

Enforcement # 285423
Tracking # 1220B1

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the Matter of:

PBS Coals, Inc.	:	Surface Mining Permit Numbers:
P.O. Box 260	:	✓3366BSM2 (Magnetto Strip)
Friedens, PA 15541	:	✓4074SM28 (Garrett Mine)
Friedens, PA 15541	:	✓56663098 (Jolln Strip)
	:	✓56813104 (Roberts Mine)
	:	✓40A77SM12 (Job 21)
	:	✓56773707 (Cambria Fuel CRDA)
	:	✓56960107 (Acosta Mine)
	:	✓56910701 (Job 10)
	:	✓56950702 (Cambria Refuse Disposal Area)
	:	✓56900701 (Job 12 Expansion)
	:	
Croner, Inc.	:	56841605 (Goodtown Prep Plant)
P.O. Box 260	:	
Friedens, PA 15541	:	
	:	
RoxCoal, Inc.	:	56851303 (Barbara No. 1 Deep Mine)
P.O. Box 149	:	
Friedens, PA 15541	:	

POST-MINING DISCHARGE TREATMENT TRUST AGREEMENT BETWEEN PBS COALS, INC., CRONER, INC. ROXCOAL, INC. AND BNY MELLON, NATIONAL ASSOCIATION

This Trust Agreement (the "Trust Agreement") entered into this 22nd day of March, 2012, by and among PBS Coals, Inc., Croner, Inc., and RoxCoal, Inc. (combined as "Settlor"), with a principal place of business at 1576 Stoystown Road in Friedens, Pennsylvania 15541, and BNY Mellon, National Association, with a principal place of business at 500 Grant Street (Suite 3845), Pittsburgh, PA 15258 (the "Trustee").

WHEREAS, the Settlor has entered into a Consent Order and Agreement dated March 22nd, 2012 (the "CO&A") with the Commonwealth of Pennsylvania, Department of Environmental Protection (the "Department") which is incorporated by reference and which contains, among other things, a requirement that the Settlor provide financial guarantees to assure that funds will be available to provide for the Settlor's legal obligation to operate mine

drainage treatment systems to treat and otherwise prevent discharges of mine drainage emanating from or hydrologically connected to Settlor's mines;

WHEREAS, the sixteen treatment systems consist of: (1) Treatment Systems 001 and 002 located on the Magnetto Strip (Permit No. 3366BSM2); (2) Treatment Systems 001 and 002 located on the Garrett Mine (Permit No. 4074SM28); (3) Treatment System 001 located on the Jolin Strip (Permit No. 56663098); (4) Treatment Systems 001, 002 and 003 located on the Roberts Mine (Permit No. 56813104); (5) Treatment System 001 located on Job 21 (Permit No. 40A77SM12); (6) Treatment System 001 located on the Cambria Fuel CRDA (Permit No. 56773707); (7) Treatment System 004 located on the Acosta Mine (Permit No. 56960107); (8) Treatment System 001 located on Job 10 (Permit No. 56910701); (9) Treatment System 003 located on the Job 12 Expansion (Permit No. 56900701); (10) Treatment System 001 located on the Cambria Refuse Disposal Area (Permit No. 56950702); (11) Treatment System 001 located on the Goodtown Prep Plant (Permit No. 56841605); and (12) Treatment System 001 located on the Barbara Deep Mine (Permit No. 56851303) (said treatment systems collectively referred to as the "PBS Global Trust Treatment Facilities");

WHEREAS, the Pennsylvania Surface Mining Conservation and Reclamation Act requires a permittee to post with the Department a bond for each operation conditioned upon the permittee performing all of the requirements of SMCRA, the Clean Streams Law and the Coal Refuse Disposal Control Act, and SMCRA further provides for the bond to be released where all reclamation standards have been satisfied with the exception of consistently meeting mine drainage effluent standards provided the operator has made provisions with the Department for the sound future treatment of the discharges. 52 P.S. §§ 1396.4(d) and (g);

WHEREAS, the use of a trust fund is authorized as an alternative financial assurance mechanism under provisions of SMCRA which contemplate such a trust is for the public purpose of protecting the environment and the health and welfare of the public, without limitation

on duration, and is a means which provides for the sound future treatment of polluttional discharges. 52 P.S. § 1396.4(d); 52 P.S. § 1396.4(d.2); and 25 Pa. Code § 86.158(f);

WHEREAS, the Settlor has elected to enter into this Trust Agreement pursuant to the CO&A to assure funds are available to provide for Settlor's legal obligation to provide funds for the treatment of the post-mining discharges;

WHEREAS, the Settlor, acting through its duly authorized officers or representatives and with the approval of the Department, has selected the Trustee under this Trust Agreement;

WHEREAS, the Trustee has been induced, and has agreed and is willing to perform the duties as are required to be performed pursuant to this Trust Agreement;

WHEREAS, the Trustee is a national banking institution and financial institution with trust powers or a trust company, with offices in Pennsylvania and whose trust activities are examined or regulated by a federal and state agencies;

WHEREAS, the Department has joined in this Trust Agreement to indicate its acceptance of the terms and conditions set forth in, as well as the powers and authorities granted by, this Trust Agreement;

WHEREAS, the Department has stated that, to the best of its knowledge and belief, the PBS Global Trust Treatment Facilities currently have and are in compliance with all required federal and state permits and approvals necessary and required for the operation and maintenance of the PBS Global Trust Treatment Facilities; and

WHEREAS, except as set forth in the CO&A, Settlor represents that, to the best of its knowledge, there are no violations of any environmental law regulating the PBS Global Trust Treatment Facilities or the Property, as it is hereinafter defined, and that the PBS Global Trust Treatment Facilities are operating in compliance with all applicable permits and approvals.

NOW THEREFORE, in consideration of the foregoing and of the mutual promises and undertakings of the parties as set forth herein, and with the intention of being legally bound hereby, the parties agree to the following.

ARTICLE ONE

Establishment

Section 1.1 The Settlor and the Trustee hereby enter into this Trust Agreement for the benefit of the Department, or its successor, to be utilized for the primary purpose of addressing environmental obligations related to Settlor's mining activities permitted under SM CRA or the Coal Refuse Disposal Control Act or the Bituminous Mine Subsidence and Land Conservation Act and under the Clean Streams Law which includes providing for the continued operation and maintenance of the PBS Global Treatment Trust Facilities. For purposes of this Trust Agreement, operation includes, but is not limited to, the operation, maintenance and replacement of the currently existing and functioning treatment facilities approved by the Department and any other facilities which may be required in the future.

Section 1.2 The Department will be the legal beneficiary of the Trust Fund ("Trust Fund") established pursuant to this Trust Agreement and shall have all rights of a beneficiary under the law, as well as all rights granted to the beneficiary under this Trust Agreement. The Department, as beneficiary, shall have access to the Trust Fund only as provided herein.

Section 1.3 The principal held for the benefit of the Trust Fund as hereinafter provided, shall consist of:

- (a) The initial payment or transfer to the Trustee of \$1,000,000.00 by Settlor.
- (b) Ongoing Payments to be made by the Settlor in the amounts and on the dates specified in Exhibit A and such other payment as may be made from time to time by the Settlor.
- (c) Cash or funds transferred from any other person to the Trust Fund and accepted by the Trustee as directed in writing by the Department.
- (d) All investments, reinvestments, assets or proceeds attributable to or derived from the items listed in this subparagraph.

Section 1.4 All of the preceding payments proceeds and assets referred to in Sections 1.3 and 1.4 hereof shall constitute the Trust Fund principal, which together with all earnings, accretions and profits therefrom, less any payments or distributions made by the Trustee pursuant to the terms of this Trust Agreement, shall constitute the Trust Fund.

Section 1.5 The Trustee shall establish within the Trust Fund two subaccounts: a subaccount designated as the Primary Trust Account and a subaccount designated as the Capital Improvement Account. The Trustee shall deposit into the Primary Trust Account of the Trust Fund the principal identified in Section 1.3. The Trustee shall transfer funds into the Capital Improvement Account from the Primary Trust Account as directed in writing by the Department and shall deposit into the Capital Improvement Account funds received from any person for deposit into this Account. The Capital Improvement Account principal may be commingled with the principal of the Primary Trust Account for purposes of investment, but must be accounted for and reported separately as if they are assets of separate and distinct funds. The Trustee shall manage and make disbursements from the two subaccounts in accordance with the provisions of ARTICLE TWO hereof and ARTICLE THREE hereof.

Section 1.6 The Trust Fund shall not be subject to assignment, alienation, pledge, attachment, garnishment, sequestration, levy or other legal process, either voluntary, involuntary or by operation of law, by, on behalf of, or in respect of the Settlor and shall not be subject or applied to the debts, obligations or liabilities of the Settlor, including, without limitation, any direct action or seizure by any creditor or claimant under any writ or proceeding at law or in equity. Furthermore, the Settlor shall have no legal title to any part of the Trust Fund, and it is the intention of the parties to this Trust Agreement that Settlor's entry into the Trust Fund shall extinguish and remove all of Settlor's interest in the Trust Fund from Settlor's estate under the Bankruptcy Code or similar laws.

Section 1.7 All payments made to the Trust Fund or deposits into the Trust Fund by the Settlor shall be irrevocable once made, and upon delivery thereof, by or on behalf of the

Settlor, all interest of the Settlor therein shall cease and terminate, and no part thereof, nor any income therefrom, shall be used for or devoted to purposes other than for the exclusive benefit of the Department and the Trust Fund as provided herein.

Section 1.8 The Trust Fund shall be held, administered, invested and reinvested by the Trustee, IN TRUST, only as hereinafter provided, and all distributions therefrom shall be made in only accordance with the provisions of this Trust Agreement.

Section 1.9 Any monetary payments made by the Settlor or on its behalf to the Trustee for deposit into the Trust Fund shall consist of cash, bank checks, bank wire transfers or other negotiable instruments acceptable to the Trustee. The Trustee shall have no responsibility for the amount or adequacy of such payment or collection thereof, but the Trustee shall notify the Department of any deficiencies in the payments required to be made by the Settlor or on its behalf whenever the Trustee has actual knowledge of such deficiencies.

ARTICLE TWO

Distribution Payments

Section 2.1 The Trustee shall make distribution payments from the Trust Fund upon the written order of the Department and the Department shall designate the subaccount from which such disbursement payment shall be made. The Department shall have the authority to designate, in writing, any person or entity to receive distribution payments from the Trust Fund. The Trustee shall promptly following receipt of written order for distribution payment from the Department, make distribution payments from the Trust Fund as directed in the Department's written order. The Trustee shall be fully protected and entitled to rely upon the written orders of the Department and shall not be liable to any party for acting in accordance with those directions.

Section 2.2 Except as provided by this Trust Agreement, no other disposition of monies shall be made unless directed, in writing, by the Department.

ARTICLE THREE

Trust Fund Management

Section 3.1 The Trustee shall invest and reinvest the principal and income of the Trust Fund. The Trustee shall add to principal any income not distributed pursuant to the provisions of this Trust Agreement.

Section 3.2 The Trustee shall have a fiduciary duty to act at all times pursuant to the terms of this Trust Agreement. It shall be the responsibility and sole authority of the Trustee to make decisions concerning investment and disposition of the assets of the Trust Fund, and the Trustee shall discharge its investment duty in a manner designed to meet the goals of the Trust Fund. The Trustee shall seek to manage the Trust Fund with that degree of judgment, skill and care under the circumstances then prevailing which a prudent corporate trustee would use under the circumstances.

Section 3.3 In order to accomplish the purpose set forth in Section 1.1 of this Trust Agreement, the Trustee shall manage and invest the assets of the Trust Fund in a manner designed to generate a positive annualized effective rate of return and shall have investment discretion subject to the following guidelines:

(a) The Trustee may purchase shares of any mutual funds or "money market funds" which have their assets invested in equity shares, including any mutual fund for which the Trustee or any affiliate may be an advisor, subadvisor, manager, custodian or Trustee.

(b) The Trustee may purchase any equity shares listed on a national or regional stock exchange or capable of being valued in accordance with any other daily-recognized valuation methodology.

(c) The Trustee may purchase any bonds listed on a national exchange or capable of being valued in accordance with any other daily-recognized valuation methodology, including, but not limited to, bonds or obligations of any state or

municipality, or that are obligations of or are guaranteed by the United States of America.

(d) The Trustee may invest in any interest bearing bank account or "money market" account.

(e) The Trustee may sell at public or private sale any shares acquired under this ARTICLE.

(f) In regard to any shares or other equity interests the Trustee may hold, the Trustee may join in any merger, reorganization, voting trust plan or any other concerted action of owners or shareholders.

(g) The Trustee, in the exercise of its investment powers, may utilize puts and calls, short sales, options and warrants or other investment strategies generally recognized as prudent when utilized to enhance returns, reduce risk or mitigate loss.

(h) The Trustee may hold cash awaiting investment or distribution for a reasonable period of time, provided however, where possible and consistent with sound investment practices, shall invest such cash in overnight investments.

(i) The Trustee shall not be responsible for any losses incurred hereunder whether it is due to market fluctuations or otherwise, except in the case of its gross negligence or willful misconduct or that of its agents.

(j) The Trustee may not invest in high-risk non-transparent investment instruments, such as collateralized debt obligations, credit-default swaps, hedge funds or derivatives.

ARTICLE FOUR

Express Powers of Trustee

Section 4.1 Without in any way limiting the powers and discretion conferred upon the Trustee by the other provisions of this Trust Agreement or by law, the Trustee is expressly authorized and empowered:

(a) 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 power herein granted.

(b) To register any securities held in the Trust Fund in its own name or in the name of a nominee and to hold any security in bearer form or book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for deposit of any securities issued by the United States of America, with a Federal Reserve Bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Trust Fund and that such securities are not co-mingled with or made a part of any other account of another customer of the Trustee or the Trustee itself.

(c) To deposit any cash in the Trust Fund in interest bearing or non-interest bearing accounts maintained by the Trustee or any of its affiliates, to the extent such are insured by an agency of the Federal or State Government or otherwise secured as provided under the laws of the Commonwealth of Pennsylvania.

ARTICLE FIVE

Advice of Counsel

Section 5.1 The Trustee may, from time to time, consult with counsel of its own choosing with respect to any question arising as to the construction or interpretation of this Trust Agreement or any action to be taken hereunder. The Trustee shall be protected, to the extent permitted by law, in acting or not acting, in good faith on the advice of counsel (who may be the attorney or attorneys for the Department or the Settlor).

Section 5.2 The Trustee shall not be required to furnish any bond or security in any jurisdiction.

Section 5.3 No person dealing with the Trust Fund or the Trustee shall be obligated to inquire as to the authority of the Trustee in connection with the acquisitions, investment, management or disposition of the Trust Fund assets or in connection with the exercise of any other power granted under this Trust Agreement.

ARTICLE SIX

Claims

Section 6.1 The Trustee shall not initiate, terminate, settle, compromise or otherwise adjust claims in favor of or against the Trust Fund without the written consent of the Department.

Section 6.2 The Trustee shall give prompt written notice to the Department of each claim in favor of or against the Trust Fund, specifying the amount and nature of such claim. The Trustee shall also give prompt written notice to the Department of any controversies, demands, actions, losses, damages, costs or expenses or any other matter which the Trustee has acknowledge and reasonably believes is likely to give rise to a claim.

Section 6.3 The Department shall have the right to: (1) direct the Trustee to initiate, terminate, settle, compromise or otherwise adjust claims in favor of or against the Trust Fund, and (2) participate in the prosecution of or defense against, any claim in favor of or against the Trust Fund. To the extent the Department directs the Trustee to assume prosecution or defense, the Trustee shall retain counsel of the Department's choosing or counsel selected by the Trustee and approved by the Department. The Department's approval of such counsel will not be unreasonably withheld. If the Department directs the Trustee to assume prosecution or defense of any claim, the Trustee shall prosecute or defend the claim at the expense of the Trust Fund, and the Trustee shall be entitled to assess against the Trust Fund all costs associated with the prosecution or defense. Upon notice to the Trustee that the Department will

assume prosecution or defense, the Trustee will not be responsible for the subsequent prosecution or defense. If the Department fails to instruct the Trustee with respect to the prosecution or defense of any claim, the Trustee may prosecute or defend any claim at the expense of the Trust Fund, but shall be under no duty to do so, and shall have no liability for its failure or refusal to prosecute or defend the claim if deems such action to be in the best interest of the Trust Fund.

ARTICLE SEVEN

Evaluation and Reports

Section 7.1 The Trustee shall at least quarterly furnish to the Department and to the Settlor a statement providing an accounting of all transactions involving the Trust Fund and confirming the value of the Trust Fund. Such statement shall value Trust Fund investments at market value, which shall be that market value, determined not more than thirty (30) days prior to the date of statement. Should the Settlor cease to exist or have its surety bonds forfeited, the Trustee will have no continuing obligation to provide such statement to Settlor.

Section 7.2 The Trustee shall be responsible for the keeping of all appropriate books and records relating to the receipt and disbursement of all monies and assets under this Trust Agreement. In addition, upon not less than forty-eight hours written notice, when called upon to do so, the Trustee shall make available to the Settlor, should the Settlor be in existence, and the Department all documents, instruments or reports relating to the Trust Fund. The Trustee at the expense of the Trust Fund shall also cause to be prepared all income tax returns required to be filed with respect to the Trust Fund and shall execute and file such returns. The Department, upon request, shall furnish the Trustee with such information as may be reasonably required in connection with the preparation of such income tax returns.

ARTICLE EIGHT

Expenses, Taxes and Trustee Compensation

Section 8.1 Compensation of the Trustee and all other reasonable and customary expenses incurred by the Trustee, including fees for legal services rendered to the Trustee, shall be taken and paid from the Trust Fund at the time that the Trustee shall deem appropriate. Trustee shall be paid a fee, monthly in arrears, based on the Fee Schedule marked Exhibit B. The Trustee must provide the Department written notice of any proposed future changes of the Trustee's schedule of fees. The Department has thirty (30) days after receipt of the proposed changes to approve or disapprove the proposed changes to the Trustee's schedule of fees.

Section 8.2 The Trust Fund is intended to be categorized, for federal income tax purposes, as a grantor trust in accordance with and under the provisions of United States Treasury Regulation Section 301.7701-4(e)(1), (2), (3) and (4) and any implementing regulations cited therein or any corresponding successor provision. All federal taxes of any kind that may be assessed or levied against or in respect of the Trust Fund shall be paid by the Settlor and shall not be taken from the Trust Fund. The Trustee shall enter into such agreements with the Settlor as are necessary to carry out this provision.

(a) Should it be determined this Trust Fund is taxable for federal income tax purposes and the Settlor fails, refuses or is unable to pay these taxes, the Settlor and Trustee agree the Department shall have the right to appeal the decision to the appropriate authority. Should the Department not prevail on appeal or should federal law change such that the Trust Fund becomes taxable for federal income tax purposes, then the Department shall have the right, but not the duty, to petition the appropriate judicial forum to reform the Trust Fund to be a federal charitable trust or to take other measures to meet the requirements of federal law such that the Trust Fund would not be taxable for federal income tax purposes. If the Department elects not to exercise its right to petition to reform the Trust Fund or to take measures to meet the requirements of

federal law for the Trust Fund to become tax exempt, then the Trustee is empowered with the right to petition the appropriate judicial forum to reform the Trust Fund to be a federal charitable trust for federal income tax purposes. Notwithstanding any provision of this subsection (a) to the contrary, the Trust Fund may not be reformed such that the purposes and objectives of the Trust Fund cannot be met or that would alter any of the rights, obligations and duties of the Settlor as are provided in this Trust Agreement and in the CO&A.

Section 8.3 The Trust Fund is intended to be categorized, for state income tax purposes, as a Pennsylvania charitable trust.

(a) Should it be determined this Trust Fund is not a charitable trust or Pennsylvania law changes so this Trust Fund becomes taxable for Pennsylvania income tax purposes, then Settlor agrees that Settlor will contribute to the Trustee the amount of the Pennsylvania income tax assessed or levied against or in respect of the Trust Fund. The Trustee shall use the money contributed by the Settlor to pay the income tax assessed or levied against or in respect of the Trust Fund. The money to pay the tax assessed or levied against the Trust Fund shall not be taken from the Trust Fund. The Trustee shall enter into such agreements with the Settlor as are necessary to carry out this provision.

(b) If, at any time, it is determined by a taxing authority with jurisdiction in the matter that this Trust Fund is not a Pennsylvania charitable trust, the Settlor and the Trustee agree the Department shall have the right to appeal the decision to the appropriate authority. Should the Department not prevail on appeal or should Pennsylvania law change such that the Trust Fund becomes taxable for Pennsylvania income tax purposes, then the Department shall have the right, but not the duty, to petition the appropriate judicial forum to reform the Trust Fund to be a Pennsylvania charitable trust or to meet the requirements of Pennsylvania law such that the Trust

Fund would not be taxable for Pennsylvania income tax purposes. If the Department elects not to exercise its right to petition to reform the Trust Fund, then the Trustee is empowered with the right to petition the appropriate judicial forum to reform the Trust Fund to be a Pennsylvania charitable trust for Pennsylvania income tax purposes. Notwithstanding any provision of this subsection (b) to the contrary, the Trust Fund may not be reformed such that the purpose and objectives of the Trust Fund cannot be met or that would alter any of the rights, obligations and duties of the Settlor as are provided in this Trust Agreement and in the CO&A.

Section 8.4 If at any time that the Trust Fund itself shall become liable for any taxes, and if the Settlor shall fail, refuse or be unable to pay these taxes from its own funds, then the Trustee shall pay from the Trust Fund all such taxes then due and owing. As soon as possible after the happening of the Settlor failing, refusing or becoming unable to pay such taxes, except to the extent that the Settlor disputes the payment of such taxes in good faith, the Trustee and the Department shall negotiate and enter into an agreement in respect of Trustee's payment of the taxes during the continuance of this Trust Agreement. Further, unless the Department and the Trustee otherwise agree to the contrary, immediately upon the happening of the Settlor's failure, refusal or inability to pay any such taxes, the Trustee is directed and empowered (notwithstanding any provision of this Trust Agreement to the contrary) to change the investment objective of the Trust Fund to an objective which minimizes the tax liability of the Trust Fund, giving due consideration to market conditions so as to avoid, to the extent possible, losses on the conversion of existing instruments. In carrying out this investment objective, the Trustee shall invest in the following:

- (a) Any bonds or obligations of any state or municipality that are exempt from federal income tax.

(b) Shares of any mutual fund or "money market fund" which has one hundred percent (100%) of its assets invested in the investments of the type described in the preceding subsection (a).

(c) Such other investments as may be approved in writing by the Department.

ARTICLE NINE

Successor Trustee

Section 9.1 The Trustee may resign or the Settlor may replace the Trustee at Settlor's discretion, which discretion is limited to replacement with a Pennsylvania chartered or national bank or corporate financial institution with trust powers or a trust company with offices in Pennsylvania and whose trust activities are examined or regulated by a state or federal agency. Any such action, however, shall only be effective by the Settlor after giving sixty (60) days notice to the Department and the Trustee. The Trustee's resignation or replacement shall not be effective until a successor trustee has been appointed and such appointment confirmed, in writing, by the Department, which confirmation will not be unreasonably withheld. If no successor trustee has accepted appointment on the date on which the resignation or removal is scheduled to be effective, the Trustee, at the expense of the Trust Fund, may either petition any court of competent jurisdiction for the appointment of a temporary successor trustee or itself appoint a temporary successor trustee, provided that in either case any trustee so appointed shall immediately and without further act be superseded by any trustee appointed by the Department as provided herein. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder and shall be subject to the same reservations, limitations, terms and conditions. The successor trustee shall specify the date on which it will assume administration of the Trust Fund, in writing, sent to the Trustee and Department, by certified mail, return receipt requested, not less than ten (10) days before such assumption takes effect. Upon the successor trustee's acceptance of the appointment, the Trustee

hereunder shall assign, transfer, convey and pay to the successor trustee the funds then constituting the Trust Fund and shall provide the Department and successor trustee a full accounting of all transactions involving the Trust Fund which occurred after the last quarterly statement provided in accordance with ARTICLE SEVEN and shall be discharged from any further liability or responsibility with regard to the administration of the Trust Fund.

Section 9.2 The Department may replace the Trustee at the Department's discretion with a Pennsylvania chartered or national bank or corporate financial institution with trust powers or a trust company with offices in Pennsylvania and whose trust activities are examined or regulated by a state or federal agency. The Trustee's replacement shall not be effective until a successor trustee has been appointed and such appointment confirmed, in writing, by the Department. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder and shall be subject to the same reservations, limitations, terms and conditions. The successor trustee shall specify the date on which it will assume administration of the Trust Fund, in writing, sent to the Trustee and Department, by certified mail, return receipt requested, not less than ten (10) days before such assumption takes effect. If no successor trustee has accepted appointment on the date on which the resignation or removal is scheduled to be effective, the Trustee, at the expense of the Trust Fund, may either petition any court of competent jurisdiction for the appointment of a temporary successor trustee or itself appoint a temporary successor trustee, provided that in either case any trustee so appointed shall immediately and without further act be superseded by any trustee appointed by the Department as provided herein. Upon the successor trustee's acceptance of the appointment, the Trustee hereunder shall assign, transfer, convey and pay over to the successor trustee the funds in constant between the trust and shall provide the Department and successor trustee a full accounting of all transactions involving the Trust Fund which occurred after the last quarterly statement provided in accordance with ARTICLE SEVEN and shall be

discharged from any further liability or responsibility with regard to the administration of the Trust Fund.

ARTICLE TEN

Instructions to the Trustee

Section 10.1 All orders and instructions by the Department to the Trustee hereunder shall be in writing, and signed by any one of the following: the Deputy Secretary for Mineral Resources, the Director of the Bureau of Mining and Reclamation, the Director of the Bureau of District Mining Operations, the District Mining Manager, or such other persons as the Department may designate in an amendment in accordance with Article Thirteen. The Trustee shall be fully protected and shall not be liable to any party while acting in accordance with the Department's orders and instructions and consistent with the Trustee's fiduciary duty to the Trust Fund, and, to the extent necessary, shall be held harmless. The Trustee, upon receipt of orders, requests or instructions by the Department which are signed by a person purporting to be designated by the Department, but not listed above or in any written amendment to this Trust Agreement, shall with due diligence ascertain if such persons are designated by the Department and have authority to act on behalf of the Department hereunder.

Section 10.2 The Trustee may request and rely upon the written instruction of the Department with respect to decisions concerning the operation of the facilities and any other treatment facilities which may be required in the future. Decisions concerning investment and disposition of the assets of the Trust Fund are the sole responsibility of the Trustee, and the Trustee shall act in a manner consistent with its fiduciary duty to the Trust Fund, notwithstanding instructions of the Department related to investment and disposition of assets which may be to the contrary.

ARTICLE ELEVEN

Trustee Exculpation; Miscellaneous Trustee Provisions

Section 11.1 The Trustee shall not be responsible for the enforcement or policing of any environmental action nor be required to defend any claims relating thereto. The Trustee shall be a mere title holder and "fiduciary" as defined in the Pennsylvania Act entitled: "The Economic Development Agency, Fiduciary and Lender Environmental Liability Protection Act," Act No. 3 of 1995, P.L. 33, 35 P.S. §§6027.1 through 6027.14, and its liability shall be limited as provided under Section 6 of the Act, 35 P.S. §6027.6 and as provided herein.

Section 11.2 As to all actions taken by the Trustee with respect to the administration of the Trust Fund, the Trustee shall not be answerable or liable for the exercise or nonexercise of any discretion or power under this Trust Agreement nor for anything whatever in connection with the Trust Fund hereunder, except for its own gross negligence or willful misconduct or that of its agents. Except in the case of the Trustee's own gross negligence or willful misconduct, the Trustee shall be entitled to be exonerated and indemnified from the Trust Fund against any and all losses, claims, costs, expenses and liabilities arising out of in connection with the administration or distribution of the Trust Fund or the affairs of the Trust Fund. The provisions of this section shall also extend to the employees and agents of the Trustee.

ARTICLE TWELVE

Irrevocability and Termination

Section 12.1 The Trust Fund shall be irrevocable and, except as provide in §16.5 of ARTICLE SIXTEEN hereof, shall continue from the date of inception, unless otherwise terminated by the occurrence of any one of the following:

- (a) The Department determines that the Trust Fund is no longer required, including when the Department has accepted a bond or bonds from the Settlor pursuant to Paragraph 5(c) of the CO&A.
- (b) The Trustee determines that the size of the Trust Fund does not warrant the continuation of the Trust Fund.

(c) The Trustee determines that administration of the Trust Fund renders it impractical to continue the Trust Fund and the Department agrees.

Section 12.2 Upon termination of the Trust Fund, the Trustee shall distribute any residuum, less final trust administration expenses of the Trustee, to the Department, unless directed otherwise in writing by the Department as provided above in subsection (a) and in Paragraph 5(c) of the CO&A.

ARTICLE THIRTEEN

Amendments

Section 13.1 This Trust Agreement may be amended by an instrument in writing, executed by the Settlor or Trustee and the Department or by the Trustee and the Department in the event the Settlor ceases to exist or has had its bonds forfeited, but during the existence of the Settlor any amendment of this Trust Agreement cannot in any manner affect the irrevocable nature of the Trust Fund. Any amendments which affect the duties, powers, responsibilities and compensation of the Trustee must be accepted by the Trustee before such amendments become effective.

ARTICLE FOURTEEN

Notices

Section 14.1 All notices, inquiries, directions or other written communications made or given pursuant to the Trust Fund shall be given to the Department and the Trustee by certified mail, return receipt requested or by recognized overnight courier, addressed to the following addresses, and shall be deemed to be received upon the earlier of the date of signed receipt of the certified mailing or seven (7) days following the date of mailing:

Department:

District Mining Manager
Cambria District Mining Office
286 Industrial Park Road
Ebensburg, PA 15931-4119

and

Director, District Mining Operations
Greensburg District Mining Office
Armbrust Professional Center
8205 Route 819
Greensburg, PA 15601

Trustee:

BNY Mellon, National Association
BNY Mellon Center
Suite 3845
500 Grant Street
Pittsburgh, PA 15258-0001

Section 14.2 Any change in the above addresses shall be made by giving written notice to all parties to the Trust Fund.

ARTICLE FIFTEEN

Interpretation

Section 15.1 As used in this Trust Agreement, words in the singular include the plural, and words in the plural include the singular. Words used in this Trust Agreement shall be given their plain and ordinary meaning, except that, words used in a financial or investment context that are terms of art shall be given their commonly accepted meaning when used in the context of financial services and investment practices. The headings of each section of this Trust Agreement are for descriptive purposes only and shall not affect the interpretation or legal efficacy of this Trust Agreement.

ARTICLE SIXTEEN

Construction

Section 16.1 This Trust Agreement shall be constructed and governed in all respects in accordance with the laws of the Commonwealth of Pennsylvania.

Section 16.2 In case of the merger or consolidation of any corporate Trustee serving hereunder, the resultant company shall become such Trustee's successor without notice to any party.

Section 16.3 Any provision of this Trust Agreement, which is prohibited or unenforceable in any jurisdiction, shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 16.4 All covenants and agreements contained herein shall be binding upon and inure to benefit the Department and the Trustee, as well as their successors and assigns. Similarly, any request, notice, direction, consent, waiver or other writing or action, taken by the Department or the Trustee shall bind their successors and assigns.

Section 16.5 It is the intention of the parties hereto that this Trust Fund remain in existence until terminated in accordance with the provisions of ARTICLE TWELVE hereof.

ARTICLE SEVENTEEN

Situs

Section 17.1 The Trust Fund created by this Trust Agreement shall have a legal situs in Somerset County, Pennsylvania.

ARTICLE EIGHTEEN

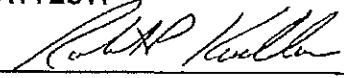
Execution

Section 18.1 This Trust Agreement may be signed in counterpart, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument. Facsimile signatures shall be valid and effective.

[SIGNATORIES APPEAR ON THE FOLLOWING TWO PAGES]

IN WITNESS WHEREOF, the parties have caused this Trust Agreement to be executed by their respective officers or representatives duly authorized and their corporate seals to be hereunto affixed and attested as of the date first written above.

ATTEST:



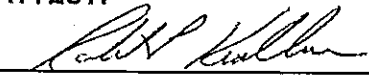


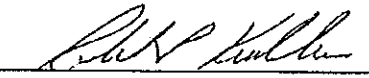
ATTEST:



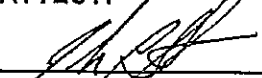


ATTEST:



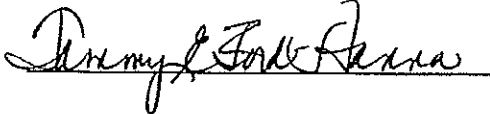


ATTEST:

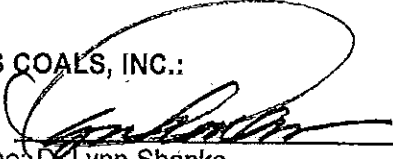


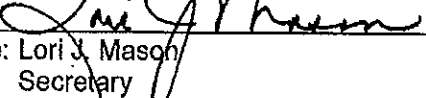
ATTEST:



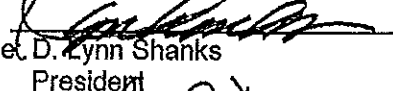


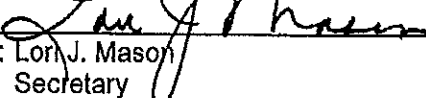
PBS COALS, INC.:

BY: 
Name: D. Lynn Shanks
Title: President

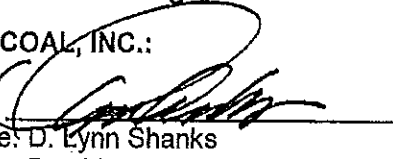
BY: 
Name: Lori J. Mason
Title: Secretary

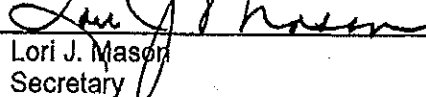
CRONER, INC.:

BY: 
Name: D. Lynn Shanks
Title: President

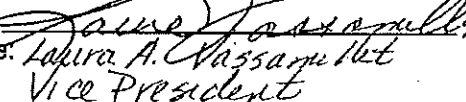
BY: 
Name: Lori J. Mason
Title: Secretary

ROXCOAL, INC.:

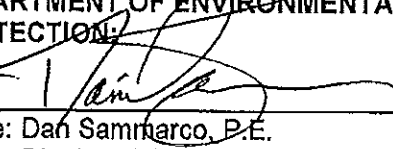
BY: 
Name: D. Lynn Shanks
Title: President

BY: 
Name: Lori J. Mason
Title: Secretary

BNY MELLON, NATIONAL ASSOCIATION

BY: 
Name: Lakira A. Wassam
Title: Vice President

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF ENVIRONMENTAL
PROTECTION:

BY: 
Name: Dan Sammarco, P.E.
Title: District Mining Manager
Acting

APPROVED AS TO FORM:

BY: Barbara Grabowski

Name: Barbara J. Grabowski

Title: Assistant Counsel
Southwest Office of Chief Counsel

**EXHIBIT A
ONGOING PAYMENTS**

1. On or before April 15, 2012, PBS shall deposit \$3,390,983.28 into the primary trust account.
2. On or before April 15, 2013, PBS shall deposit \$3,390,983.28 into the primary trust account.
3. On or before April 15, 2014, PBS shall deposit \$3,390,983.28 into the primary trust account.
4. On or before April 15, 2015, PBS shall deposit \$3,390,983.28 into the primary trust account.
5. On or before April 15, 2016, PBS shall deposit \$3,390,983.28 into the primary trust account.
6. On or before April 15, 2017, PBS shall deposit \$3,390,983.28 into the primary trust account.
7. On or before April 15, 2018, PBS shall deposit \$3,390,983.28 into the primary trust account.
8. On or before April 15, 2019, PBS shall deposit \$3,390,983.28 into the primary trust account.
9. On or before April 15, 2020, PBS shall deposit \$3,390,983.28, (or the amount necessary to fully-fund the Trust Fund, into the primary trust account).

**EXHIBIT B
BNY MELLON, NATIONAL ASSOCIATION
FEE SCHEDULE**

INVESTMENT MANAGEMENT FEE:

On the first \$2,000,000	1.25% per annum
On the next \$3,000,000	0.75% per annum
On the next \$10,000,000	0.60% per annum
On the next \$10,000,000	0.55% per annum
On the balance	0.50% per annum

Minimum Account Fee: \$15,000 per annum

FIDUCIARY FEE:

On the first \$10,000,000	0.15% per annum
On the balance	0.10% per annum

Minimum Account Fee: \$3,500 per annum

