duly appointed and retained fiduciary agents as described herein. The Trustees do not guarantee the solvency of the VEBA Trust;

(B) The Trustees shall discharge their duties solely in the interest of the Participants, and

(i) for the exclusive purpose of providing Benefits and defraying the expenses of administering the VEBA Trust in keeping with the Purpose of the VEBA Trust;

(ii) with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

(iii) in accordance with this VEBA Trust Agreement and ERISA.

2. *Investment Powers of Trustees:* The Trustees (directly or through the appointed Investment Manager) is authorized and empowered:

(A) To invest and reinvest the VEBA Trust funds and any accretions thereto, without distinction between principal and income, in such securities or in such other property, real or personal, wherever situate, whether or not income producing, including but not limited to stock, common or preferred, interests in regulated investment companies bonds and mortgages, and other evidences of indebtedness, and deposits in a bank or other financial institution under state or Federal supervision, which bear a reasonable rate of interest. In making such investments, the Trustee shall not be restricted by any state law or state statute designating investments eligible for trust funds unless constrained or governed by ERISA.

(B) The Trustees may not (and none of the Members will) receive direct or indirect consideration for any investment or investment decision made on behalf of the VEBA Trust.

(C) The Trustees are further empowered:

(i) To hold un-invested, from time to time, without liability for interest thereon, such amounts as are deemed necessary and/or prudent for the cash requirements of the Trust, and to keep such portion of the VEBA Trust fund in cash or cash balances (and/or other liquid instruments, or Certificates of Deposit) as the Trustees may from time to time deem to be in the best interests of the VEBA Trust Fund;

(ii) To utilize a general disbursement account, i.e., in the form of a demand deposit and/or time deposit account, for distributions from the VEBA Trust, without incurring any liability for payment of interest thereon;

(iii) To provide the VEBA Third Party Administrator with direct access, withdrawal authority and/or the right to utilize funds in any such general disbursement accounts necessary for the VEBA Third Party Administrator to carry out its responsibilities; and

(iv) To hold assets of the VEBA Trust in cash or equivalents, government securities, or straight debt securities in varying proportions when and for so long as, in the opinion of the Trustees, prevailing market and economic considerations indicate that it is in the best interest of the VEBA Trust to do so.

(D) Notwithstanding the foregoing, in no event shall the Trustees or Investment Manager make any investment prohibited by ERISA. Further, the Trustees and/or Investment Manager: (a) shall not allow investment by the Trust Fund, directly or indirectly, into nor allow the use derivatives or futures contracts, except in a collective investment vehicle that does not employ derivatives or futures contracts as a principal part of its investment strategy; and (b) the VEBA Trust shall not invest in investment funds exempt from registration under the Investment Company Act of 1940 by reason of 3(c)(1) or (3)(c)(7) that utilize leverage or long-short strategies.

3. *VEBA Powers of Trustees:* The Trustees shall be further authorized and empowered, in their discretion, to exercise any and all of the following rights, powers and privileges with respect to the VEBA Trust:

(A) To register any investment held in the VEBA Trust in its own name or in the name of one or more of its nominees and to hold any investment in bearer form or other negotiable form, to utilize the services of a depository clearing corporation (such as the Depository Trust Company) to the extent permitted by law, and to combine certificates representing such investments with certificates of the same issue held by the Trustees in other fiduciary capacities, but the books and records of the Trustees shall at all times show that all such investments are part of the VEBA Trust.

(B) In compliance herewith, the Trustees may give to any registrar, transfer agent, or insurer, including but not limited to corporations, state, or Federal authorities or agents, any bond or other guarantee which may be required, provided the Trustees shall be exempt to the maximum extent permissible by applicable law from any need to post a bond. Any registrar, transfer agent, or insurer shall be indemnified by the VEBA Trust and held harmless from any action either at law or in equity for acting upon or in compliance with the instructions received in writing from the Trustees, unless the damages, liability, costs, expenses or claims arise from the other party's negligence or willful misconduct.

(C) To vote upon any stocks, bonds or other securities; to give general or special proxies or powers or attorney with or without power of substitution; to exercise any conversion privileges, subscription rights, or other options, and to make any payments incidental thereto; to oppose or to consent to, or otherwise participate in, corporate reorganizations or other changes affecting corporate securities, to delegate discretionary powers, and to pay any assessments or charges in connection therewith; and generally to exercise any of the powers of an owner with respect to stocks, bonds, securities, or other properties held as part of the VEBA Trust.

(D) To settle, compromise, or submit to arbitration any claims, debts, or damage due or owing to or from the VEBA Trust, to commence or defend suits in any federal or state Court having jurisdiction over a particular matter or legal or VEBA Trust proceedings, and to represent the VEBA Trust in all legal and VEBA Trust proceedings, provided, however, the Trustees shall not be obligated to take any action or to appear and participate in any action which would subject it to expense or liability unless it is first indemnified in an amount and manner satisfactory to it, or is furnished with funds sufficient, in its sole judgment, to cover the same.

(E) To employ suitable agents, advisors, accounts and counsel and to pay their reasonable expenses and compensation from the VEBA Trust.

(F) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted.

(G) Subject to the limitations reflected herein, do any and all acts with respect to the assets held in the VEBA Trust that an owner of any asset held by the VEBA Trust could perform.

In addition to the foregoing powers, the Trustees shall also have all of the powers, rights and privileges conferred upon trustees by the fiduciary law of the State of Illinois to the extent such law is not preempted by Federal law, and the power to do all acts, take all proceedings, and execute all rights and privileges, although not specifically mentioned herein, as the Trustees may deem necessary to administer the Trust Fund and to carry out the purposes of this Trust.

4. *Authority of Trustees:* Persons shall be under no obligation to ascertain the power and authority of the Trustees to make any sale, transfer, assignment, or investment of the whole or any part of the VEBA Trust at any time held hereunder, or to make any contract in relation thereto, nor shall any insurance company be required to ascertain the power or authority of the Trustees to apply for and purchase any insurance or annuity contract, and any such person or company may rely upon any factual information furnished by the Trustees in connection therewith. All parties dealing with the Trustees with respect to the VEBA Trust shall have the right to assume that the Trustees have full power and authority in all respects to deal with the VEBA Trust and shall not be affected by any notice to the contrary, and no purchaser shall be required to see to the application of the purchase money.

5. *Trustees' Compensation and Expenses and Taxes:* The Trustees shall be reimbursed for any and all reasonable, direct out-of-pocket expenses incurred in administering the VEBA Trust, including reasonable counsel fees and/or other professional fees incurred by it as Trustees that are timely provided for reimbursement. Such compensation and expenses shall be paid from the VEBA Trust. All taxes of any kind and all kinds whatsoever that may be levied or assessed under existing or future laws upon, or in respect of, the VEBA Trust or its income, shall be paid from the VEBA Trust.

**Article VII
Distributions and Disbursements**

1. *Authority regarding distributions and reporting:* The Trustees are authorized to disburse to themselves from the VEBA Trust fees and reimbursements for reasonable costs incurred in the performance of their duties, as well as any claim for indemnity under this VEBA Trust Agreement, consistent with Article VI, Section 5 and Article X, Section 2, of this VEBA Trust Agreement. The VEBA Trustees are further authorized to make disbursements from the VEBA Trust to pay the reasonable expenses and associated with the creation, maintenance or revisions to the VEBA Trust, including but not limited to the reimbursement (or direct payment) of the costs and fees to retain and utilize actuaries, consultants, attorneys, accountants and other professionals utilized by the VEBA Trust. The Trustees shall maintain and/or cause to be maintained descriptions of all fees and expenses paid and/or incurred by the VEBA Trust.

2. *Payment for Plan Benefits:* The Trustees will cause payments from the VEBA Trust Fund to be utilized to pay Benefits under the Plans.

3. *Delegation of Authority:* Written directions from a person who has been authorized in writing to act as an agent for the VEBA Trust shall be treated as directed by the Board of Trustees with respect to such matters as are within the scope of authority that Board of Trustees has delegated to such designated agent.

**Article VIII
Trust Accounts**

1. *Right to Set Up Separate Accounts:* The Trustees shall have the right, but not the obligation, to allocate the assets within the VEBA Trust for accounting purposes, and to establish a separate accounts, and/or account for each Plan or otherwise to better effectuate or administer the VEBA Trust, as determined in the sole discretion of the Trustees. The funds allocated to such accounts and sub-accounts may be commingled for investment purposes. The VEBA Trustees may further eliminate one or more accounts and transfer funds between accounts as needed to prudently manage the VEBA Trust.

2. *Record Maintenance:* The Trustees shall keep or cause to be kept accurate and detailed accounts with respect to the assets constituting the VEBA Trust, including but not limited to, records with respect to contributions to the fund, disbursements from the VEBA Trust, the purchase or sale of assets, the cost and fair market value of assets retained, and the income, gain or loss derived periodically from the investments held in the VEBA Trust. All related books and records maintained by the Trustees and/or related information and documents shall be open to inspection by any and all individual members of the Board of Trustees. Nothing herein, however, should be construed to require any record keeping beyond that required by ERISA.

3. *Designation of Additional Trustees:* The Board of Trustees may designate additional Trustees (with some or all Trustee powers enumerated herein) to act hereunder and/or shall have the power to reduce the number of Board of Trustee Members, but not less than three (3).

4. *Documents Evidencing Trusteeship:* In the event any additional Trustee is appointed, is removed or resigns, any such appointment, removal or resignation must be in writing.

Article IX Protection of the Trustees

1. *Indemnification:* No person who serves as a Trustee shall be personally liable for any good faith act taken or omitted, nor for an act taken or omitted by any agent, employee, attorney, or service provider selected with reasonable care, nor for any act taken or omitted without his or her knowledge or consent by any other Trustee who serves on the Board of Trustees, nor for any loss incurred through investment of the VEBA Trust or failure to invest, provided however, that nothing herein shall relieve a fiduciary from responsibility or liability of responsibility, obligation or minimum duties imposed by ERISA.

2. The Board of Trustees (as a group and individually) shall be indemnified and held harmless by the VEBA Trust from and against any and all liability to which the Board and/or individual Trustees may be subjected as a result of this VEBA Trust Agreement, including all fees and expenses reasonably incurred in its defense or in the defense of individual Members, except to the extent the damages, liability, costs, expenses or claims directly arise from gross negligence or willful misconduct or to the extent prohibited by ERISA. The indemnification provided to the Trustees hereunder shall also apply to any liability arising from the acts or omissions of any predecessor trustee or other fiduciaries of the VEBA Trust.

(a) In the event that a Trustee or Trustees are named as defendants in a lawsuit or proceeding involving the VEBA Trust or Plan, said Trustee(s) shall be entitled to receive on a current basis indemnity payments provided for under this Article, however: if a final judgment entered in the lawsuit or proceeding holds that the Board of Trustee(s) is/are guilty of gross negligence or willful misconduct or has breached their fiduciary responsibility under ERISA with respect to the Plan or the VEBA Trust funds, such person or persons shall be required to refund the indemnity payments that he or she has received.

Article X Right to Amend or Terminate

1. *Termination:* This VEBA Trust shall continue for such time as it is necessary and practicable to accomplish the purpose for which it was created. The VEBA Trust and/or any welfare plan of the VEBA Trust may be terminated by the Board of Trustees if and only if the goals of the VEBA Trust and/or its plan(s) can no longer be effectuated economically, and/or if the costs of maintaining the VEBA Trust and/or plans outweigh the benefits of maintaining same, or otherwise if the Board of Trustees in its reasonable judgment determines that continuing the VEBA Trust and/or plan(s) is not in the best interests of the Intended Beneficiaries. Upon termination of the VEBA Trust, any assets which are not needed to discharge VEBA Trust liabilities shall be distributed to the then living Participants in conformance with the allocation of benefits as previously administered and pursuant to the reasonable judgment of the Board of Trustees. If a Plan is terminated but the VEBA Trust is still operating, the Board of Trustees

may further transfer monies between plans, out of a plan and/or into a general VEBA Trust account for use consistent with the purpose of the VEBA Trust.

2. *Liquidation:* Upon termination of the VEBA Trust, the Trustees shall hold the VEBA Trust fund until completely exhausted by paying Benefits and paying the reasonable expenses of the VEBA Trust, including expenses involved in the termination. Any remaining assets shall be distributed to or for the benefit of the Participants in an equitable manner determined at the sole discretion of the Board of Trustees, including but not limited to any future payment made by Patriot Coal to the VEBA Trust thereafter.

3. *Right to Amend:* The VEBA Board may amend, in whole or in part, the provisions of this VEBA Trust Agreement; provided, however, that no such amendment may permit any part of the VEBA Trust to be used for or diverted to purposes inconsistent with those specified in the Purposes of VEBA Trust expressed herein. Further, the Board of Trustees may not modify Article IX herein to lower the threshold of Board of Trustee culpability.

Article XI Procedures for Board of Trustees

1. *Composition of Board of Trustees:* The Board of Trustees shall be initially comprised of three (3) members. While not prohibited, any Board of Trustee member shall fully disclose upon initial appointment (or thereafter) of any employment or agency relationship with the Company in a timely manner and said member shall not vote on any matter which would create a conflict of interest.

2. *Initial Designation:* The initial VEBA Board shall consist of the following three (3) named members:

(A) _____, Chairperson;

(B) _____; and

(C) _____.

The above identified Members were duly elected and appointed by the 1114 Committee as part of the scope of its duties.

3. *Term of Office:* There shall be no limit on the length of service with respect to any Member of the Board of Trustees. Each Member shall continue to serve as such until his or her death, incapacity to serve hereunder, resignation or removal. The Members may subsequently elect a different Chairperson by a majority vote.

4. *Resignation:* A Member may resign, and shall be fully discharged from further duty or responsibility under this VEBA Trust to the extent permitted by law, by giving at least thirty (30) days' advance written notice to the Board of Trustees (or such shorter notice as the Board may accept as sufficient) stating a date when such resignation shall take effect. Such resignation shall take effect on the date specified in the notice or, if a successor Member has been appointed effective as of an earlier date, on such earlier date. The Members shall use

reasonable efforts to ensure that no resignations are less than 120 days apart. The death or permanent incapacity of a Member shall constitute a voluntary resignation of said Member.

5. *Removal:* As long as there is a quorum (as defined herein), a Member may be removed at any time, with or without cause, by the majority vote of the Members. Any Member may seek a vote to remove any other Member by providing at least fifteen (15) days written notice to the entire Board of Trustees.

6. *Successor Board of Trustee Members:*

(A) If a Member dies, becomes incapable of acting hereunder, resigns, or is removed, the remaining Members shall appoint a successor Member.

(B) Each successor Member shall signify his or her acceptance of the appointment in writing.

(C) If no appointment of a successor Member is made within a reasonable time after the resignation or removal of a Member, a court of competent jurisdiction may, upon application by any remaining Member, appoint a successor Member to the Board of Trustees as such court may deem suitable and proper.

(D) The Board of Trustees may further engage in efforts to seek out, identify, interview and educate third persons as alternative and/or replacement designates for Members that resign and/or are removed. Such designates, if approved by a majority of the Board, may be invited to VEBA Board meetings. The Board is further authorized to provide reimbursement of reasonable and necessary expenses incurred by the Board and/or prospective new Member in this process. The purpose of this sub-paragraph (d) is solely provided as a mechanism for the Board to seek and maintain continuity of its membership and to provide for a more orderly process with respect to the replacement of Members that resign and/or that are removed.

7. *Meetings:*

(A) The VEBA Board may establish rules from time to time for the transaction of its business. The Members of the VEBA Board may appoint, in writing, committees with such powers as the Board shall determine, may authorize one or more of their number or any agent to execute or deliver any instrument or make any payment on behalf of the Board and may, at the expense of the VEBA Trust, retain counsel, employ agents and independent contractors and obtain clerical, medical, actuarial, legal and/or accounting services as the Board may deem advisable to carry out its duties. In addition, the Board may designate certain ministerial VEBA functions to one or more persons or institutions pursuant to a written agreement formally expressing the nature of such function(s) and the limitations of any such grant of authority to act on behalf of the Board.

(B) The Board shall hold meetings as frequently as is necessary to ensure the efficient administration of the VEBA Trust and any of its welfare plans, but not less than two (2) meetings (in person or by telephone) during each calendar year. The Chairperson, or any two (2) Members, may call a special meeting of the Board by giving at least four (4) days' advance written notice of the time and place thereof to all other Members, provided the meeting is

telephonic or has capacity for telephonic participation. Regularly scheduled meetings need not be noticed in writing.

(C) One Member, or another individual so designated by the VEBA Board, shall maintain minutes of all Board meetings, but such minutes need not be verbatim. Copies of such minutes shall be provided to all Members and to such other parties as the Board may designate.

8. *Written Notice:* To reduce unnecessary formality, cost and/or time, any requirements of "writing" within this Article of the VEBA Trust Agreement (and only within this Article of the VEBA Trust Agreement) may be effectuated by electronic mail provided all Members have reasonable access to electronic mail.

9. *Quorum:* A majority of the Members of the Board then in office shall constitute a quorum for the purpose of transacting any business.

10. *Vote of Members:*

(A) Each Member shall have one vote. Except as otherwise specified in this VEBA Trust Agreement, all actions of the Board shall be by majority vote of those present or voting by proxy. Notwithstanding, any Member having a material conflict of interest of any kind shall not be entitled to vote with respect to any such issue.

(B) The vote of any absent Member may be cast by proxy but said proxy shall be evidenced in writing, although it need not be writing in any prescribed form, i.e. to avoid unnecessary formality there is no required proxy form.

(C) In addition to decisions made at meetings, except as otherwise provided herein, actions may be taken without a meeting by unanimous written consent of the Members.

11. *Compensation:* Members may be paid a reasonable honorary compensation for their services hereunder. That amount shall initially be set at \$500.00 per year (for each Board of Trustee members) and \$1,000.00 for the Board Chairperson, to be paid in yearly installments by the VEBA Trust. Compensation may be increased or decreased from time to time as agreed by the Board (unanimously) but in no event shall the Members be paid more than that customarily paid to trustees of similarly sized trusts and/or trusts of similar nature. Members shall also be timely reimbursed for reasonable expenses incurred with respect to a Member's activities on behalf of the VEBA Trust and/or plans.

12. *Reporting:* The VEBA Board is required to send at least one report each year to the Participants that, at a minimum, must reflect the general financial status of the VEBA Trust, the identification of the VEBA Board Members, and other VEBA plan issues that would be of material benefit if communicated to the Participants. The report must further provide an address for Participants to contact the VEBA Board (with respect to non-Plan administration issues) and to inform the Participants that Government Reports and Returns, trust expense itemization and copies of the effective VEBA Trust Agreement will be made available for inspection and review upon reasonable notice.

Article XIII
Powers and Duties of the VEBA Board

1. *General:* The Board of Trustees shall be responsible for the administration, amendment and overall operation of the Trust and the welfare plan(s). Subject to the provisions of this VEBA Trust Agreement and applicable laws, the Board shall have sole, absolute and discretionary authority to adopt such rules and regulations and take all actions that it deems desirable or necessary for the administration of the VEBA Trust, to determine facts relating to participation in the welfare plans and VEBA Trust and to interpret and construe the terms of the plans and VEBA Trust. The decisions of the Board will be conclusive, final and binding on all Participants and all other parties to the maximum extent allowed by law.

2. *Benefits:*

(A) *Establishment of Plans.* So long as practicable, the Board shall administer and/or cause to have administered a welfare plan financed through the VEBA Trust.

(B) *Welfare Plans Must Be In Writing.* The Board may draft and make changes its welfare plans and plan documents to effectuate the purposes and intent of this VEBA Trust. Nothing in any welfare plan document shall be interpreted nor drafted to alter the terms of this VEBA Trust Agreement.

(C) *Benefits.* The Plans shall be drafted to best provide benefits to the Intended Beneficiaries in the manner that the Board determines appropriate and desirable to the extent consistent with the intent of the 1114 Committee. Benefits provided under the Plans shall be limited to those benefits permitted by Section 501(c)(9) of the Code.

(D) *Method of Providing Benefits.* The Plan shall initially provide for a mechanism to allow Intended Beneficiaries to seek reimbursement from the Plan with respect to costs incurred for: (a) COBRA premiums; or (b) reimbursement of third-party Medicare gap insurance premiums (non-employer sponsored), and/or any other non-employer sponsored third party health insurance premiums.

(E) The Board shall have the broad discretion to the design of the Plan with respect to how much benefits to provide each year, allocations between different similarly situated retirees and/or any and all other short and/or long term plan design decisions so long as said Plan (or alterations to same) are consistent with the Purpose of the VEBA Trust.

3. *Government Reports and Returns:* The Board of Trustee shall cause to be filed all reports and returns, including but not limited to, any IRS Form 5500 and IRS Form 990, that are required to be made with respect to the VEBA Trust and the Plan(s).

4. *Compromise or Settle Claims:* The Board may compromise, settle and release claims or demands in favor of or against the VEBA Trust or the Board on such terms and conditions as the Board may deem advisable.

5. *Appointment of Administrator; Delegation of Authority:* The Board may appoint a third party to perform any of its administrative functions. The Board may by written resolution

delegate to any one or more Members the authority to act on behalf of the full Board to the extent set forth in the resolution.

6. *Consultation:* The Board may engage or consult with counsel or other advisors and, may direct payment of reasonable compensation from the VEBA Trust and may take or may refrain from taking any action in accordance with or reliance upon the opinion of counsel or such advisors.

7. *Reliance on Written Instruments:* Each Member of the Board shall be fully protected in acting upon any instrument, certificate or paper believed by him or her to be genuine and to be signed or presented by a duly authorized person or persons, and shall be under no duty to make any investigation or inquiry as to any statement contained in any such writing, but may accept the same as conclusive evidence of the truth and accuracy of the statements therein contained.

8. *Bonding:* The Members of the Board shall be bonded in the amount required by Section 412 of ERISA and may be covered by liability insurance in accordance with Section 410(b) of ERISA. To the extent permitted by applicable law, the costs of such bonding and insurance shall be expenses paid using VEBA Trust funds.

Article XIV Powers and Duties of Investment Manager

1. When and if the Board of Trustees seeks to appoint one or more Investment Managers for the purpose of investing and/or reinvestment of all or any portion of VEBA Trust funds, the VEBA Board shall prudently select and retain the Investment Manager, taking into account management fees and other transaction costs, along with other appropriate considerations. An Investment Manager must present evidence of its qualifications as in Investment Manager under Section 3(38) of ERISA, and shall acknowledge in writing its appointment as a fiduciary of the Trust Fund.

2. The Investment Manager shall have investment responsibility for that portion of the assets of the VEBA Trust that it has been appointed to manage. An Investment Manager that has been thus granted such responsibility shall have all of the investment powers enumerated in Article VI, paragraph 2 hereof. The Board shall have no duty to recommend any investment or reinvestment of the VEBA Trust by or at the direction of such Investment Manager, nor shall the Trustees be charged with the duties imposed by Article VI, paragraph 2 to the extent any such grant of authority for the investment or reinvestment of the VEBA Trust fund is granted to the Investment Manager. Except to the extent provided by ERISA or under other applicable law, the Trustees shall not be liable or responsible for any loss resulting to the VEBA Trust by reason of any investment or reinvestment or any non-investment pursuant to the provisions of this paragraph resulting from a good faith recommendation by the Investment Manager.

3. The Investment Manager may only receive such compensation as is approved by the Board. Said compensation shall be paid from the VEBA Trust and/or its investments as is customary in the investment industry.

ARTICLE XV
VEBA Administrator

1. *Appointment:* The Board of Trustees shall appoint a third party administrator (VEBA Administrator). The VEBA Administrator shall, among other duties delegated by the Board, serve as the day to day administrator for processing of claims for benefits under and in accordance with the Plan(s). The VEBA Administrator shall be a fiduciary of the VEBA Trust.

2. *Compensation:* The VEBA Administrator may only receive such compensation as is approved by the Board, which shall be paid from the VEBA Trust.

3. *Duties and Responsibilities:* The VEBA Administrator shall be responsible for administering the Benefits as described in the Plan(s) created by and/or as modified by the Board from time to time. The specific duties and responsibilities of the VEBA Administrator shall be detailed in a written agreement between the VEBA Board and the VEBA Administrator.

ARTICLE XVI
Miscellaneous

1. *Fiduciary Duties:* Except as otherwise provided herein, each fiduciary shall have only those powers, duties, responsibilities and obligations as are specifically allocated to it under the VEBA Trust Agreement and by the Trustees. Neither the Board of Trustees nor any Member shall have responsibility for the performance of any entity not specifically so allocated.

2. *Benefits Not Guaranteed:* The VEBA Board/Trustee does not guarantee the payment of Benefits. Each Participant shall look solely to the assets of the VEBA Trust Fund for payment of their Benefits. Nothing contained in the VEBA Trust or the Plans shall constitute a guarantee that the liquid assets of the VEBA Trust Fund will be sufficient to pay any Benefit to any person or make any other payment. Payments to be paid from the VEBA Trust Fund are limited to the liquid assets remaining in the Trust Fund at the time payment is made.

3. *Rights Are Not Created:* Nothing appearing in or done pursuant to the VEBA Trust Agreement will be held or construed to give any person any legal or equitable right or interest in the VEBA Trust or any part thereof or distribution therefrom or against the VEBA Board/Trustee, or its fiduciary professionals, except as expressly provided in the VEBA Trust Agreement or as provided in ERISA.

4. *No Alienation of Benefits:* No benefit, right or interest of any person hereunder will be subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge or to seizure, attachment or other legal, equitable or other process; and the VEBA Trust will not be liable for, or subject to, the debts, liabilities or other obligations of such person. In the event of an attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber or charge such benefit, right or interest, or to subject it to seizure, attachment or other legal, equitable or other process, such benefit, right or interest will immediately cease and terminate; but the Board, in its sole discretion, may pay or apply for the benefit of such person or his family so much of such benefit, right or interest as it may deem advisable.

5. *Destruction of Records:* The Board/Trustee is authorized to destroy correspondence, or other files, including but not limited to, correspondence of transmittal for checks, statements and account analyses, and correspondence dealing with terminated or deceased participants, after a period of six (6) years from the due date of any annual tax return with respect to each fiscal year of the VEBA Trust.

6. *Headings:* Headings and titles are for convenience only, and the text will control in all matters.

7. *Applicable State Law:* To the extent that state law applies, the provisions of the VEBA Trust Agreement will be construed, enforced and administered according to the laws of Illinois, without regard to the choice of law rules thereof. Beneficiaries of the Trust further agree to bring any cause of action relating to and/or arising out of this VEBA Trust Agreement in the Northern District Court of Illinois. If and to the extent that Court does not have jurisdiction, however, said action(s) shall be filed in the Cook County Court, State of Illinois. In no case shall any action be allowed after two (2) years from the date that any cause of action accrues.

8. *Notice:* Notice to the VEBA Trust, shall be given to the Patriot Coal Salaried Retiree VEBA Trust, c/o Stahl Cowen Crowley LLC, 55 West Monroe Street, Suite 1200, Chicago, Illinois 60603, Attention: Jon D. Cohen by United States First Class Mail, Return Receipt Requested or Certified; via express delivery; or via hand-delivery. This addressee and recipient may be modified at the sole discretion of the Board.

9. *Counterparts.* This VEBA Trust Agreement may be executed in any number of counterparts, any of which may be executed and transmitted by facsimile or other electronic means mutually acceptable to the parties hereto, and each of which will be deemed to be an original of this VEBA Trust Agreement and all of which, when taken together, will be deemed to constitute one and the same instrument.

[SIGNATURES ON NEXT PAGE]

EXECUTED as of the ____ of January, 2013

PATRIOT COAL SALARIED
RETIREE VEBA TRUST BOARD
OF TRUSTEES

By: Joe _____, Chairperson

By: Jim _____

By: John _____

**PATRIOT COAL SALARIED RETIREE
COMMITTEE**

By: _____, Chairperson

By: _____

By: _____

By: _____

By: _____

By: _____

By: _____

Exhibit A

TO

PATRIOT COAL SALARIED RETIREE VEBA TRUST AGREEMENT

The agent for service of process shall be:

Patriot Coal Salaried Retiree VEBA Trust Agreement
c/o Jon D. Cohen & Trent P. Cornell
Stahl Cowen Crowley Addis LLP
55 W. Monroe St., Suite 1200
Chicago, Illinois 60603