

LEASE AGREEMENT

THIS AGREEMENT is made this ___ day of _____, 2016, by and between the **CITY OF MORGANTOWN**, a municipal corporation and political subdivision of the State of West Virginia ("*Lessor*"), and the **MONONGALIA COUNTY DEVELOPMENT AUTHORITY**, a West Virginia public corporation ("*Lessee*"), upon the following terms and conditions:

WITNESSETH:

1. Lessor, in consideration of **Ten Thousand Dollars (\$10,000.00)** paid, and of certain other royalties provided for herein, and of the agreements of the Lessee contained herein, does hereby lease and let, exclusively, unto Lessee for the purpose of investigating, exploring, prospecting, drilling, mining and producing all of Lessor's right, title, and interest in and to all the Pittsburgh and Redstone veins or seams of coal, together with gob and other coal waste (collectively, "leased coal"), within, upon and underlying certain tracts or parcels of land situate and being in Monongalia County, West Virginia, and more particularly described as follows:

Business Park Property

TRACT A

All that certain tract of land situate in the City of Morgantown, Sixth Ward, Monongalia County, located along the southeasterly side of a public road known as the Morgantown Municipal Airport Access Road, and more particularly bounded and described as follows

BEGINNING at a 5/8"x30" rebar with cap (found) at a corner common to the southeasterly legal right-of way line of a public road known as the Morgantown Municipal Airport Access Road, and also common to land of N/F David E. and Bryan E. Bryte (DB1494-159, Tract Two – First); thence leaving said legal right-of way line and continuing along land of said Bryte by the following three courses and distances being

South 21°37'54" West, a distance of 84.00 feet to a 5/8" rebar (found); thence along same

South 03°14'54" West, a distance of 621.42 feet to a 5/8" rebar (found); thence along same

North 32°47'10" East, a distance of 323.60 feet to a concrete monument (found) at a corner common to N/F Michael A. and Karen S. Lemley, and also common to said Bryte; thence leaving land of said Bryte and continuing along land of said Lemley

South 74°54'36" East, a distance of 1492.71 feet to a roof bolt (found) at a corner common to land of said Lemley, and also in line of land of N/F Donald O. and Susan C. Riggs (DB1308-204); thence leaving land of said Lemley and continuing

along land of said Riggs, and also along land of N/F Sarah F. Haught (DB1453-719), and also along land of N/F Jason R. and Lovan N. Jaros (DB1480-280)

South 36°12'14" West, a distance of 428.50 feet to a 1" pipe (found) at a corner common to said Jaros; thence continuing along land of said Jaros, and also along N/F George Scott and Sarah M. Stewart

South 54°25'28" East, a distance of 463.96 feet to a ½" rebar (found) at a corner common to said Stewart, and also common to N/F David E. and Paula A. Wilson (DB1033-504) ; thence leaving land of said Stewart and continuing along land of said Wilson

South 15°51'05" West, a distance of 982.69 feet to a 1" pipe (found) at a corner common to land of said Wilson and in line of land of N/F James L. and Beverly Laurita (DB1245-18); thence leaving land of said Wilson and continuing along land of said Laurita

North 50°25'41" West, a distance of 599.20 feet to an axle (found) at a corner common to other land of said Laurita (DB1123-217); thence along same

North 49°04'59" West, a distance of 205.06 feet to a ¾" pipe (found); thence along same

South 36°26'27" West, a distance of 837.86 feet to a roof bolt found) at a corner common to other land of said Laurita (DB778-344); thence along same

North 48°36'20" West, a distance of 538.22 feet to a 5/8" rebar with cap (found) at a corner common to said Laurita, and also common to Airpark, LLC (DB1377-298, Parcel Three); thence leaving land of said Laurita and continuing along land of said Airpark, LLC

North 33°22'26" West, a distance of 81.49 feet to a 5/8" rebar with cap (found); thence along same, and also along other land said Airpark, LLC (DB1377-298, Parcel Two)

North 86°26'10" West, a distance of 1187.28 feet to a 5/8" rebar with cap (found) at a corner common to land of said Airpark, LLC; thence through land of which this is a part

North 19°10'27" West, a distance of 35.67 feet to a PK nail in paved road (set); thence along same with a non-tangent curve turning to the left having an arc length of 313.10 feet, a radius of 522.00 feet, the chord of said curve being **North 37°10'32" East, a distance of 308.43 feet** to a 5/8"x30" rebar with cap (set);

thence along same with a reverse curve turning to the right having an arc length of 25.00 feet, with a radius of 75.00 feet, the chord of said curve being **North 29°32'21" East, a distance of 24.88 feet** to a 5/8"x30" rebar with cap (set) at a

corner of aforementioned access road legal right-of-way line; thence along said right-of-way line with the following twelve courses and distances being:

South 85°02'22" East, a distance of 114.84 feet to a 5/8"x30" rebar with cap (set); thence along same

North 81°19'43" East, a distance of 169.99 feet to a 5/8"x30" rebar with cap (set); thence along same

North 41°12'29" East, a distance of 232.20 feet to a 5/8"x30" rebar with cap (set); thence along same

North 17°23'44" West, a distance of 111.88 feet to a 5/8"x30" rebar with cap (set); thence along same

North 66°12'03" West, a distance of 131.81 feet to a 5/8"x30" rebar with cap (set); thence along same

North 16°27'22" East, a distance of 92.79 feet to a 5/8"x30" rebar with cap (set); thence along same

North 25°53'50" East, a distance of 204.94 feet to a 5/8"x30" rebar with cap (set); thence along same

North 43°17'44" East, a distance of 490.34 feet to a 5/8"x30" rebar with cap (set); thence along same

North 09°43'44" East, a distance of 175.38 feet to a 5/8"x30" rebar with cap (set); thence along same

North 30°27'14" East, a distance of 411.97 feet to a 5/8"x30" rebar with cap (set); thence along same

North 35°22'36" East, a distance of 198.04 feet to a 5/8"x30" rebar with cap (set); thence along same

North 46°24'04" East, a distance of 94.57 feet to a 5/8"x30" rebar with cap (set); to the point of beginning, **CONTAINING** an area of 86.01 acres.

TRACT B

All that certain tract of land situate in the City of Morgantown, Sixth Ward, Monongalia County, located along the northwesterly side of a public road known as the Morgantown Municipal Airport Access Road, and more particularly bounded and described as follows

BEGINNING at a 5/8"x30" rebar with cap (set) at a corner common to the northwesterly legal right-of-way line of a public road known as the Morgantown Municipal Airport Access Road, and also in line of land of N/F State of West

Virginia (DB1425-622); thence leaving land of said State of West Virginia and continuing along said right-of-way line

South 32°45'09" West, a distance of 54.60 feet to a 5/8"x30" rebar with cap (set); thence along same

South 15°27'04" West, a distance of 113.11 feet to a 5/8"x30" rebar with cap (set); thence along same

South 47°33'17" West, a distance of 264.31 feet to a 5/8"x30" rebar with cap (set); thence along same

South 24°44'16" West, a distance of 329.80 feet to a 5/8"x30" rebar with cap (set); thence along same

South 38°04'16" West, a distance of 345.69 feet to a 5/8"x30" rebar with cap (set); thence along same

South 21°14'24" West, a distance of 204.61 feet to a 5/8"x30" rebar with cap (set); thence along same

South 87°30'34" West, a distance of 107.22 feet to a 5/8"x30" rebar with cap (set); thence along same

South 24°48'32" West, a distance of 64.78 feet to a 5/8"x30" rebar with cap (set); thence along same

South 27°56'21" East, a distance of 95.95 feet to a 5/8"x30" rebar with cap (set); thence along same

South 33°40'57" West, a distance of 123.40 feet to a 5/8"x30" rebar with cap (set); thence along same

South 05°45'22" West, a distance of 121.40 feet to a 5/8"x30" rebar with cap (set); thence along same

South 02°04'40" West, a distance of 225.16 feet to a 5/8"x30" rebar with cap (set); thence along same

South 47°52'38" West, a distance of 81.19 feet to a 5/8"x30" rebar with cap (set); thence along same

North 46°01'11" West, a distance of 369.55 feet to a 5/8"x30" rebar with cap (set); thence along same

North 27°59'54" West, a distance of 209.20 feet to a 5/8"x30" rebar with cap (set); thence along same

North 37°30'42" West, a distance of 20.30 feet to a 5/8"x30" rebar with cap (set); thence leaving said legal right-of-way line and through land of which this is a part

North 45°07'12" East, a distance of 164.39 feet to a 5/8" rebar with cap (found) at a corner common to land of aforementioned State of West Virginia; thence continuing with said State of West Virginia

North 45°07'12" East, a distance of 1662.98 feet to the point of beginning, **CONTAINING** an area of 9.68 acres

Being a portion of the coal excepted and reserved by Lessor in that certain deed to Monongalia County Development Authority, a West Virginia public corporation, dated _____, of record in the office of the Clerk of the County Commission of Monongalia County, West Virginia, in Deed Book _____, page _____.

Airpark, LLC Property

All those certain tracts or parcels of land situate in the Sixth Ward of the City of Morgantown, Monongalia County, located along the southeasterly side of a public road known as the Morgantown Municipal Airport Access Road, and more particularly bounded and described as follows:

Parcel One – 2.93 Acres:

BEGINNING at an iron rod an original corner between land now or formerly of Kramer Turner and Millard Mayhew, and in a line of land now or formerly of Darrell J. Hoskins, thence with original Turner line, N. 6° W. 300 feet to an iron rod; thence leaving original line, N. 68° 10' E. 386 feet to a point in a private road (iron rod set 25 feet west of corner); thence with center of said private road, S. 24° 15' E. 300 feet to a point in said road (iron rod set 30 feet west of corner); thence leaving said road, S. 69° 30' W. 480.61 feet to the beginning, containing 2.93 acres, being the same, more or less, as more fully shown on a plat dated March 11, 1976, prepared by Paul W. Guseman, LLS, a copy of which is recorded in the office of the Clerk of the County Commission of Monongalia County, West Virginia, in Deed Book 772, at page 418.

Being the same tract or parcel of land, together with existing veins or seams of coal and gob and other coal waste products, conveyed unto Airpark, LLC by East Park, LLC, as "Parcel One: 2.93 Acres", by deed dated December 3, 2008, of record in the office of the Clerk of the County Commission of Monongalia County, West Virginia, in Deed Book 1377, page 298.

Parcel Two – 10.16 Acres:

BEGINNING at a point on the Eastern side of the road, at a post in the fence line; thence S. 69° 43' W. 404.70 feet to an iron pin; thence along the dividing line with the City of Morgantown, N. 4° 38' W. 1162.26 feet to a point; thence S. 79° 38' E. 471.96 feet, along the dividing line with the City of Morgantown, to a point; thence S. 0° 34' E. 933.29 feet to the point and place of beginning, as more fully set forth on a plat of said property hereby conveyed, which plat is recorded in

the office of the Clerk of the County Commission of Monongalia County, West Virginia, in Deed Book 806, at page 98.

Being the same tract or parcel of land, together with existing veins or seams of coal and gob and other coal waste products, conveyed unto Airpark, LLC by East Park, LLC, as “Parcel Two: 10.16 Acres”, by deed dated December 3, 2008, of record in the office of the Clerk of the County Commission of Monongalia County, West Virginia, in Deed Book 1377, page 298.

Parcel Three – 13.56 Acres:

BEGINNING at an iron pin on the east side of a private road leading approximately 1/3 mile to West Virginia County Route No. 62/2, said iron pin being the point of beginning from deed from Kramer Edward Turner and Hazel Turner, his wife, to Pineview Realty, Inc., dated May 22, 1978, recorded in the office of the Clerk of the County Court of Monongalia County, West Virginia, in Deed Book No. 806, at page 96; thence along the dividing line with said tract and residue of Hazel Turner, N. 0° 34' W. 933.29 feet to a point from which a 38 inch black oak bears S. 0° 34' E. 11.00 feet; thence along the dividing line with the City of Morgantown, DBV 365/92, S. 79° 38' E. 713.60 feet to a point at the end of a stone fence; thence along the dividing line with the City of Morgantown, DBV 368/392, S. 26° 50' E. 79.49 feet to a corner fence post; thence along the dividing line with James L. and Beverly A. Laurita DBV 778/344, S. 5° 20' 10" W. 622.16 feet to a 34 inch white oak; thence through land of Hazel Turner, passing an iron pin line reference at 69.64 feet and other iron pin line reference at 672.96 feet and the centerline of aforesaid private road at 682.96 feet, a total of S. 75° 26' 50" W. 688.52 feet to a point in the west side of road; thence along the div[id]ing line with Pineview Realty, Inc. DBV 797/103, N. 22° 42' W. 56.47 feet to a point in line of Pineview Realty, Inc. DBV 806/96; thence re-crossing road and along the div[id]ing line with said Pineview Realty, Inc., N. 69° 43' E. 18.70 feet to the place of beginning, containing 13.56 acres, more or less, as shown on a plat of survey prepared by Blaine E. Miller, LLS, recorded in Deed Book 900, at page 431.

Being the same tract or parcel of land, together with existing veins or seams of coal and gob and other coal waste products, conveyed unto Airpark, LLC by East Park, LLC, as “Parcel Three: 13.56 Acres”, by deed dated December 3, 2008, of record in the office of the Clerk of the County Commission of Monongalia County, West Virginia, in Deed Book 1377, page 298.

All of said parcels together constitute One Hundred Twenty-two and thirty-four hundredths (122.34) acres, more or less.

2. Subject to the other provisions contained here, this lease shall be for a term of one (1) year from and after the date of this Lease (“Primary Term”), and as long thereafter as coal or gob is being produced and/or removed from that land or lands leased under this Lease; *provided, however,* that this Lease, and the right to remove coal or produce coal or gob from the property, on and after April 1, 2017, shall not unreasonably interfere with activities involving or related to

the planning, design, or construction of additional airport facilities, including a planned extension of the airport runway, whether conducted by Lessor, its agents, or other agencies. Lessee and its assignees agree to take any and all actions reasonably necessary to coordinate operations performed pursuant to this Lease with the entities involved in development of additional airport facilities so that such development occurs in a timely fashion. Lessor and Lessee understand and agree that any dispute regarding interference with the runway extension work by the Lessee that is not resolved by the Lessor and Lessee shall be determined by the United States Air Force contracting unit performing the runway extension work.

3. Lessee shall have the right, to the extent Lessor possesses such rights, (a) to enter in, upon, over and under the surface land overlying the leased coal, and to mine, excavate and remove therefrom all the coal and gob subject to this Lease, which in the opinion and judgment of Lessee can be practically, economically and profitably removed by any known mining method; (b) together with the right to excavate and remove the surface soil, subsoil and other materials lying upon and over the leased coal, and the right to place said soils and materials, so excavated and removed, on and upon other parts of the surface land overlying the leased coal, and other contiguous lands, provided that Lessee hereby agrees to retain such surface soil and subsoil solely for the purpose of use by the Morgantown Municipal Airport or its agents in the runway extension project expected to commence April 1, 2017, and in the event the runway project does not commence on or about April 1, 2017, then the Lessor shall notify the Lessee of either the expected date of commencement of work on the runway project, or notice that the Runway project will not proceed, in which event Lessee shall be released and permitted to dispose of or utilize such soils in its discretion; (c) to commingle spoils from one boundary to another; (d) to dispose of on the surface overlying the leased coal any extraneous materials removed and/or realized from the coal; (e) to transport and remove over, across and through said surface lands overlying the leased coal, coal from adjacent coterminous and neighboring lands; (f) to erect and maintain thereon, excavations, structures, roadways, power lines, drainways and all necessary construction needed in the operation of said property, and adjacent, coterminous and adjoining properties operated by Lessee; (g) to stock pile leased coal on the lands overlying the leased coal; and (h) to do any and all things thereon necessary, convenient or incidental to the mining and removing of the leased coal and gob.

4. As consideration for the coal being leased hereunder, Lessee agrees to pay, and Lessor agrees to accept, an initial lump sum royalty payment of Ten Thousand and No/100 Dollars (\$10,000.00), payable upon final execution and acknowledgment of this Lease; *provided, however*, in the event Lessee leases, or contracts for the removal of, the leased coal, or in any manner transfers its rights under this Lease to any third party or parties, and such lease, contract or transfer should result in the payment to Lessee of royalties, rents or other payments aggregating in excess of Ten Thousand and No /100 Dollars (\$10,000.00), then, and in such event, Lessee agrees to pay such excess funds to Lessor, and such excess funds shall be restricted to use by Lessor for the Morgantown Municipal Airport. Payment of such excess funds shall be delivered to Lessor within ten (10) business days of Lessee's actual receipt of such excess funds. Regarding the prospects that additional royalties, rents or other payments may be realized, it is understood and acknowledged by the parties that the leased coal underlies certain surface lands that Lessee plans to develop as a business park; that leased coal will be encountered during the site development of the business park; that the parties are entering into this Lease for the purpose of granting Lessee

the right to remove the coal encountered as part of its development of the business park; that the leased coal encountered during the site development must be removed from the site; that the mining and removal of the leased coal is and will be incidental to the development of a business park; that certain areas of leased coal may not be mined and removed; and that Lessee, initially, does not expect or anticipate the payments of additional royalties, rents or other payments.

5. Operations for the mining and/or removal of the leased coal shall commence within sixty (60) days from and after the issuance and receipt by Lessee of all necessary permits and approvals required for Lessee, or Lessee's contractor or assign, to mine and/or remove the leased coal, as above provided. If Lessee is unable to commence the mining and/or removal of the leased coal within the sixty (60) day period, or if the necessary permits and approvals cannot be obtained during the Primary Term, then, and in such event, the Lease shall terminate as to both parties, *unless* on or before the termination date of the sixty (60) day period, or the Primary Term, whichever occurs first, Lessee shall pay or tender to Lessor the sum of One Thousand (\$1,000.00) Dollars ("*rental*") which shall cover the privilege of deferring commencement of such operations and the Lease for a period of six (6) months. The cash down payment is consideration for this Lease according to its terms and shall not be allocated as mere rental for a period.

6. Lessor represents that to the best of lessor knowledge and belief that the Lessor is the sole owner of the mineral interests being leased herein. However, this Lease is made without warranty of title or peaceable possession, except peaceable possession as to Lessor's own acts, and Lessor, on failure of title in any respect, shall not be liable for the return of any bonus, rentals, royalties, or other moneys paid. Lessee, at its option, may (but is not required to) discharge any tax, mortgage or other lien on the land, but shall not be subrogated to the same, nor have the right to apply to the repayment of such tax, mortgage or lien any rentals or royalties accruing under the Lease. Any cost or burden of determining proper title to the leased coal is the sole responsibility of Lessee. This Lease does not grant Lessee any color of title or right of entry onto the leased coal that is not otherwise reserved or granted to the mineral interest of the Lessor. If Lessor owns an interest in the leased coal less than the undivided fee simple estate, Lessor nevertheless shall receive the full amount of royalty, rental, and bonus payments provided in this Lease. Lessee shall be responsible for obtaining any permits, approvals, and licenses necessary or desired for performing the rights and operations covered by this Lease. Lessor reserves to itself the right to lease, sell or otherwise dispose of the other mineral deposits in the lands, if any, the right to continue existing uses and to authorize future uses upon or in the leased lands provided that the lease, sale or disposal of other mineral deposits shall not unreasonably interfere with the rights, privileges, and obligations of Lessee provided in this Lease.

7. Lessor shall not be obligated under any circumstances to repay to Lessee or to others, any royalties or rentals which have been paid by Lessee to Lessor.

8. This Lease is made and accepted subject to all existing and valid servitudes, recorded or unrecorded, affecting the leased coal.

9. Lessee agrees to pay for all damages caused at any time by Lessee's operations, and/or those of its agents, officers, employees, and assigns on or in the leased coal and any properties entered or occupied as a result of operations performed under this Lease.

10. To the full extent allowed or permitted by law, Lessee agrees to indemnify, hold harmless and defend Lessor, at Lessee's cost, against all claims for damages to persons or property arising out of, or connected with, Lessee's operations on, or occupancy of, the leased coal and any properties entered or occupied as a result of operations performed under this Lease, and/or the operations or occupancy of its agents, officers, employees, and assigns. The duty to indemnify, hold harmless and defend Lessor shall be limited to the removal of the Coal and shall not extend to any other consequential damages. The duty to defend and hold harmless the Lessor shall survive the termination of this agreement. Lessee represents and warrants that it is legally permitted to enter into an agreement to defend and indemnify third parties including Lessor.

11. Lessee shall carry insurance in the following minimum amounts during the term of this Lease, naming the Lessor as an additional insured on the policy (ies), and such coverage shall be the primary coverage for Lessor as to any covered claim(s):

(a) Comprehensive Automobile Liability insurance covering owned, non-owned, and hired motor vehicles which may be used in any connection with the mining operations contemplated hereunder with limits of not less than \$1,000,000 combined single limits in any one occurrence, for all liability arising out of injury to or death of one or more persons, and for all liability arising out of damage to or destruction of property, including loss of use thereof and downtime.

(b) Property Insurance in amounts equal to the full replacement cost (or the highest insurable value if coverage for replacement cost is not available) covering all real and personal property and fixtures located on the real property in which the leased coal is situated, against loss or damage by fire, lightning, explosion or other hazards covered under extended coverage insurance. The proceeds of any loss payable under such policies as above required shall be used by Lessee in the restoration, repair, or replacement of the destroyed or damaged property as required for the performance of Lessee's obligations under this Lease.

(c) Comprehensive General Liability insurance, including Contractual Liability, Pollution Liability, Owners and Contractors Protective Liability, Broad Form Property Damage Liability and Explosion and Collapse Hazards coverages with Bodily Injury limits of \$2,000,000 each person and \$2,000,000 each occurrence.

Lessee shall provide the lessor with certification of insurance through the term of this Agreement, evidencing such coverage to be in force. Lessee may satisfy this condition by providing certification of insurance naming Lessor as additional insured from all third parties to whom Lessee's rights under this Lease may be transferred, in the event of such transfer.

The Lessor agrees to notify the Lessee in writing, as soon as practicable, of any claims, demands, or action arising out of an occurrence covered hereunder of which the lessor has knowledge, and to cooperate with the lessee in the investigation and defense thereof.

12. Lessee may, without the consent of Lessor, assign this Lease, or contract the removal of the leased coal, subject to the terms and conditions hereafter set forth. In the event of any assignment or contract of rights or privileges, or interests under, this Lease by Lessee, Lessee shall mail, within ten (10) days after the execution and delivery of such assignment, one copy of the assignment or contract to Lessor at the notice address indicated in this Lease, or at such address as may be provided from time to time to Lessee by written notice of change of address. Such assignment or contract shall not be binding on Lessor until such copy has been mailed. Any assignee or contractor will be obligated as to all terms of this Lease.

13. Lessee agrees that if it shall be in default in the performance of its obligations under the Lease, and such default or defaults have continued for thirty (30) days after Lessor has notified Lessee in writing of such default or defaults, without Lessee having in good faith begun to remedy such default or defaults within the thirty (30) day curement period, Lessor shall have the right, at its option, at the end of such 30-day period, to cancel and terminate this Lease, and all rights of Lessee under the Lease, including the right of Lessee subsequently to remove any coal or gob from the surface lands overlying the leased coal, for such default or defaults of which Lessee has been so notified; provided, however, if Lessee has assigned or contracted its right under this Lease, no termination may be declared until a thirty (30) day notice has been delivered to the assignee or contractor, and such assignee or contractor has failed to cure such default or defaults within the thirty (30) day curement period. In the event of a cancellation and termination of this Lease, Lessee shall remain liable for all obligations accrued to the date of termination. If Lessee, after receiving notice of default from Lessor, in good faith denies it is in default, it may prior to expiration of fifteen (15) days from receipt of such notice, institute a suit, action or proceeding for the purpose of having the controversy determined. If the court decides in favor of Lessor, Lessee shall have a reasonable time in which to cure the default or defaults so determined to exist.

14. At such times, and in such form, as Lessor may prescribe, Lessee shall, upon request, furnish detailed statements showing the number of tons of leased coal and gob removed from the property and any additional information required by Lessor to determine if any excess royalties, rents or other payments are due under this Lease. Lessee shall, upon five (5) days written notice, allow for the inspection by Lessor of all books, accounts, maps and records relative to operations and removal of the leased coal and gob. Lessee shall, upon five (5) days written notice, allow Lessor access to, and copying of, all documents reasonably necessary to verify Lessee's compliance with the terms and conditions of the Lease.

15. Lessee shall not be considered in default in the performance of any of its obligations hereunder, or be liable in damages to Lessor, for any failure or delay in performance which is due to strikes; concerted acts of workers; fires, explosions, floods, or other natural catastrophes; civil disturbances; riots or armed conflict, either declared or undeclared; major machinery or equipment breakdown of a catastrophic nature; accidents; acts of God, embargoes or any other similar or dissimilar cause which is impracticable; provided, however, this provision shall not be applicable if any failure or delay in performance by Lessee hereunder creates a violation of any applicable

law which would result in the Lessor or the Leased Premises being subject to criminal or civil penalty or forfeiture, and such prevention shall extend over a period of thirty (30) consecutive days. The duration of any force majeure period shall (1) begin on the day that Lessee stops performance hereunder by reason of such force majeure, (2) include the thirty (30) consecutive day waiting period before force majeure privileges can be invoked, and (3) terminate on the date that the Lessee is no longer prevented from resuming and continuing its coal mining and/or removal operations. Lessee shall provide Lessor of written notice of the beginning and ending dates of each such period.

16. All notices permitted or required by this Lease shall be delivered as follows:

Lessor:

City of Morgantown
c/o City Manager
389 Spruce Street
Morgantown, WV 26505

Lessee:

Monongalia County Development Authority
c/o Director
955 Hartman Run Road, Suite 200
Morgantown, WV 26505

17. This Lease shall be governed by the laws of the State of West Virginia. Any action related to this agreement shall be brought in the Circuit Court of Monongalia County, West Virginia.

18. The terms of this agreement shall be binding upon, and inure to the benefit of, all successors and assigns of the parties.

19. This Lease may be executed in multiple counterparts, all of which together shall constitute an original agreement. The electronic transmission of any signed original counterpart of this Lease shall be deemed to be the delivery of an original counterpart of this Lease. The executed Lease, together with any attachments hereto, may be photocopied and stored on computer tapes, disks and similar electronic storage media ("Imaged Document"). If an Imaged Document is introduced as evidence in any judicial, arbitration, mediation or administrative proceeding, no party shall object to the admissibility of the Imaged Document on the basis that such was not originated or maintained in documentary form under either the hearsay rule, the best evidence rule, or other rule of evidence.

20. This agreement contains the entire agreement between the parties, and supersedes all previous understandings and agreements between the parties, whether oral or written. The agreement may be modified only by a written document executed by the parties.

IN WITNESS WHEREOF, the parties have executed this agreement as of the date first set forth as follows:

[signature pages follow]

CITY OF MORGANTOWN

By: _____

Its: _____

STATE OF WEST VIRGINIA,

COUNTY OF MONONGALIA, TO-WIT:

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by _____, as on behalf of the City of Morgantown, a political subdivision, for and on behalf of said corporation by authority duly given.

My commission expires: _____.

Notary Public in and for
said State and County

MONONGALIA COUNTY DEVELOPMENT AUTHORITY

By: Ronald Jsutice

Its: Vice President

STATE OF WEST VIRGINIA,

COUNTY OF MONONGALIA, TO-WIT:

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by _____, as on behalf of Monongalia County Development Authority, a public corporation, for and on behalf of said corporation by authority duly given.

My commission expires: _____.

Notary Public in and for
said State and County