03-1721-CD
GENERAL ELECTRIC CAPITAL CORP vs. FD HANSLOVAN COAL COM. INC.

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware Corporation,	)	
Plaintiff,	)	Civil Action No. 03-1721-CD
v.	)	**VERIFIED COMPLAINT FOR REPLEVIN AND OTHER RELIEF**
ED HANSLOVAN COAL COMPANY, INC.,	)	
Defendant.	)	

Filed on behalf of Plaintiff:
General Electric Capital Corporation

Joseph F. Rodkey, Jr.
Pa. I.D. #66757

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FILED

NOV 18 2003

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware Corporation,	)	Civil Action No.
Plaintiff,	)	
v.	)	
ED HANSLOVAN COAL COMPANY, INC.,	)	
Defendant.	)	

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action with twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice of any money claimed in the complaint or for any other claims or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Lawyer Referral Service
100 South Street
P.O. Box 186
Harrisburg, Pennsylvania 17108-0186
(800) 692-7375

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware Corporation,	)	
Plaintiff,	)	Civil Action No.
v.	)	
ED HANSLOVAN COAL COMPANY, INC.,	)	
Defendant.	)	

VERIFIED COMPLAINT FOR REPLEVIN AND OTHER RELIEF

AND NOW comes Plaintiff, General Electric Capital Corporation ("G.E. Capital"), by its attorneys, Reed Smith LLP, and complains of Defendant Ed Hanslovan Coal Company, Inc. ("Hanslovan") as follows:

INTRODUCTION

1. As described more fully below, Defendant Hanslovan has to make payments upon, and has therefore breached certain agreements with G.E. Capital herein referred to as Modification Agreement-004 and Modification Agreement-003 (collectively the "Modification Agreements") through which Defendant financed and gave as security certain commercial equipment for use in Defendant's mining operations (the "Collateral"). Modification Agreement-004 and Modification Agreement-003 are attached hereto as Exhibits "1" and "2" respectively. Consequently, G.E. Capital is entitled to immediate possession of the Collateral. Specifically, while Defendant continues to use and derive proceeds from the use of the Collateral, Defendant has, for an extended period of time, failed to make required payments. The past due payments, fees, late charges are substantial and as of October 1, 2003 exceed $162,031.82.

2. By this action, G.E. Capital requests an order for the seizure of the Collateral, including all attachments, fixtures or accessories affixed thereto and/or proceeds derived therefrom against Defendant as provided under the law and the Modification Agreements as set forth below. G.E. Capital also seeks judgment for breach of the Modification Agreements for any deficiency amounts remaining after seizure and sale of the Collateral.

PARTIES

3. Defendant, Hanslovan, is a corporation with a place of business located at Route 2, Box 230, Morrisdale, Clearfield County, Pennsylvania, 16858.

4. Plaintiff, G.E. Capital, is a Delaware corporation with its principle place of business located at 44 Old Ridgebury Road, Danbury, Connecticut.

JURISDICTION AND VENUE

5. This is a civil action for replevin pursuant to the Pennsylvania Rules of Civil Procedure 1071 et seq. and for other relief as identified more fully herein.

6. This Court has jurisdiction over Defendant as the Defendant is a resident of Clearfield County, PA, and/or the collateral is located in Clearfield County, PA.

7. Venue is appropriate in this Court pursuant to Pennsylvania Rule of Civil Procedure 1072 because the Property, which is the subject matter of this suit, is located within Clearfield County, PA.

MODIFICATION AGREEMENT
Account No. 6048055-004

8. In August 2002 Hanslovan entered into Modification Agreement, G.E. Capital Account No. 6048055-004 ("Modification Agreement-004"). A copy of Modification Agreement-004 is attached hereto as Exhibit 1 and is fully incorporated herein by reference.

9. Through Modification Agreement-004 Hanslovan acknowledged default under an Installment Note ("Note") and Master Security Agreement ("Security Agreement") in connection with an October 10, 1997 loan from G.E. Capital to Hanslovan in the amount of $755,280.00.

10. Through Modification Agreement-004 Hanslovan represented, acknowledged, warranted, and covenanted that the Note and Security Agreement were "duly executed, binding obligations of [Hanslovan] and have not been terminated, modified and [that the] copies of the same attached [to Modification Agreement-004] as Exhibit A, respectively and made a part [thereof] [were] true, complete and accurate copies of same." See Exhibit "1" (Modification Agreement-004 at § I (2)).

11. In addition, Hanslovan represented, acknowledged, warranted and covenanted that as of the date of execution of Modification Agreement-004 in August 2002 there was Six Hundred Forty One Thousand Fifty Two Dollars and 00/100 ($641,052.00) due and owing under the Note (the "Account Balance -004"). See Exhibit "1" (Modification Agreement-004 at § I (8)).

12. Through Modification Agreement-004, Hanslovan promised to pay the Account Balance -004 as follows:

(a) One (1) payment of Twelve Thousand Two Hundred Eighty Dollars and 12/100 ($12,280.12) by August 31, 2002;

(b) Three (3) monthly payments of Five Thousand Nine Hundred Fifty Eight Dollars and 96/100 ($5,958.96), each payable on the 15th of the month commencing with the month of September 2002, and ending November 2002;

(c) One (1) payment of Fifteen Thousand Nine Hundred Fifty Eight Dollars and 96/100 ($15,958.96) by December 15, 2002;

(d) One (1) payment of Twenty Five Thousand Nine Hundred Fifty Eight Dollars and 96/100 ($25,958.96) due by January 15, 2003;

(e) Fourteen (14) monthly payments of Forty Thousand Six Hundred Forty One Dollars and 22/100 ($40,641.22), each payable on the

15th of the month commencing with the month of February 2003, and ending March 2003.

13. Pursuant to Article IV of Modification Agreement-004, Hanslovan agreed that:

> Except as expressly modified herein, all conditions and terms of the Note and Security Agreement shall continue in full force and effect in accordance with their original terms and conditions. NO TERMS OR CONDITIONS OF THE NOTE OR SECURITY AGREEMENT HAVE BEEN ALTERED OR ADJUSTED IN ANY WAY EXCEPT FOR THE DUE DATES OF PAYMENT OF THE ACCOUNT BALANCE.

See Exhibit "1" (Modification Agreement-004 § IV (1)).

14. Pursuant to the Note "If any monthly installment or any other obligation of [Hanslovan] to [G.E. Capital] is not paid when due, if any default occurs under any of the Agreements, or if any of the Agreements is terminated, this Note may, at the option of [G.E. Capital], and without notice or demand of any kind, be declared and thereupon shall immediately become due and payable . . . ." See Exhibit "1" (Modification Agreement-004 (Exhibit A (Note)).

15. Pursuant to Modification Agreement-004, interest, late charges and fees on the Account Balance continue to accrue on a daily basis.

16. Pursuant to Section IV (13) of Modification Agreement-004, Hanslovan further agreed:

> "[T]o pay all reasonable attorneys' fees and other costs incurred by G.E. Capital in connection with the enforcement, assertion, defense or preservation of G.E. Capital's rights and remedies under this Modification Agreement. . . . [and] [EHCC further agrees that such fees and costs shall constitute and be added to the Account Balance."

See Exhibit "1" (Modification Agreement-004 § IV (13)).

17. Pursuant to Collateral Schedule No. 1 to the Master Security Agreement, Hanslovan granted G.E. Capital a security interest in and to a 1996 Model R90 Euclid end dump truck bearing serial number 75512 (including all additions, attachments, accessories and

accessions thereto, and any and all substitutions, replacements or exchanges therefor and all insurance and/or other proceeds thereof) (the "Euclid Dump Truck"). See Exhibit "1" (Modification Agreement-004 at Ex. A).

18. G.E. Capital duly perfected its security interest in and to the "Euclid Dump Truck" by filing a UCC Financing Statement. See Exhibit "1" (Modification Agreeement-004 (Ex. A)).

19. Pursuant to the terms of the Master Security Agreement, upon default by Hanslovan of its obligation to pay the Account Balance as promised, G.E. Capital is entitled to, among other things, recover possession of the Collateral securing the Account Balance which in this instance, includes inter alia the Euclid Dump Truck.

20. Hanslovan has defaulted under the terms of Modification Agreement-004 by, inter alia failing to make payments when due.

21. Indeed, despite demand, Hanslovan has failed to make any payment under Modification Agreement-004 since May 29, 2003.

22. On July 7, 2003, G.E. Capital accelerated the Account Balance-004 as it is entitled to do and made demand upon Hanslovan to make payment of the Account Balance. A copy of the demand letter from counsel for G.E. Capital to Hanslovan is attached hereto as Exhibit "3", and is incorporated herein by reference. Furthermore, on October 31, 2003, G.E. Capital again made demand upon Hanslovan to make payment of the Account Balance. A copy of the October 31, 2003 demand letter from counsel for G.E. Capital to Hanslovan is attached hereto as Exhibit "4", and is incorporated herein by reference.

23. Hanslovan, however, has failed to make any payment whatsoever. And, in addition, Hanslovan has failed to cooperate with G.E. Capital in connection with G.E. Capital's rights under the Modification Agreement-004.

24. As of October 1, 2003, the outstanding principal balance owed to G.E. Capital by Hanslovan under Modification Agreement-004 was $608,152.17 which includes principle of $557,173.50, interest of $22,776.08, and late charges of $28,202.59.

25. In addition, Hanslovan is liable to G.E. Capital for G.E. Capital's attorneys' fees and costs of collection pursuant to § IV (13) of Modification Agreement-004.

MODIFICATION AGREEMENT
Account No. 6048055-003

26. In August 2002 Hanslovan entered into Modification Agreement, G.E. Capital Account No. 6048055-003 ("Modification Agreement-003"). A copy of Modification Agreement-003 is attached hereto as Exhibit "2" and is fully incorporated herein by reference.

27. Through Modification Agreement-003 Hanslovan acknowledged default under a Master Lease Agreement dated April 5, 1996 (the "Master Lease") through which Hanslovan acquired various pieces of equipment more specifically defined herein (the "Equipment").

28. Through Modification Agreement-003 Hanslovan represented, acknowledged, warranted, and covenanted that the Master Lease was a "duly executed, binding obligation of [Hanslovan] and has not been terminated and [that] copies of the same attached [to Modification Agreement-003] as Exhibit A, respectively and made a part [thereof] [were] true, complete and accurate copies of same." See Exhibit "2" (Modification Agreement-003 at § I (2)).

29. In addition, Hanslovan represented, acknowledged, warranted and covenanted that as of the date of execution of Modification Agreement-003 in August 2002 that there was Five Hundred Thirteen Thousand One Hundred Ninety Seven Dollars and 32/100 ($513,197.32) due and owing to G.E. Capital pursuant to the Master Lease (the "Account Balance- 003"). See Exhibit "2" (Modification Agreement-003 at § I (8)).

30. Through Modification Agreement-003, Hanslovan promised to pay the Account Balance-003 according to the following lease payment schedule:

(a) One (1) payment of Seven Thousand Seven Hundred Nineteen Dollars and 88/100 ($7,719.88) by August 31, 2002; and

(b) Thirty Six (36) monthly payments of Fourteen Thousand Forty One Dollars and 4/100 ($14,041.04), each payable on the 15th of the month commencing with the month of September 2002, and ending August 2005.

See Exhibit "2" (Modification Agreement-003 at § II (1).

31. Pursuant to Article IV of Modification Agreement-003, Hanslovan agreed that:

> Except as expressly modified herein, all conditions and terms of the [Master] Lease shall continue in full force and effect in accordance with their original terms and conditions. NO TERMS OR CONDITIONS OF THE NOTE OR SECURITY AGREEMENT HAVE BEEN ALTERED OR ADJUSTED IN ANY WAY EXCEPT FOR THE DUE DATES OF PAYMENT OF THE ACCOUNT BALANCE.

See Exhibit "2" (Modification Agreement-003 § IV (1)).

32. Pursuant to the Master Lease a default occurs where, *inter alia*:

(a) [G.E. Capital] fail[s] to receive all or any portion of any installment of Rent or other payment on or before the date such sum becomes due and payable; or

(d) [Hanslovan] becomes insolvent . . . .;

(g) [Hanslovan] defaults under any promissory note, credit agreement, loan agreement, conditional sales contract, guaranty, lease, indenture, bond, debenture or other material obligation whatsoever, and a party thereto or a holder thereof if entitled to accelerate the obligations of [Hanslovan] thereunder . . . .

See Exhibit "2" (Modification Agreement-003 (attached Master Lease at § 4.1)).

33. Pursuant to Modification Agreement-003 and the incorporated Master Lease, interest, late charges and fees on the Account Balance-003 continue to accrue on a daily basis.

34. Pursuant to Section IV (13) of Modification Agreement-003, Hanslovan further agreed:

> [T]o pay all reasonable attorneys' fees and other costs incurred by G.E. Capital in connection with the enforcement, assertion, defense or preservation of G.E. Capital's rights and remedies under this Modification Agreement. . . . [and] [EHCC further agrees that such fees and costs shall constitute and be added to the Account Balance.

See Exhibit "2" (Modification Agreement-003 § IV (13)).

35. Hanslovan took possession of the following Equipment (together with all parts, accessories, substitutions, repairs, improvements and replacements, and any and all rights thereunder and proceeds thereof, including, without limitation, insurance proceeds) pursuant to Equipment Schedule 1 and Schedule A to the Master Lease:

Equipment Schedule No. 1:

EX1800 LD-2 Hitachi Shovel S/N 182-0296

Schedule A:

Equipment Description (including quantity)	Year and Model No.	Serial No.
One (1) Hitachi Hydraulic Track Shovel, 14' rock bucket, automatic lube fire suppression system	EX1800LD-2	182-0296
One (1) Michigan Front End Loader	1983 275C	492B-135

Equipment Description (including quantity)	Year and Model No.	Serial No.
One (1) Michigan Front End Loader	1984 275C	492B337CAC
One (1) Komatsu Crawler Tractor	1984 D455	1606
One (1) Euclid Off Road End Dump	1978 R-50	68 362
One (1) Euclid Off Road End Dump	1980 R-50	69 920
One (1) Euclid Off Road End Dump	1981 R-50	69 994
One (1) Euclid Off Road End Dump	1980 R-50	68 986
One (1) Euclid Off road End Dump	1980 R-50	68 989
One (1) Kolberg Rotary Breaker	2600 series	
One (1) International Truck mounted with Keich Model F2574 Drill model T-650-C	1995	AHTGGGCT5LH 240596 650TWCH0090
One (1) Hough Front End Loader	1978 400	2693
One (1) Hough Front End Loader	1978 400	2617
One (1) Hough Front End Loader	1976 400	2410
One (1) Hough Front End Loader	1975 400	2302
One (1) Hough Front End Loader	400	

Equipment Description (including quantity)	Year and Model No.	Serial No.
One (1) Michigan Front End Loader	1976 275B	425C-517
One (1) Michigan Front End Loader	1976 275B	425C-531
One (1) Komatsu Crawler Tractor	1978 D355	1077
One (1) Komatsu Crawler Tractor	1975 D355	1790
One (1) Komatsu Crawler Tractor	1976 D355	2100
One (1) Komatsu Crawler Tractor	1978 D455	1048
One (1) Komatsu Crawler Tractor	1978 D455	1048
One (1) Kolberg Crush & Conveyor, 90ft. radial stacker	1981	6486163615088
One (1) Kolberg Crush & Conveyor, 150 ft. radial stacker	1988	6486163615088
One (1) Ford Mechanics truck	1985 F600	1FDXR80UXFVA 03713
One (1) Ford Mechanics truck	1995 F600	1FDXF80C4SVA7 7476
One (1) Ford Utility truck	1979 F400	V90LVDC9777
One (1) Davey Drill	1979	1881233
One (1) International Water truck	1975	DC0202A0FD862 580
One (1) Chevrolet Pick-up truck		2G.E.CK14H9E11 77602

Equipment Description (including quantity)	Year and Model No.	Serial No.
One (1) Viking pump		19001
One (1) Army Surplus Fertilizer truck		640942

See Exhibit "2". (Modification Agreement-003).

36. Upon a default G.E. Capital's remedies under the Master Lease are as follows:

(a) If an Event of Default occurs under the Lease, Lessor may give Lessee notice of the Event of Default and upon the giving of such notice or at any time thereafter do any or all of the following (as Lessor in its sole discretion elects): (1) proceed by appropriate court action or actions to enforce performance by Lessee of the applicable covenants and terms of the Lease or to recover damages for the breach thereof; (2) take possession (by summary proceedings or otherwise) of any or all items of Equipment subject to the Lease without prejudice to any other remedy or claim herein referred to; (3) hold, sell, lease, or otherwise dispose of, any or all items of Equipment subject to the Lease, in any manner Lessor (in its sole discretion) elects; (4) receive from Lessee upon demand for any or all Equipment subject to the lease the following amounts which Lessee shall be obligated to pay: (i) any unpaid Rent past due, (ii) as liquidated damages for loss of bargain and not as a penalty, the Rent otherwise due on the Basic Rent Date immediately following the date such demand is made, plus the remaining aggregate Casualty Value for such Equipment under the Lease calculated as of the Basic Rent Date immediately preceding the date such notice is given, (iii) all costs and expenses incurred in searching for, taking, removing, keeping, storing, repairing, and restoring such items of Equipment, (iv) all other amounts then owing by Lessee hereunder, and (v) all costs and expenses, including (without limitation) reasonable legal fees and expenses, incurred by Lessor as a result of an Event of Default, termination of this Lease, or the exercise by lessor of its remedies under this Section 4.2; (5) by notice to Lessee, declare the Lease (for any or all Equipment) terminated without prejudice to Lessor's rights in respect of all obligations set forth in this Section 4.2 and any other obligations under the Lease then accrued and remaining unsatisfied; or (6) avail itself of any other remedy or remedies provided for by any statute or otherwise available by law, in equity or in bankruptcy or insolvency proceedings.

(b) The remedies set forth in Section 4.2(a) are not intended to be exclusive, and each shall be cumulative. The amounts to be paid to Lessor under clause (4) of Section 4.2(a) shall be increased by interest, at the Overdue Rate, to the date of receipt by Lessor of the amount payable under said clause, from the respective due dates of such amounts or (with respect to costs, expenses, and losses for which Lessor is entitled to payment or reimbursement under said clause) from the respective dates incurred by Lessor.

(c) Any amounts received by Lessor as the result of it sale, lease during the original term hereof, or other disposition of the Equipment under subparagraph (3) of Section 4.2(a) shall be paid or applied in the following order: (1) to any remaining obligation of Lessee under subparagraph (4) of Section 4.2(a), (2) to reimburse Lessee for the Casualty Value previously paid as liquidated damages, and (3) to Lessor, any remaining balance.

See Exhibit"2" (Modification Agreement-003).

37. Modification Agreement-003 also incorporates an Additional Security Agreement Lease with respect to the Equipment through which Hanslovan granted G.E. Capital a first priority security interest in and to all of the Equipment, together with all additions, attachments, accessories, improvements, parts, repairs and appurtenances thereto, now or hereafter made or acquired and all substitutions and replacements thereof. See Exhibit 2 (Modification Agreement-003 (Attached Additional Security Agreement – Lease §2)).

38. Like the Master Lease, the Additional Security Agreement – Lease grants to G.E. Capital, among other things, the remedy of immediate repossession upon a default of any of Hanslovan's obligations to G.E. Capital. See Exhibit 2 (Modification Agreement-003 (attached Additional Security Agreement – Lease at § 6.2)).

39. G.E. Capital duly perfected its security interest in and to the Equipment by filing a UCC Financing Statement. See Exhibit "2".

40. Hanslovan has defaulted under the terms of Modification Agreement-003 (and important documents) by, inter alia failing to make payments when due.

41. Indeed, despite demand, Hanslovan has failed to make any payment under Modification Agreement-003 since April 7, 2003.

42. On July 7, 2003, G.E. Capital accelerated the Account Balance as it is entitled to do and made demand upon Hanslovan to make payment of the Account Balance. A copy of the demand letter from counsel for G.E. Capital to Hanslovan is attached hereto as Exhibit "3", and is incorporated herein by reference. Furthermore, on October 31, 2003, G.E. Capital again made demand upon Hanslovan to make payment of the Account Balance. A copy of the October 31, 2003 demand letter from counsel for G.E. Capital to Hanslovan is attached hereto as Exhibit "4", and is incorporated herein by reference.

43. Hanslovan, however, has failed to make any payment whatsoever. And, in addition, Hanslovan has failed to cooperate with G.E. Capital in connection with G.E. Capital's rights under the Modification Agreement-003.

44. As of October 1, 2003, the outstanding principal balance owed to G.E. Capital by Hanslovan under Modification Agreement-003 was $773,043.94 which includes principle of $658,819.35, interest of $36,439.01, and late charges of $77,785.58.

45. In addition, Hanslovan is liable for attorneys' fees and costs of collection pursuant to § IV (13) of Modification Agreement-003.

COUNT I

(Modification Agreement –004)

(Replevin Under Pennsylvania Rule of Civil Procedure 1075.2)

46. G.E. Capital restates and realleges paragraphs 1 through 45 of this Verified Complaint for Replevin as if fully set forth herein.

47. Pursuant to Modification Agreement-004 and its incorporated Master Security Agreement, G.E. Capital has a valid enforceable, perfected security agreement in and to the Euclid Dump Truck.

48. G.E. Capital believes and therefore avers, that the Euclid Dump Truck has an approximate value of $200,000.

49. Hanslovan has materially breached Modification Agreement-004 as is more fully set forth above.

50. Pursuant to Modification Agreement-004 and the agreements incorporated therein, and Pennsylvania law, Hanslovan's continued use and possession of the Euclid Dump Truck by Hanslovan is wrongful.

51. In light of the overdue principal and interest payments and late charges of more than $608,152.17, it is clear that the value of the Euclid Dump Truck, and G.E. Capital's interest therein will be adversely affected by the continued use and possession of the Euclid Dump Truck and proceeds thereof by Hanslovan.

52. Additionally, given the circumstances referred to above, including Hanslovan's refusal to cooperate with G.E. Capital, it is probable that Hanslovan will conceal, dispose, encumber, and/or waste the Euclid Dump Truck or revenues therefrom or remove the Euclid Dump Truck and/or the proceeds thereof from the premises.

53. Pursuant to Pennsylvania Rule of Civil Procedure 1075.2, G.E. Capital is entitled to an order for seizure of the Euclid Dump Truck.

54. G.E. Capital has incurred damages as a result of the wrongful use, maintenance and possession of the Euclid Dump Truck by Hanslovan.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, G.E. Capital, respectfully requests a judgment:

a. Enjoining and restraining Defendant from further use and/ or disposition of the Euclid Dump Truck, as defined in the Verified Complaint;

b. Ordering the Defendant to disclose to Plaintiff the present location of the Euclid Dump Truck;

c. Ordering the seizure of the Euclid Dump Truck currently in the possession of Defendant, pursuant to Pennsylvania Rule of Civil Procedure 1075.2; and

d. Awarding G.E. Capital such further and additional relief as the Court deems appropriate.

COUNT II

(Breach of Modification Agreement-004)
(Deficiency Amount)

55. G.E. Capital restates and realleges paragraphs 1 through 54 of this Verified Complaint for Replevin as if fully set forth herein.

56. As set forth more fully above, Hanslovan has materially breached Modification Agreement-004.

57. As a result of Hanslovan's breaches of Modification Agreement-004, Hanslovan is liable to G.E. Capital in an amount equal to: (a) the unpaid and due and owing Account Balance-004, plus interest, late charges and other costs, fees and expenses authorized under Modification Agreement-004 through the date of judgment plus all attorney fees and other costs of collection, less (b) a credit upon the seizure and sale of the Euclid Dump Truck.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, G.E. Capital, respectfully requests a judgment against Hanslovan and in favor of G.E. Capital in an amount equal to: (a) the unpaid and due and owing Account Balance-004, plus interest, late charges and other costs, fees, and expenses authorized under Modification Agreement–004 through the date of judgment plus all attorney fees and other costs of collection; less (b) a credit upon the seizure and sale of the Euclid Dump Truck.

COUNT III

(Modification Agreement –003)

(Replevin Under Pennsylvania Rule of Civil Procedure 1075.2)

58. G.E. Capital restates and realleges paragraphs 1 through 57 of this Verified Complaint for Replevin as if fully set forth herein.

59. Pursuant to Modification Agreement-003 and its incorporated Master Lease and other incorporated agreements, G.E. Capital has a valid enforceable, perfected security agreement in and to the Equipment.

60. G.E. Capital believes and therefore avers, that the Equipment has an approximate collective value of $200,000.

61. Hanslovan has breached Modification Agreement-003 as is more fully set forth above.

62. Pursuant to Modification Agreement-003 and the agreements incorporated therein, and Pennsylvania law, Hanslovan's continued use and possession of the Equipment by Hanslovan is wrongful.

63. In light of the overdue principal and interest payments and late charges, of more than $773,043.94 it is clear that the value of the Equipment, and G.E. Capital's interest

therein will be adversely affected by the continued use and possession of the Equipment and proceeds thereof by Hanslovan.

64. Additionally, given the circumstances referred to above, including Hanslovan's refusal to cooperate with G.E. Capital, it is probable that Hanslovan will conceal, dispose, encumber, waste the Equipment or revenues therefrom or remove the Equipment and/or the proceeds thereof from the premises.

65. Pursuant to Pennsylvania Rule of Civil Procedure 1075.2, G.E. Capital is entitled to an order for seizure of the Equipment.

66. G.E. Capital has incurred damages as a result of the wrongful use, maintenance and possession of the Equipment by Hanslovan.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, G.E. Capital, respectfully requests a judgment:

a. Enjoining and restraining Defendant from further use and/ or disposition of the Equipment, as defined in the Verified Complaint;

b. Ordering the Defendant to disclose to Plaintiff the present location of the Equipment;

c. Ordering the seizure of the Equipment currently in the possession of Defendant, pursuant to Pennsylvania Rule of Civil Procedure 1075.2; and

d. Awarding G.E. Capital such further and additional relief as the Court deems appropriate.

COUNT IV

(Breach of Modification Agreement-003)
(Deficiency Amount)

67. G.E. Capital restates and realleges paragraphs 1 through 66 of this Verified Complaint for Replevin as if fully set forth herein.

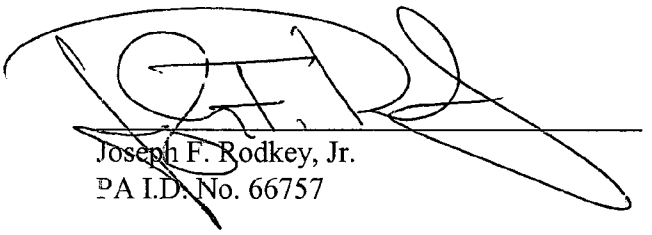
68. As set forth more fully above, Hanslovan has materially breached Modification Agreement-003.

69. As a result of Hanslovan's breaches of Modification Agreement-003, Hanslovan is liable to G.E. Capital in an amount equal to: (a) the unpaid and due and owing Account Balance-003, plus interest, late charges and other costs, fees and expenses authorized under Modification Agreement–003 through the date of judgment plus all attorney fees and other costs of collection, less (b) a credit upon the seizure and sale of the Equipment.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, G.E. Capital, respectfully requests a judgment against Hanslovan and in favor of G.E. Capital in an amount equal to: (a) the unpaid and due and owing Account Balance-003, plus interest, late charges and other costs, fees, and expenses authorized under Modification Agreement–004 through the date of judgment plus all attorney fees and other costs of collection; less (b) a credit upon the seizure and sale of the Equipment.

Dated: November 18, 2003



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Firm No. 234

Counsel for Plaintiff
General Electric Capital Corporation

VERIFICATION

I, Steven Santagato, being the Litigation Specialist for General Electric Capital Corporation responsible for administering the account(s) of Hanslovan Coal Company, Inc., verify that the facts set forth in the foregoing are true and correct to the best of my knowledge, information and belief. I understand that false statements made therein are made subject to the penalties of 18 Pa. Con. Stat. § 4904 relating to unsworn falsifications to authorities.

Steven Santagato

ALL-STATE® LEGAL 800-222-0510 ED11 RECYCLED

MODIFICATION AGREEMENT
GE Capital Account No. 6048055-004

THIS MODIFICATION AGREEMENT ("Modification Agreement") is made and entered into as of this ___ day of August 2002, by and between GENERAL ELECTRIC CAPITAL CORPORATION ("GE Capital"), a Delaware corporation with a place of business at 44 Old Ridgebury Road, Danbury, Connecticut and ED HANSLOVAN COAL COMPANY, INC. ("Debtor") a corporation with a place of business at Route 2 Box 230, Morrisdale, PA 16858

RECITALS

WHEREAS, on or about October 10, 1997, GE Capital loaned Debtor the Principal sum of Seven Hundred Fifty Five Thousand Two Hundred Eighty Eight and 00/100 Dollars ($755,280.00) as evidenced by an Installment Note ("Note") as modified or amended and Master Security Agreement ("Security Agreement").

WHEREAS, the Debtor is currently in default of the obligations due under the Note;

WHEREAS, the Debtor has requested that GE Capital modify the obligations under the Note; and

WHEREAS, GE Capital is willing to modify Debtor's obligations under the Note as requested subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of these promises and the covenants contained herein and for other good and valuable consideration, the receipt and adequacy of which the parties hereby acknowledge, the parties hereby agree as follows:

I. ACKNOWLEDGMENTS, REPRESENTATION AND COVENANTS: Debtor does hereby represent, acknowledge, warrant and covenant to GE Capital that:

(1) The recitals set forth above are true and accurate;

(2) The Note and Security Agreement are duly executed, binding obligations of Debtor and have not been terminated, modified and the copies of same attached hereto as Exhibit A, respectively, and made a part hereof are true, complete and accurate copies of same;

(3) The Debtor has adequate power and capacity to enter into this Modification Agreement;

(4) The entry into and performance by Debtor of the obligations under this Modification Agreement, the Note and Security Agreement do not (i) violate any judgment, order law or regulation applicable to Debtor; or (ii) result in any breach of, constitute a default under or result in the creation of any lien, charge, security interest or other encumbrance upon any unit of Equipment (as defined in the Security Agreement) pursuant to

any indenture security agreement, deed of trust, bank loan or credit agreement or other instrument to which Debtor is a party;

(5) There are no suits or proceedings pending or threatened in court or before any regulatory commission, board or other administrative governmental agency against or affecting Debtor, which will have a material adverse effect on the ability of Debtor to fulfill its obligations under this Modification Agreement, the Note or Security Agreement;

(6) The financial statements of Debtor, heretofore delivered to GE Capital accurately present the financial position of Debtor, as of the date of delivery, and there has been no material adverse change in the financial condition of Debtor since the date of such financial statements;

(7) Debtor agrees that, notwithstanding any provision to the contrary herein, it will continue to fulfill any and all of its duties and obligations under the Note except as those duties and obligations are modified by this Modification Agreement;

(8) As of the date hereof, there is Six Hundred Forty One Thousand Fifty Two Dollars and 00/100 ($641,052.00) due and owing under the Note, ("the Account Balance")

II. MODIFICATION:

(1) The payment schedule of the Note is hereby modified to reflect payment of the Account Balance as follows:

(a) One (1) payment of Twelve Thousand Two Hundred Eighty Dollars and 12/100 ($12,280.12) by August 31, 2002;

(b) Three (3) monthly payments of Five Thousand Nine Hundred Fifty Eight Dollars and 96/100 ($5,958.96), each payable on the 15th of the month commencing with the month of September 2002, and ending November 2002;

(c) One (1) payment of Fifteen Thousand Nine Hundred Fifty Eight Dollars and 96/100 ($15,958.96) by December 15, 2002;

(d) One (1) payment of Twenty Five Thousand Nine Hundred Fifty Eight Dollars and 96/100 ($25,958.96) due by January 15, 2003;

(e) Fourteen (14) monthly payments of Forty Thousand Six Hundred Forty One Dollars and 22/100 ($40,641.22), each payable on the 15th of the month commencing with the month of February 2003, and ending March 2003.

(2) The Note is hereby modified, as necessary, to incorporate the modifications set forth herein.

III. ADDITIONAL SECURITY: To further secure its obligations to GE Capital under the Note, in additional to that pledged under the Security Agreement, and as additional consideration for entering into this Modification, the Debtor agrees to grant GE Capital:

(1) a security interest in and to the premises located at Morris Township, Clearfield County, by executing a Mortgage and Security Agreement in favor of GE Capital, substantially in the form annexed as Exhibit B hereto within ten (10) days of the date hereof;

(2) a security interest in certain mineral reserves, more fully described in the annexed Exhibit C, by executing a Mortgage and Security Agreement in favor of GE Capital substantially in the form annexed as Exhibit D hereto within ten (10) days of the date hereof;

IV. REMAINING TERMS AND CONDITIONS CONTINUE IN EFFECT

(1) Except as expressly modified herein, all conditions and terms of the Note and Security Agreement shall continue in full force and effect in accordance with their original terms and conditions. NO TERMS OR CONDITIONS OF THE NOTE OR SECURITY AGREEMENT HAVE BEEN ALTERED OR ADJUSTED IN ANY WAY EXCEPT FOR THE DUE DATES OF PAYMENT OF THE ACCOUNT BALANCE.

(2) All Exhibits referenced herein and attached hereto are incorporated herein by reference.

(3) If this Modification Agreement is deemed unenforceable in any respect, then the parties agree that the Note shall be enforceable in accordance with their original terms and conditions as if this Modification Agreement had never been executed.

(4) It is the intention of the parties to comply with all applicable usury laws; accordingly, it is agreed that, notwithstanding any provision to the contrary in this Modification Agreement or the Note, in no event shall any of the foregoing require the payment or permit the collection of interest in excess of the maximum amount permitted by applicable law. If any such excess interest is contracted for, charged or received thereunder, or in the event that all of the Account Balance shall be prepaid, so that under any of such circumstances the amount of interest contracted for, charged or received under this Modification Agreement or the Note results in the Account Balance exceeding the maximum amount of interest permitted by applicable law, then in such event (a) the provisions of this Section shall govern and control, (b) neither Debtor nor any other person or entity now or thereafter liable for the payments shall be obligated to pay the amount of such interest to the extent that it is in excess of the maximum amount of interest permitted by applicable law, (c) any such excess which may have been collected shall be either applied as a credit against the then unpaid Account Balance or refunded to the party having paid same, at the option of GE Capital, and (d) the effective rate of interest shall be automatically reduced to the maximum lawful contract rate allowed under applicable law as now or hereafter construed by the courts having jurisdiction thereof.

(5) Any payment received from Debtor may be applied by GE Capital at any time against any obligation due and owing by Debtor under the Modification Agreement or the Note, in GE Capital's sole discretion, notwithstanding any statement appearing on or referred to in any remittance from customer or any prior application of such payment. In the event any bankruptcy proceedings are instituted by or against Debtor under any applicable bankruptcy law within 90 days after receipt by GE Capital of any such payment, such payment shall be deemed applicable to unpaid obligations then due thereunder in the inverse order of maturity.

(6) Debtor hereby certifies, agrees and acknowledges that the Equipment is installed and fully operational and is now and will continue to be used in the conduct of the Debtor's business.

(7) This Modification Agreement shall be binding upon and shall inure to the benefit of all the parties hereto and their respective administrators, successors and permitted assigns.

(8) No waiver, amendment, release, or modification of this Modification Agreement shall be established by conduct, custom, or course of dealing, but solely by an instrument in writing duly executed by the parties.

(9) Debtor shall take any and all acts and execute any and all documents reasonably requested by GE Capital to effectuate the terms of this Modification Agreement. In the event the Debtor fails to do so, or fails to timely execute any of the documents referenced herein, then this Modification Agreement shall become null and void and of no force or effect, and the parties shall return to the status quo and shall deemed to have waived any rights or defenses with respect to the Note and Security Agreement.

(10) This Modification Agreement shall be governed by and interpreted under the laws of the State of Connecticut.

(11) The invalidity or unenforceability of any one or more phrases, sentences, clauses, or section contained in this Modification Agreement shall not affect the validity or enforceability of the remaining portions of this Modification Agreement, or any part thereof.

(12) Debtor unconditionally waives its rights to a jury trial or any claim or cause of action based upon or arising out of this Modification Agreement, any of the related documents, any dealing between GE Capital and the Debtor relating to the subject matter of this Modification Agreement or any related documents or transactions, and/or the relationship that is being established between GE Capital and the Debtor. The scope of this waiver is intended to be all encompassing of any and all disputes that may be filed in any court. This waiver is irrevocable. This waiver may not be modified either orally or in writing. This waiver also shall apply to any subsequent amendments, renewals, supplements or modifications to this Modification Agreement, any related documents, or to any other documents or agreements relating to this transaction or any related transaction. This Modification Agreement may be filed as a written consent to a trial by the court.

(13) Debtor agrees to pay all reasonable attorneys' fees and other costs incurred by GE Capital in connection with the enforcement, assertion, defense or preservation of GE Capital's rights and remedies under this Modification Agreement, or if prohibited by law, such lesser sum as may be permitted. Debtor further agrees that such fees and costs shall constitute and be added to the Account Balance.

(14) This Modification Agreement may be executed in counterparts and facsimile signatures shall be deemed originals.

IN WITNESS WHEREOF, the parties hereto have executed this Modification Agreement and have caused this Modification Agreement to be executed by their respective duly authorized representatives as of the day first above-written.

DEBTOR:

ED HANSLOVAN COAL COMPANY, INC.

By: Ed. Hanslovan

Title: Pres.

GENERAL ELECTRIC CAPITAL CORPORATION

By: _____

Title: _____

EACH OF THE UNDERSIGNED GUARANTORS HEREBY AGREES AND CONSENTS TO ALL OF THE TERMS, CONDITIONS, AND MODIFICATION SET FORTH HEREIN.

MARY HANSLOVAN

By: Mary Hanslovan

Title: Sec-Treas

EDWARD HANSLOVAN

By: Edward Hanslovan

Title: President

HANSLOVAN TRUCKING COMPANY, INC.

By: Mary Hanslovan

Title: President

Exhibit A

INSTALLMENT NOTE

October 10, 1997

$755,280.00

FOR VALUE RECEIVED, Ed Hanslovan Coal Co., Inc. ("Maker") a corporation, located at ROUTE 2 - BOX 230, MORRISDALE, Clearfield County, PA 16858, promises to pay to the order of GENERAL ELECTRIC CAPITAL CORPORATION, a New York corporation, or any subsequent holder hereof (each, a "Payee"), at 44 Old Ridgebury Road, Danbury, CT 06810, the aggregate sum of Seven Hundred Fifty-Five Thousand Two Hundred Eighty and 00/100 Dollars ($755,280.00). This Note shall be due and payable in 60 consecutive equal monthly installments of Twelve Thousand Five Hundred Eighty-Eight and 00/100 Dollars ($12,588.00); each payable on the _____ day of the month commencing with the month of November, 1997, and ending October, 2002. The face amount of this Note, and the amount of each such monthly installment is based on the initial principal advance ("Initial Advance") made by Payee to the Maker contemporaneously herewith, and the amortization of the Initial Advance in monthly installments as set forth above. Each such monthly installment shall be applied first to any late payment fees and costs which are due, next to interest then accrued, and finally to the principal balance of the Initial Advance. An installment shall not be deemed timely paid, regardless of the date of receipt of the check or other instrument paid in connection with such installment, if the same shall not be timely honored.

Any payment received by the holder hereof in connection with the obligations represented by this Note shall be deemed to have been made with the Maker's full knowledge and consent, and by reason of such payment having been made by the Maker or on behalf of the Maker the Maker hereby waives any and all rights whatsoever which the Maker has or may have (1) to recover from the holder hereof any portion of such payment, or (2) to bring action against the holder hereof in connection with such payment.

This Note is payable in lawful money of the United States of America at the office of Payee provided above or at such other place as may be from time to time specified in writing by the holder hereof. This Note is issued pursuant to and is secured by that certain Master Security Agreement dated October 10, 1997, and the various agreements executed in connection therewith (collectively the "Agreements"), each between Payee and the Maker.

In the event any monthly installment is past due by more than ten (10) days, the Maker agrees to pay a late payment charge of five cents ($.05) per dollar on and in addition to the amount of the past-due payment but not to exceed the maximum charges allowable under then applicable law. If any monthly installment or any other obligation of the Maker to Payee is not paid when due, if any default occurs under any of the Agreements, or if any of the Agreements is terminated, this Note may, at the option of the holder, and without notice or demand of any kind, be declared and thereupon shall immediately become due and payable; provided, however, that in such event, the amount then due and owing under this Note for principal and interest shall be the lesser of: (i) the total of the remaining installments due under this Note, plus accrued late charges; or (ii) the total of (a) the Initial Advance, plus (b) the amount of interest which would have accrued to the date of acceleration if the payments provided for in this Note had been applied first to late charges, then to interest accrued at the maximum non-usurious rate of interest, with any balance allocated to principal, minus (c) all payments of principal, interest and late charges heretofore received by Payee under this Note. After maturity of this Note (whether at the stated maturity date or as a result of acceleration), the amount then due and owing for principal and interest shall bear interest at the maximum lawful rate. A default in the payment of any amount due under this Note shall constitute a default under the terms of each of the Agreements.

If the holder of this Note shall employ an attorney to collect any or all of the indebtedness represented by this Note, the Maker shall, immediately and without demand, reimburse the holder for all costs and expenses, including without limitation attorney's fees incurred by such holder in such case.

Demand for payment, protest, notice of dishonor and all other notices or formalities to which the Maker might otherwise be entitled are hereby waived by the Maker and all others who become parties to this Note, whether as makers, endorsers or guarantors. To the extent permitted by the law of the Maker's place of business.

Maker hereby irrevocably authorizes and empowers the Prothonotary or Clerk, or any attorney for any Court of record to appear for Maker in such Courts, at any time, and confess a judgement against Maker, without process, in favor of any holder hereof, without the filing of a declaration of default, with release of errors, without stay of execution, for such amount as may appear from the face hereof to be due hereunder (or, if such attorney so elects, for the amount which may be due hereon as evidenced by an affidavit signed by a representative of holder setting forth the amount then due) together with charges, attorney's fees and costs as herein provided, and Maker hereby waives and releases all benefits and relief from any and all appraisement, stay or exemption laws of any state, now in force or hereafter to be passed. If a copy hereof, verified by an affidavit, shall have been filed in said proceeding, it shall not be necessary to file the original as a warrant of attorney. No single exercise of the foregoing warrant and power to confess judgement shall be deemed to exhaust the power, whether or not such exercise shall be held by any Court to be invalid, voidable, or void, but the power shall continue undiminished and may be exercised from time to time as often as the holder hereof shall elect, until all sums payable or that may become payable hereunder by Maker have been paid in full.

THE MAKER HEREBY UNCONDITIONALLY WAIVES ITS RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF, DIRECTLY OR INDIRECTLY, THIS NOTE, ANY OF THE RELATED DOCUMENTS, ANY DEALINGS BETWEEN MAKER AND PAYEE RELATING TO THE SUBJECT MATTER OF THIS TRANSACTION OR ANY RELATED TRANSACTIONS, AND/OR THE RELATIONSHIP THAT IS BEING ESTABLISHED BETWEEN MAKER AND PAYEE. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT (INCLUDING, WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS.) THIS WAIVER IS IRREVOCABLE MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THE WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS NOTE, ANY RELATED DOCUMENTS, OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THIS TRANSACTION OR ANY RELATED TRANSACTION. IN THE EVENT OF LITIGATION, THIS NOTE MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

Failure by the holder of this Note to exercise any of its remedies shall not constitute a waiver on the part of the holder of the right to exercise any remedies at any other time. The holder of this Note may proceed against any or all of the collateral securing this Note or against any guarantor hereof, or may proceed contemporaneously or in the first instance against the Maker, in such order and at such times following default hereunder as the holder hereof may determine in its sole discretion. The right and remedies of the holder of this Note shall be in addition to and not exclusive of any other rights and remedies to which the holder is entitled whether by operation of law or in equity.

All of the Maker's obligations under this Note are absolute and shall not be subject to any offset or deduction whatsoever. The Maker waives any right it may

have to assert, by way of counterclaim or affirmative defense in any action to enforce the Maker's obligations hereunder, any claim whatsoever against the holder of this Note.

If executed by more than one party, any references herein to the Maker shall be deemed to refer to all thereof, and the obligations of all thereof hereunder shall be joint and several. The provisions of this Note shall be governed by and construed in accordance with the laws of the State of Connecticut. The Maker agrees that all actions or proceedings arising, directly or indirectly, out of this Note may be litigated by Payee's sole discretion and election, in courts in Connecticut, and the Maker hereby subjects itself to the jurisdiction of any local, state or federal court located in Connecticut.

The Maker and Payee intend to comply with all applicable laws governing the maximum rate or amount of interest charged or payable in connection with this Note. In no event shall the Maker be deemed charged or liable for any interest in excess of the maximum lawful contract rate of interest permitted under applicable law, and any payments collected in excess of such maximum shall be credited on the principal balance of this Note (or if this Note has been or would thereby be paid in full, refunded to the Maker). The right to accelerate maturity of this Note does not include the right to accelerate an amount of interest which would cause the Note to be usurious. Payee does not intend to collect any usurious or otherwise unlawful interest in the event of acceleration or otherwise.

Ed Hanslovan Coal Co., Inc.

By: Ed Hanslovan Pres. (L.S.)
(Signature)

Ed Hinslovan Pres.
Print name (and title, if applicable)

251261400
(Federal tax identification number)

(Witness)

David G. Ghiloni
(Print name)

(Address)

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MASTER SECURITY AGREEMENT

THIS MASTER SECURITY AGREEMENT, made as of **October 10, 1997 ("Agreement")**, by and between **General Electric Capital Corporation**, a New York corporation with an address at **44 Old Ridgebury Road , Danbury, CT ("Secured Party")**, and **Ed Hanslovan Coal Co., Inc.**, a corporation organized and existing under the laws of the State of **Pennsylvania** with its chief executive offices located at **ROUTE 2 - BOX 230 , MORRISDALE, PA 16858("Debtor")**.

In consideration of the promises herein contained and of certain other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Debtor and Secured Party hereby agree as follows:

1. CREATION OF SECURITY INTEREST.

Debtor hereby gives, grants and assigns to Secured Party, its successors and assigns forever, a security interest in and against any and all property listed on any collateral schedule now or hereafter annexed hereto or made a part hereof ("**Collateral Schedule**"), and in and against any and all additions, attachments, accessories and accessions thereto, any and all substitutions, replacements or exchanges therefor, and any and all insurance and/or other proceeds thereof (all of the foregoing being hereinafter individually and collectively referred to as the "**Collateral**"). The foregoing security interest is given to secure the payment and performance of any and all debts, obligations and liabilities of any kind, nature or description whatsoever (whether primary, secondary, direct, contingent, sole, joint or several, or otherwise, and whether due or to become due) of Debtor to Secured Party, now existing or hereafter arising, including but not limited to the payment and performance of certain Promissory Notes and/or Installment Notes from time to time identified on any Collateral Schedule (collectively "**Notes**" and each a "**Note**"), and any renewals, extensions and modifications of such debts, obligations and liabilities (all of the foregoing being hereinafter referred to as the "**Indebtedness**"). Notwithstanding the foregoing, and notwithstanding anything to the contrary contained elsewhere in this Agreement, to the extent that Secured Party asserts a purchase money security interest in any items of Collateral ("**PMSI Collateral**"): (i) the PMSI Collateral shall secure only that portion of the Indebtedness which has been advanced by Secured Party to enable Debtor to purchase, or acquire rights in or the use of such PMSI Collateral (the "**PMSI Indebtedness**"), and (ii) no other Collateral shall secure the PMSI Indebtedness.

2. REPRESENTATIONS, WARRANTIES AND COVENANTS OF DEBTOR.

Debtor hereby represents, warrants and covenants as of the date hereof and as of the date of execution of each Collateral Schedule hereto that:

(a) Debtor is, and will remain, duly organized, existing and in good standing under the laws of the State set forth in the first paragraph of this Agreement, has its chief executive offices at the location set forth in such paragraph, and is, and will remain, duly qualified and licensed in every jurisdiction wherever necessary to carry on its business and operations;

(b) Debtor has adequate power and capacity to enter into, and to perform its obligations, under this Agreement, each Note and any other documents evidencing, or given in connection with, any of the Indebtedness (all of the foregoing being hereinafter referred to as the "**Debt Documents**");

(c) This Agreement and the other Debt Documents have been duly authorized, executed and delivered by Debtor and constitute legal, valid and binding agreements enforceable under all applicable laws in accordance with their terms, except to the extent that the enforcement of remedies may be limited under applicable bankruptcy and insolvency laws;

(d) No approval, consent or withholding of objections is required from any governmental authority or instrumentality with respect to the entry into, or performance by, Debtor of any of the Debt Documents, except such as may have already been obtained;

(e) The entry into, and performance by, Debtor of the Debt Documents will not (i) violate any of the organizational documents of Debtor or any judgment, order, law or regulation applicable to Debtor, or (ii) result in any breach of, constitute a default under, or result in the creation of any lien, claim or encumbrance on any of Debtor's property (except for liens in favor of Secured Party) pursuant to, any indenture mortgage, deed of trust, bank loan, credit agreement, or other agreement or instrument to which Debtor is a party;

(f) There are no suits or proceedings pending or threatened in court or before any commission, board or other administrative agency against or affecting Debtor which could, in the aggregate, have a material adverse effect on Debtor, its business or operations, or its ability to perform its obligations under the Debt Documents;

(g) All financial statements delivered to Secured Party in connection with the Indebtedness have been prepared in accordance with generally accepted accounting principles, and since the date of the most recent financial statement, there has been no material adverse change;

(h) The Collateral is not, and will not be, used by Debtor for personal, family or household purposes;

(i) The Collateral is, and will remain, in good condition and repair and Debtor will not be negligent in the care and use thereof;

(j) Debtor is, and will remain, the sole and lawful owner, and in possession of, the Collateral, and has the sole right and lawful authority to grant the security interest described in this Agreement; and

(k) The Collateral is, and will remain, free and clear of all liens, claims and encumbrances of every kind, nature and description, except for (i) liens in favor of Secured Party, (ii) liens for taxes not yet due or for taxes being contested in good faith and which do not involve, in the reasonable judgment of Secured Party, any risk of the sale, forfeiture or loss of any of the Collateral, and (iii) inchoate materialmen's, mechanic's, repairmen's and similar liens arising by operation of law in the normal course of business for amounts which are not delinquent (all of such permitted liens being hereinafter referred to as "**Permitted Liens**").

3. COLLATERAL.

(a) Until the declaration of any default hereunder, Debtor shall remain in possession of the Collateral; provided, however, that Secured Party shall have the right to possess (i) any chattel paper or instrument that constitutes a part of the Collateral, and (ii) any other Collateral which because of its nature may require that Secured Party's security interest therein be perfected by possession. Secured Party, its successors and assigns, and their respective agents,

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Debtor shall provide Secured Party with [illegible] of the then current location of the Collateral.

(b) Debtor shall (i) use the Collateral only in its trade or business, (ii) maintain all of the Collateral in good condition and working order, (iii) use and maintain the Collateral only in compliance with all applicable laws, and (iv) keep all of the Collateral free and clear of all liens, claims and encumbrances (except for Permitted Liens).

(c) Debtor shall not, without the prior written consent of Secured Party, (i) part with possession of any of the Collateral (except to Secured Party or for maintenance and repair), (ii) remove any of the Collateral from the continental United States, or (iii) sell, rent, lease, mortgage, grant a security interest in or otherwise transfer or encumber (except for Permitted Liens) any of the Collateral.

(d) Debtor shall pay promptly when due all taxes, license fees, assessments and public and private charges levied or assessed on any of the Collateral, on the use thereof, or on this Agreement or any of the other Debt Documents. At its option, Secured Party may discharge taxes, liens, security interests or other encumbrances at any time levied or placed on the Collateral and may pay for the maintenance, insurance and preservation of the Collateral or to effect compliance with the terms of this Agreement or any of the other Debt Documents. Debtor shall reimburse Secured Party, on demand, for any and all costs and expenses incurred by Secured Party in connection therewith and agrees that such reimbursement obligation shall be secured hereby.

(e) Debtor shall, at all times, keep accurate and complete records of the Collateral, and Secured Party, its successors and assigns, and their respective agents, shall have the right to examine, inspect, and make extracts from all of Debtor's books and records relating to the Collateral at any time during normal business hours.

(f) If agreed by the parties, Secured Party may, but shall in no event be obligated to, accept substitutions and exchanges of property for property, and additions to the property, constituting all or any part of the Collateral. Such substitutions, exchanges and additions shall be accomplished at any time and from time to time, by the substitution of a revised Collateral Schedule for the Collateral Schedule now or hereafter annexed. Any property which may be substituted, exchanged or added as aforesaid shall constitute a portion of the Collateral and shall be subject to the security interest granted herein. Additions to, reductions or exchanges of, or substitutions for, the Collateral, payments on account of any obligation or liability secured hereby, increases in the obligations and liabilities secured hereby, or the creation of additional obligations and liabilities secured hereby, may from time to time be made or occur without affecting the provisions of this Agreement or the provisions of any obligation or liability which this Agreement secures.

(g) Any third person at any time and from time to time holding all or any portion of the Collateral shall be deemed to, and shall, hold the Collateral as the agent of, and as pledge holder for, Secured Party. At any time and from time to time, Secured Party may give notice to any third person holding all or any portion of the Collateral that such third person is holding the Collateral as the agent of, and as pledge holder for, the Secured Party.

4. INSURANCE.

The Collateral shall at all times be held at Debtor's risk, and Debtor shall keep it insured against loss or damage by fire and extended coverage perils, theft, burglary, and for any or all Collateral which are vehicles, for risk of loss by collision, and where requested by Secured Party, against other risks as required thereby, for the full replacement value thereof, with companies, in amounts and under policies acceptable to Secured Party. Debtor shall, if Secured Party so requires, deliver to Secured Party policies or certificates of insurance evidencing such coverage. Each policy shall name Secured Party as loss payee thereunder, shall provide for coverage to Secured Party regardless of the breach by Debtor of any warranty or representation made therein, shall not be subject to co-insurance, and shall provide for thirty (30) days written notice to Secured Party of the cancellation or material modification thereof. Debtor hereby appoints Secured Party as its attorney in fact to make proof of loss, claim for insurance and adjustments with insurers, and to execute or endorse all documents, checks or drafts in connection with payments made as a result of any such insurance policies. Proceeds of insurance shall be applied, at the option of Secured Party, to repair or replace the Collateral or to reduce any of the Indebtedness secured hereby.

5. REPORTS.

(a) Debtor shall promptly notify Secured Party in the event of (i) any change in the name of Debtor, (ii) any relocation of its chief executive offices, (iii) any relocation of any of the Collateral, (iv) any of the Collateral being lost, stolen, missing, destroyed, materially damaged or worn out, or (v) any lien, claim or encumbrance attaching or being made against any of the Collateral other than Permitted Liens.

(b) Debtor agrees to furnish its annual financial statements and such interim statements as Secured Party may require in form satisfactory to Secured Party. Any and all financial statements submitted and to be submitted to Secured Party have and will have been prepared on a basis of generally accepted accounting principles, and are and will be complete and correct and fairly present Debtor's financial condition as at the date thereof. Secured Party may at any reasonable time examine the books and records of Debtor and make copies thereof.

6. FURTHER ASSURANCES.

(a) Debtor shall, upon request of Secured Party, furnish to Secured Party such further information, execute and deliver to Secured Party such documents and instruments (including, without limitation, Uniform Commercial Code financing statements) and do such other acts and things, as Secured Party may at any time reasonably request relating to the perfection or protection of the security interest created by this Agreement or for the purpose of carrying out the intent of this Agreement. Without limiting the foregoing, Debtor shall cooperate and do all acts deemed necessary or advisable by Secured Party to continue in Secured Party a perfected first security interest in the Collateral, and shall obtain and furnish to Secured Party any subordinations, releases, landlord, lessor, or mortgagee waivers, and similar documents as may be from time to time requested by, and which are in form and substance satisfactory to, Secured Party.

(b) Debtor hereby grants to Secured Party the power to sign Debtor's name and generally to act on behalf of Debtor to execute and file applications for title, transfers of title, financing statements, notices of lien and other documents pertaining to any or all of the Collateral. Debtor shall, if any certificate of title be required or permitted by law for any of the Collateral, obtain such certificate showing the lien hereof with respect to the Collateral and promptly deliver same to Secured Party.

(c) Debtor shall indemnify and defend the Secured Party, its successors and assigns, and their respective directors, officers and employees, from and against any and all claims, actions and suits (including, without limitation, related attorneys' fees) of any kind, nature or description whatsoever arising, directly or indirectly, in connection with any of the Collateral.

7. EVENTS OF DEFAULT.

E.S.H.

Debtor shall be in default under this Agreement and each of the other Debt Documents upon the occurrence of any of the following "Event(s) of

_____(INITIAL)

Default":

(a) Debtor fails to pay any installment or other amount due or coming due under any of the Debt Documents within ten (10) days after its due date;

(b) Any attempt by Debtor, without the prior written consent of Secured Party, to sell, rent, lease, mortgage, grant a security interest in, or otherwise transfer or encumber (except for Permitted Liens) any of the Collateral;

(c) Debtor fails to procure, or maintain in effect at all times, any of the insurance on the Collateral in accordance with Section 4 of this Agreement;

(d) Debtor breaches any of its other obligations under any of the Debt Documents and fails to cure the same within thirty (30) days after written notice thereof;

(e) Any warranty, representation or statement made by Debtor in any of the Debt Documents or otherwise in connection with any of the Indebtedness shall be false or misleading in any material respect;

(f) Any of the Collateral being subjected to, or being threatened with, attachment, execution, levy, seizure or confiscation in any legal proceeding or otherwise;

(g) Any default by Debtor under any other agreement between Debtor and Secured Party;

(h) Any dissolution, termination of existence, merger, consolidation, change in controlling ownership, insolvency, or business failure of Debtor or any guarantor or other obligor for any of the Indebtedness (collectively "**Guarantor**"), or if Debtor or any Guarantor is a natural person, any death or incompetency of Debtor or such Guarantor;

(i) The appointment of a receiver for all or of any part of the property of Debtor or any Guarantor, or any assignment for the benefit of creditors by Debtor or any Guarantor; or

(j) The filing of a petition by Debtor or any Guarantor under any bankruptcy, insolvency or similar law, or the filing of any such petition against Debtor or any Guarantor if the same is not dismissed within thirty (30) days of such filing.

8. REMEDIES ON DEFAULT.

(a) Upon the occurrence of an Event of Default under this Agreement, the Secured Party, at its option, may declare any or all of the Indebtedness, including without limitation the Notes, to be immediately due and payable, without demand or notice to Debtor or any Guarantor. The obligations and liabilities accelerated thereby shall bear interest (both before and after any judgment) until paid in full at the lower of eighteen percent (18%) per annum or the maximum rate not prohibited by applicable law.

(b) Upon such declaration of default, Secured Party shall have all of the rights and remedies of a Secured Party under the Uniform Commercial Code, and under any other applicable law. Without limiting the foregoing, Secured Party shall have the right to (i) notify any account debtor of Debtor or any obligor on any instrument which constitutes part of the Collateral to make payment to the Secured Party, (ii) with or without legal process, enter any premises where the Collateral may be and take possession and/or remove said Collateral from said premises, (iii) sell the Collateral at public or private sale, in whole or in part, and have the right to bid and purchase at said sale, and/or (iv) lease or otherwise dispose of all or part of the Collateral, applying proceeds therefrom to the obligations then in default. If requested by Secured Party, Debtor shall promptly assemble the Collateral and make it available to Secured Party at a place to be designated by Secured Party which is reasonably convenient to both parties. Secured Party may also render any or all of the Collateral unusable at the Debtor's premises and may dispose of such Collateral on such premises without liability for rent or costs. Any notice which Secured Party is required to give to Debtor under the Uniform Commercial Code of the time and place of any public sale or the time after which any private sale or other intended disposition of the Collateral is to be made shall be deemed to constitute reasonable notice if such notice is given to the last known address of Debtor at least five (5) days prior to such action.

(c) Proceeds from any sale or lease or other disposition shall be applied: first, to all costs of repossession, storage, and disposition including without limitation attorneys', appraisers', and auctioneers' fees; second, to discharge the obligations then in default; third, to discharge any other Indebtedness of Debtor to Secured Party, whether as obligor, endorsor, guarantor, surety or indemnitor; fourth, to expenses incurred in paying or settling liens and claims against the Collateral; and lastly, to Debtor, if there exists any surplus. Debtor shall remain fully liable for any deficiency.

(d) In the event this Agreement, any Note or any other Debt Documents are placed in the hands of an attorney for collection of money due or to become due or to obtain performance of any provision hereof, Debtor agrees to pay all reasonable attorneys' fees incurred by Secured Party, and further agrees that payment of such fees is secured hereunder. Debtor and Secured Party agree that such fees to the extent not in excess of twenty percent (20%) of subject amount owing after default (if permitted by law, or such lesser sum as may otherwise be permitted by law) shall be deemed reasonable.

(e) Secured Party's rights and remedies hereunder or otherwise arising are cumulative and may be exercised singularly or concurrently. Neither the failure nor any delay on the part of the Secured Party to exercise any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege. Secured Party shall not be deemed to have waived any of its rights hereunder or under any other agreement, instrument or paper signed by Debtor unless such waiver be in writing and signed by Secured Party. A waiver on any one occasion shall not be construed as a bar to or waiver of any right or remedy on any future occasion.

(f) DEBTOR HEREBY UNCONDITIONALLY WAIVES ITS RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF, DIRECTLY OR INDIRECTLY, THIS AGREEMENT, ANY OF THE OTHER DEBT DOCUMENTS, ANY OF THE INDEBTEDNESS SECURED HEREBY, ANY DEALINGS BETWEEN DEBTOR AND SECURED PARTY RELATING TO THE SUBJECT MATTER OF THIS TRANSACTION OR ANY RELATED TRANSACTIONS, AND/OR THE RELATIONSHIP THAT IS BEING ESTABLISHED BETWEEN DEBTOR AND SECURED PARTY. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT (INCLUDING, WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS). THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THE WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT, ANY OTHER DEBT DOCUMENTS, OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THIS TRANSACTION OR ANY RELATED TRANSACTION. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

E.J.H. (INITIAL)

9. MISCELLANEOUS.

(a) This Agreement, any Note and/or any of the other Debt Documents may be assigned, in whole or in part, by Secured Party without notice to Debtor, and Debtor hereby waives any defense, counterclaim or cross-complaint by Debtor against any assignee, agreeing that Secured Party shall be solely responsible therefor

(b) All notices to be given in connection with this Agreement shall be in writing, shall be addressed to the parties at their respective addresses set forth hereinabove (unless and until a different address may be specified in a written notice to the other party), and shall be deemed given (i) on the date of receipt if delivered in hand or by facsimile transmission, (ii) on the next business day after being sent by express mail, and (iii) on the fourth business day after being sent by regular, registered or certified mail. As used herein, the term "business day" shall mean and include any day other than Saturdays, Sundays, or other days on which commercial banks in New York, New York are required or authorized to be closed.

(c) Secured Party may correct patent errors herein and fill in all blanks herein or in any Collateral Schedule consistent with the agreement of the parties.

(d) Time is of the essence hereof. This Agreement shall be binding, jointly and severally, upon all parties described as the "Debtor" and their respective heirs, executors, representatives, successors and assigns, and shall inure to the benefit of Secured Party, its successors and assigns.

(e) This Agreement and its Collateral Schedules constitute the entire agreement between the parties with respect to the subject matter hereof and supercede all prior understandings (whether written, verbal or implied) with respect thereto. This Agreement and its Collateral Schedules shall not be changed or terminated orally or by course of conduct, but only by a writing signed by both parties hereto. Section headings contained in this Agreement have been included for convenience only, and shall not affect the construction or interpretation hereof.

(f) This Agreement shall continue in full force and effect until all of the Indebtedness has been indefeasibly paid in full to Secured Party. The surrender, upon payment or otherwise, of any Note or any of the other documents evidencing any of the Indebtedness shall not affect the right of Secured Party to retain the Collateral for such other Indebtedness as may then exist or as it may be reasonably contemplated will exist in the future. This Agreement shall automatically be reinstated in the event that Secured Party is ever required to return or restore the payment of all or any portion of the Indebtedness (all as though such payment had never been made).

IN WITNESS WHEREOF, Debtor and Secured Party, intending to be legally bound hereby, have duly executed this Agreement in one or more counterparts, each of which shall be deemed to be an original, as of the day and year first aforesaid.

SECURED PARTY:

General Electric Capital Corporation

By: Gary L Marcum

Title: Territory Credit Manager

DEBTOR:

Ed Hanslovan Coal Co., Inc.

By: Ed. Hanslovan Jr.

Title: Pres.

7510(8/96)

COLLATERAL SCHEDULE NO. 1

THIS COLLATERAL SCHEDULE NO. 1 is annexed to and made a part of that certain Master Security Agreement dated as of October 10, 1997 between General Electric Capital Corporation as Secured Party and Ed Hanslovan Coal Co., Inc. as Debtor and describes collateral in which Debtor has granted Secured Party a security interest in connection with the Indebtedness (as defined in the Security Agreement) including without limitation that certain Installment Note dated October 10, 1997 in the aggregate sum of $ 755,280.00.

Year/Model	Serial Number	Description
1996 R90	75512	Euclid end dump truck

Equipment immediately listed above is located at: ROUTE 2 - BOX 230, MORRISDALE, PA 16858

SECURED PARTY:

General Electric Capital Corporation

By: Daryl Marcum

Title: Territory Credit Manager

Date: 10/29/97

DEBTOR:

Ed Hanslovan Coal Co., Inc.

By: Ed. Hanslovan Jr.

Title: Pres.

Date: October 10, 1997

MODIFICATION AGREEMENT
GE Capital Account No.
6048055-004

THIS MODIFICATION AGREEMENT ("Modification Agreement") is made and entered into as of this 11th day of January, 2000, by and between GENERAL ELECTRIC CAPITAL CORPORATION ("GE Capital "), a New York corporation with a place of business at 44 Old Ridgebury Road, Danbury, CT and Ed Hanslovan Coal Company, Inc. ("Customer") a Pennsylvania Corporation, with a place of business at Route 2 Box 230, Morrisdale, PA 16858.

RECITALS

WHEREAS on or about October 10, 1997, GE Capital loaned Debtor the Principal sum of Seven Hundred Fifty Five Thousand Two Hundred Eighty Eight and 00/100 Dollars ($755,280.00) (the "Principal Amount") .

WHEREAS Debtor has requested that GE Capital modify its obligations under the Note;

WHEREAS GE Capital is willing to modify customer's obligations as requested subject to the terms and conditions set forth herein.

NOW THEREFORE, in consideration of these premises and the covenants contained herein and for other good and valuable consideration, the receipt and adequacy of which the parties hereby acknowledge, the parties hereby agree as follows:

I. ACKNOWLEDGMENTS, REPRESENTATIONS AND COVENANTS: Debtor does hereby represent, acknowledge, warrant and covenant to GE Capital that:

1) The recitals set forth above are true and accurate;

2) The Note and Security Agreement are duly executed, binding obligations of Debtor and have not been terminated and the copies of same attached hereto as Exhibits A and B, respectively, and made a part hereof are true, complete and accurate copies of same;

3) Debtor has adequate power and capacity to enter into this Modification Agreement;

4) The entry into and performance by Debtor of his obligations under this Promissory Note do not (i) violate any judgment, order law or regulation applicable to Debtor; or (ii) result in any breach of, constitute a default under or result in the creation of any lien, charge, security interest or other encumbrance upon any unit of Equipment pursuant to any indenture, security agreement, deed of trust, bank loan or credit agreement or other instrument (other than the Security Agreement) to which Debtor is a party;

5) There are no suits or proceedings pending or threatened in court or before any regulatory commission, board or other administrative governmental agency against or affecting Debtor, which will have a material adverse effect on the ability of Debtor to fulfill its obligations under this Modification Agreement, the Note or Security Agreement;

6) The financial statements of Debtor, heretofore delivered to GE Capital accurately present the financial position of Debtor, as of the date of delivery, and there has been no material adverse change in the financial condition of Debtor since the date of such financial statements;

7) Debtor agrees that, notwithstanding any provision to the contrary herein, it will continue to fulfill any and all of its duties and obligations under the Note and Security Agreement, except as those duties and obligations are modified by this Modification Agreement;

8) As of the date hereof, there are Forty One (41) installments of principle and interest of Thirteen Thousand Eight Hundred Forty One and 77/100 Dollars ($13,841.77), followed by One (1) payment including the balance of all remaining principal and accrued and unpaid interest; next due on December 1, 1999 which remain to be paid thereon.

II. MODIFICATION:

1) The payment schedule of the Note set forth above beginning as of the date hereof is hereby modified as follows:

(a) Forty (40) installments of principle and interest of Fourteen Thousand Twenty Six and 65/100 Dollars ($14,026.65), followed by One (1) installment of Fourteen Thousand Twenty Nine and 26/100 Dollars ($14,029.26) next due on February 1, 2000 which remain to be paid thereon

Followed by One (1) final payment which is to include all remaining principal and interest outstanding to be paid thereon.

2) The Security Agreement is hereby modified, as necessary, to incorporate the modifications in the Note set forth herein.

III. REMAINING TERMS TO CONTINUE IN EFFECT

1) Except as expressly modified herein, conditions and terms of the Note, and Security Agreement shall continue in full force and effect in accordance with their original terms and conditions.

2) All Exhibits referenced herein and attached hereto are incorporated herein by reference.

3) If this Modification Agreement is deemed unenforceable in any respect, then and in such case the parties agree that the Note and Security Agreement shall be enforceable in accordance with their original terms and conditions as if this Modification Agreement had never been executed.

4) It is the intention of the parties hereto to comply with all applicable usury laws; accordingly, it is agreed that, notwithstanding any provision to the contrary in this Modification Agreement, the Note or Security Agreement, in no event shall any of the foregoing require the payment or permit the collection of interest in excess of the maximum amount permitted by applicable law. If any such excess interest is contracted for, charged or received thereunder, or in the event that all of the Account Balance shall be prepaid, so that under any of such circumstances the amount of interest contracted for, charged or received under this Modification Agreement, the Note or Security Agreement shall exceed the maximum amount of interest permitted by applicable law, then in such event (a) the provisions of this Section shall govern and control, (b) neither Debtor nor any other person or entity now or thereafter liable for the payments shall be obligated to pay the amount of such interest to the extent that it is in excess of the maximum amount of interest permitted by applicable law, (c) any such excess which may have been collected shall be either applied as a credit against the then unpaid Account Balance or refunded to the party having paid same, at the option of GE Capital , and (d) the effective rate of interest shall be automatically reduced to the maximum lawful contract rate allowed under applicable law as now or hereafter construed by the courts having jurisdiction thereof.

5) Any payment received from Debtor may be applied by GE Capital at any time against any obligation due and owing by Debtor under the Note or Security Agreement, in GE Capital 's sole discretion, notwithstanding any statement appearing on or referred to in any remittance from Debtor or any prior application of such payment. In the event any bankruptcy proceedings are instituted by or against Debtor under any applicable bankruptcy law within 90 days after receipt by GE Capital of any such payment, such payment shall be deemed applicable to unpaid obligations then due thereunder in the inverse order of maturity.

6) Debtor hereby certifies, agrees and acknowledges that the Equipment is installed and fully operational and is now and will continue to be used and in the conduct of Debtor's business.

7) This Agreement shall be binding upon and shall inure to the benefit of all the parties hereto and their respective administrators, successors and permitted assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement and have caused this Agreement to be executed by their respective duly authorized representatives as of the day first above-written.

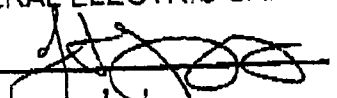
DEBTOR:

Ed Hanslovan Coal Company, Inc.

By: Mary Hanslovan

Title: Sec Treas

GENERAL ELECTRIC CAPITAL CORPORATION:

By: 

Title: 1/18/00

[redacted] (last name first if individual) and mail

Hansloven Coal Co., Inc.
Route 3 - Box 230
Morrisdale, PA 16858 1

IMPC — ase read instructions on reverse — page 4 before completing

Filing No. (stamped by filing officer):

Date, Time, Filing Office (stamped by filing officer):

File # P-49470 Date October 21, 1997

Docket # 16-106-06 Time 2:00 pm
Clearfield County Prothonotary Office 5

Debtor name (last name first if individual) and mailing address:

1a

Debtor name (last name first if individual) and mailing address:

1b

This **Financing Statement** is presented for filing pursuant to the Uniform Commercial Code, and is to be filed with the (check applicable box):

☐ Secretary of the Commonwealth.
☒ Prothonotary of Clearfield county, PA County.
☐ real estate records of _____ County. 6

7

Number of Additional Sheets (if any): 8

Optional Special Identification (Max. 10 characters):

Secured Party(ies) names(s) (last name first if individual) and address for security interest information:

General Electric Capital Corporation
11590 Century Blvd., Ste. 111
Cincinnati, OH 45246 2

COLLATERAL

Identify collateral by item and/or type:

One (1) 1996 Euclid End Dump Truck, Model R90
Serial No. 75512

Assignee(s) of Secured Party name(s) (last name first if individual) and address for security interest information:

2a

Special Types of Parties (check if applicable):

☐ The terms "Debtor" and "Secured Party" mean "Lessee" and "Lessor," respectively.

☐ The terms "Debtor" and "Secured Party" mean "Consignee" and "Consignor," respectively.

☐ Debtor is a Transmitting Utility. 3

☐ (check only if desired) Products of the collateral are also covered. 9

Identify related real estate, if applicable: The collateral is, or includes (check appropriate box(es))-

a. ☐ crops growing or to be grown on -
b. ☐ goods which are or are to become fixtures on -
c. ☐ minerals or the like (including oil and gas) as extracted on -
d. ☐ accounts resulting from the sale of minerals or the like (including oil and gas) at the wellhead or minehead on -

the following real estate:

Street Address:

Described at: Book _____ of (check one) ☐ Deeds ☐ Mortgages, at Page(s) _____

for _____ County. Uniform Parcel Identifier _____

☐ Described on Additional Sheet.

Name of record owner (required only if no Debtor has an interest of record): 1

SECURED PARTY SIGNATURE(S)

This statement is filed with only the Secured Party's signature to perfect a security interest in collateral (check applicable box(es))-

a. ☐ acquired after a change of name, identity or corporate structure of the Debtor.

b. ☐ as to which the filing has lapsed.

c. already subject to a security interest in another county in Pennsylvania-
☐ when the collateral was moved to this county.
☐ when the Debtor's residence or place of business was moved to this county.

d. already subject to a security interest in another jurisdiction-
☐ when the collateral was moved to Pennsylvania.
☐ when the Debtor's location was moved to Pennsylvania.

e. ☐ which is proceeds of the collateral described in block 9, in which a security interest was previously perfected (also describe proceeds in block 9, if purchased with cash proceeds and not adequately described on the original financing statement).

Secured Party Signature(s)
(required only if box(es) is checked above):

4

DEBTOR SIGNATURE(S)

Debtor Signature(s):

1 Ed. Hansloven Sr.

1a

1b

RETURN RECEIPT TO:

General Electric Capital Corporation
11590 Century Blvd., Ste. 111
Cincinnati, OH 45246

STANDARD FORM - FORM UCC-1 (7-89)
Approved by Secretary of Commonwealth of Pennsylvania

FILING OFFICE ACKNOWLEDGEMENT - County only.
NOTE - Do not send this page to the Department of State.

REORDER FROM Registers, 312 PIERCE ST. P.O. BOX 218 ANOKA, MN, 55303 (612) 421-1713 (800) 421-1713

SCHEDULE A
TO UCC FINANCING STATEMENT
Naming General Electric Capital Corporation as Secured Party and Ed Hanslovan Coal Co., Inc. as Debtor

Quantity	Year	Manufacturer	Serial Number	Model and Type of Equipment
1	1996	Euclid	75512	R90 end dump truck

and including all additions, attachments, accessories and accessions thereto, and any and all substitutions, replacements or exchanges therefor, and all insurance and/or other proceeds thereof.

Exhibit B

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT (the "Mortgage") is made this ____ day of August, 2002, by Edward Hanslovan and Mary Hanslovan (the "Mortgagors"), in favor of General Electric Capital Corporation, whose principal business address is 44 Old Ridgebury Road, Danbury, Connecticut 06801 ("GE Capital" or the "Mortgagee").

W I T N E S S E T H:

WHEREAS, GE Capital has agreed to (i) amend and restructure the outstanding obligations of Ed Hanslovan Coal Company, Inc. ("Debtor") of which the Mortgagors are principals, under, among other things, that certain Master Lease Agreement dated April 5, 1996, that certain Installment Note dated October 10, 1997, and that certain Master Security Agreement, dated October 10, 1997, and (ii) forego immediate enforcement of those certain Individual Guaranties executed by each of the Mortgagors and dated March 7, 1996 (the foregoing instruments shall hereinafter be collectively referred to as the "Secured Obligations"). To secure performance of all obligations of the Mortgagors to the Mortgagee hereunder and under each of the Secured Obligations, the Mortgagors hereby mortgage to the Mortgagee:

ALL THAT CERTAIN plot, piece or parcel of land, with the buildings and improvements thereon erected, situated, lying and being known as _____, more particularly described in Exhibit "1" attached hereto and incorporated by reference;

TOGETHER with all and singular the tenements, hereditaments, and appurtenances thereunto belonging, or in any wise appertaining, and the reversion or reversions, remainder and remainders; and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, in law and in equity, of the Mortgagors, of, in and to the same and every part and parcel thereof, with appurtenances, including all fixtures affixed to the same or intended so to be, and also, all machinery, equipment, improvements and personal property now in or upon or which may hereinafter be installed in or affixed to the same, to the extent the foregoing relate to or are necessary for the complete and comfortable use, enjoyment, maintenance, operation or occupancy thereof, including, but not limited to, furnaces, boilers, oil burners, radiators and piping, heating system, electrical system, panel boards, plumbing and bathroom fixtures, air conditioning, sprinkler systems, wash tubs, sinks, gas and electric fixtures, stoves, ranges, awnings, screens, window shades, refrigerators, kitchen cabinets, plants and shrubbery, as to which this Mortgage constitutes a security agreement (the "Property");

TOGETHER with all the right, title and interest of the Mortgagors in and to all streets, roads and public places, opened or proposed, adjoining the Property, and all easements and rights-of-way, public or private, all sidewalks and alleys, and all strips and gores of land now or hereafter used in connection with the Property;

TOGETHER with the rents, issues and profits arising or issuing from the Property or the improvements thereon as further security for the payment of the Secured Obligations of the Mortgagors, and the Mortgagors grants to the Mortgagee the right to enter upon and to possession of the Property for the purpose of collecting the same and to let the Property or any part thereof, and to apply the rents, issues and profits, after payment of all necessary charges and expenses, on account of the Secured Obligations as hereinafter provided;

TOGETHER with any and all awards, damages, payments, judgments, settlements and other compensation, including without limitation, insurance proceeds, and any and all causes of action, claims therefor and rights thereto, which may result from (i) taking or injury by virtue of the exercise of the power of eminent domain, (ii) a lawsuit or other legal proceeding, or (iii) any damage, injury or destruction in any manner caused to the Property or the improvements thereon, or any part thereof;

TOGETHER with all the estate, right, title, interest, property, possession, claim and demand whatsoever of the Mortgagors, in law as well as in equity, of, in and to the same and every part and parcel thereof with the appurtenances;

TOGETHER with all other assets and personal property of the Mortgagors relating to, or used in the operation of, the Property, including without limitation, all accounts, goods, fixtures, inventory, equipment, chattel paper, documents instruments and general intangibles (as such terms are defined in the Uniform Commercial Code), whether now owned or hereafter acquired;

AND ALSO, all proceeds of the foregoing.

ALL of which property and rights therein described above being hereinafter collectively referred to as the "Premises".

TO HAVE AND TO HOLD, the above granted and described Premises unto the Mortgagee, its successors and assigns, to its and their own proper use, benefit and behoove forever.

This Mortgage further creates a security interest in the fixtures included in the Premises and constitutes a security agreement and financing statement under the Uniform Commercial Code. The Mortgagors shall execute, file and refile such financing statements or other security agreements as the Mortgagee shall require from time to time with respect to such fixtures and other personal property and assets included in the Premises. The Mortgagors hereby authorizes the Mortgagee to file such financing statement or statements and any amendments thereto pursuant to said Uniform Commercial Code, without the signature of the Mortgagors, as the Mortgagee may deem necessary to perfect such interest or right in its favor.

PROVIDED ALWAYS, and these presents are made upon this express condition, that if the Secured Obligations shall be duly paid or performed as and when the same shall

become due and payable or be required to be performed, then these presents and the estate hereby granted shall cease, terminate and be void.

I. REPRESENTATIONS AND WARRANTIES OF THE MORTGAGOR.

The Mortgagors hereby represent and warrant to the Mortgagee as follows:

A. ORGANIZATION, POWER AND QUALIFICATION; AUTHORIZATION OF AGREEMENT

(a) The Mortgagors have all requisite authority to own and operate their properties and assets.

(b) The Mortgagors have full power and authority to execute, deliver and perform any action or step which may be necessary to carry out the terms of this Mortgage and this Mortgage is legal, valid and binding obligations on the Mortgagors enforceable in accordance with its terms, subject to any applicable bankruptcy, insolvency, general equity principles or other similar laws affecting the enforcement of creditors' rights generally.

B. NO LEGAL BAR. The execution, delivery and performance of this Mortgage will not (i) violate any provision of any existing law, statute, rule, regulation or ordinance, (ii) conflict with, result in a breach of or constitute a default under (a) the certificate of formation or operating agreement of the Mortgagors, (b) any order, judgment, award or decree of any court, arbitrator, or governmental authority, bureau or agency, or (c) any mortgage, indenture, lease, contract or other agreement or undertaking to which the Mortgagors are a party or by which the Mortgagors or any of its properties or assets may be bound, or (iii) result in the creation or imposition of any mortgage, security interest, restriction, lien or other encumbrance upon or with respect to any property or asset now owned or hereafter acquired by the Mortgagors, other than in favor of the Mortgagee.

C. CONSENT. No consent, license, permit, approval or authorization of, exemption by, notice to, report to, or registration, filing or declaration with any person or governmental authority, bureau or agency is required in connection with the execution, delivery, performance or validity of the Mortgage or the transactions contemplated thereby.

D. COMPLIANCE WITH LAW. The Mortgagors are not in violation of any applicable law, rule, regulation, statute, ordinance, or any order, judgment, award or decree of any court, arbitrator, or governmental authority, bureau or agency, the violation of which would have a materially adverse effect on the business, assets, liabilities or financial condition of the Mortgagors.

E. NO DEFAULT. The Mortgagors are not in default in any material respect in the payment or performance of any of its obligations or in the performance of any mortgage, indenture, lease, contract or other agreement or undertaking to which it is a party or by which it or any of its properties or assets may be bound, and no default or event of default has occurred and is continuing. The Mortgagors are not in default under any order, award or

decree of any court, arbitrator or governmental authority, bureau or agency binding upon or affecting it or by which any of its properties or assets may be bound or affected, and no such order, award or decree, if any, materially adversely affects the ability of the Mortgagors to carry on its business as presently conducted or to perform its obligations hereunder.

F. **NO LITIGATION**. No litigation, investigation or proceeding of or before any court, arbitrator or governmental authority, bureau or agency is currently pending, nor, to the knowledge of the Mortgagors, threatened, against the Mortgagors or any of the Mortgagors' properties and revenues which, if adversely determined, would materially adversely affect the ability of the Mortgagors to carry on its business as presently conducted or to perform its obligations hereunder.

G. **NO BURDENSOME RESTRICTIONS**. The Mortgagors are not a party to nor is bound by any contract or agreement or instrument nor subject to any restriction materially and adversely affecting the business or financial condition of the Mortgagors.

H. **TAX RETURNS AND PAYMENTS; FINANCIAL STATEMENTS.**

1. All federal, state and other tax returns of the Mortgagors required by law to be filed have been duly filed or extensions obtained, and all federal, state and other taxes, assessments and governmental charges or levies upon the Mortgagors or any of its properties, income, profits or assets which are due and payable have been paid, except such tax returns the nonfiling of which, and such taxes the non-payment of which, would not have a material adverse effect upon the business, assets, liabilities or financial condition of the Mortgagors and except for such taxes and assessments which the Mortgagors are disputing in good faith and for which the Mortgagors has established adequate reserves on its books for the payment of such disputed taxes or assessments in accordance with generally accepted accounting principles.

2. All financial statements and financial information provided to the Mortgagee by or on behalf of the Mortgagors fairly present the financial position and results of operations of the Mortgagors on the dates and for the periods then ended and show all direct liabilities and all known contingent liabilities of a material nature.

3. Since the date of the most recent financial statement provided to the Mortgagee by or on behalf of the Mortgagors, no material adverse change has occurred in the business, assets, liabilities, financial condition, results of operations or business prospects of the Mortgagors, and no event has occurred or failed to occur which has had or is likely to have a material adverse effect on the business, assets, liabilities, financial condition, results of operations or business prospects of the Mortgagor.

I. FINANCIAL CONDITION.

1. The Mortgagors are now, and after giving effect to the transactions contemplated hereby will be in, a financially solvent condition; the execution and delivery of this Mortgage does not constitute a "fraudulent conveyance" or "fraudulent transfer" within

the meaning of any applicable federal or state statute; and no bankruptcy or insolvency proceedings are presently pending by or against the Mortgagors.

2. No fact is known to the Mortgagors which has had or is likely in the future to have (so far as Mortgagors can reasonably foresee) a materially adverse effect upon the Mortgagor's business, assets, liabilities, condition, financial or otherwise, or results of operations that has not been set forth in the financial statements furnished to the Mortgagee or other reports or other papers or data otherwise disclosed in writing to the Mortgagee.

3. The Mortgagors do not intend to, nor does the Mortgagors believe that it will incur debts beyond its ability to pay such debts as they mature. The cash available to the Mortgagors are anticipated to be sufficient to pay all amounts on or in respect of debt of the Mortgagors when such amounts are required to be paid.

4. The Mortgagors does not believe that final judgments against it in actions for money damages will be rendered at a time when, or in an amount such that, the Mortgagors will be unable to satisfy any such judgments promptly in accordance with their terms (taking into account the maximum reasonable amount of such judgments in any such actions and the earliest reasonable time at which such judgments might be rendered). The cash available to the Mortgagors after taking into account all other anticipated uses of the cash of the Mortgagors are anticipated to be sufficient to pay all such judgments promptly in accordance with their terms.

J. **WARRANTY OF TITLE**. The Mortgagors are lawfully seized of an indefeasible estate in fee simple in the Premises, subject only to those exceptions (the "Permitted Encumbrances") set forth in that certain Title Insurance Commitment issued in connection with this Mortgage, as delivered to the Mortgagee and endorsed on the date hereof, which is incorporated herein by reference, and the Mortgagors will warrant and forever defend the title thereof unto the Mortgagee against all lawful claims whatsoever.

K. **ACCURACY AND COMPLETENESS OF INFORMATION**. All written information, reports and other papers and data furnished to the Mortgagee by the Mortgagors were, at the time the same were so furnished and remain, as of the date hereof, complete and correct in all material respects and did not and do not contain any untrue statement of fact or omit to state any material fact necessary in order to make the statements and information contained therein not misleading.

II. COVENANTS OF THE MORTGAGOR.

The Mortgagors hereby covenant and agree with the Mortgagee, until the Secured Obligations are performed and paid in full, as follows:

A. **PAYMENT OF SUMS SECURED**. The Mortgagors will pay the indebtedness as herein before provided. This Mortgage shall remain in full force and effect until the Secured Obligations and all other obligations under this Mortgage are fully and

indefeasibly paid and the performance obligations of the Mortgagors to the Mortgagee under the Loan Documents and this Mortgage have been satisfied in full.

B. **INSURANCE.**

1. The Mortgagors shall (a) keep in effect or cause to be kept in effect upon the Premises for the benefit of the Mortgagee insurance against loss or damage by fire and all other risks embraced within "all risk" and "extended coverage" including, but not limited to, vandalism and malicious mischief endorsements, in such amount, by such insurers, and containing such provisions as the Mortgagee may reasonably require, but in no event less than the replacement value of all improvements on the Premises, and (b) obtain or cause to be obtained public liability insurance in such minimum amounts and with such insurance companies as are reasonably satisfactory to the Mortgagee, but in no event less than $1,000,000 per occurrence.

2. Any insurance required pursuant to this Mortgage shall be so written or endorsed as to (a) name the Mortgagee as an additional insured, (b) contain the standard (non-contributing) mortgagee endorsement in favor of the Mortgagee as second mortgagee, (c) shall not contain any "co-insurance provisions", (d) shall be obtained from insurers which are reasonably satisfactory to the Mortgagee, and (e) with respect to insurance against loss or damage to property, name the Mortgagee as a "loss payee" and make losses payable to the as Second Mortgagee. The Mortgagors shall pay the premiums on the policies of all insurance required pursuant to this Mortgage as they become payable and shall deliver to the Mortgagee certificates of insurance and evidence of payment of all premiums, and, if requested by the Mortgagee, the original policies of property insurance and, if required, flood insurance, and certificates evidencing public liability insurance. All insurance shall provide that the Mortgagee is the Certificate Holder and the Mortgagors shall provide all such Certificates to the Mortgagee. Notwithstanding the foregoing, a mortgagee with a lien against the Premises senior in priority to this Mortgage ("Senior Mortgagee") shall have superior rights to insurance up to the amount of the Senior Mortgagee's mortgage.

3. All renewal or replacement policies shall be delivered by the Mortgagors, premiums paid, to the Mortgagee at least thirty (30) days before the expiration of the expiring policies. Each insurance policy shall provide that the Mortgagee shall be furnished with not less than thirty (30) days' prior written notice before any termination, cancellation, non-renewal or reduction in scope becomes effective as to the Mortgagee. If the Mortgagee becomes the owner of the Premises or any part thereof by foreclosure or otherwise, such policies shall become the absolute property of the Mortgagee.

C. **DAMAGE, DESTRUCTION AND CONDEMNATION.** If the Premises or any part thereof shall be damaged or either partially or totally destroyed, or if title to or the temporary use of the whole or any part of the Premises shall be taken, condemned or purchased under threat of condemnation by a competent authority for a public use or purpose, the Mortgagee shall be entitled to receive and shall receive any and all insurance proceeds or condemnation awards with respect thereto (hereinafter, the "Proceeds"), subject,

however, to the rights of any Senior Mortgagee. The Mortgagee shall have the right to participate in the defense of any condemnation action and the valuation of the Premises in connection therewith. So long as no Event of Default shall have occurred and be continuing hereunder, the Mortgagee shall remit such Proceeds to the Mortgagors to restore, replace or repair the Premises; provided, however, that if an Event of Default shall have occurred and be continuing hereunder, the Mortgagee shall have the right, in its sole and absolute discretion, to determine whether to apply such Proceeds to prepay the principal, interest and other charges on the Secured Obligations or to remit such Proceeds to the Mortgagors to restore, replace or repair the Premises. In any case in which Proceeds (and such additional funds) are to be applied to restore, replace or repair any part of the Premises, such restoration, replacement or repair shall in any event be subject to the satisfaction of the following conditions:

1. The Mortgagors shall submit or cause to be submitted to the Mortgagee for its approval, an estimate of the cost of restoration, replacement or repair of the Premises, accompanied by an architect's certification as to such costs and final plans and specifications with respect thereto. All buildings and improvements so restored, replaced or repaired shall be of substantially the same character and value as the buildings and improvements prior to such damage or destruction and shall be suitable for the purposes for which they were originally erected. The Mortgagors shall furnish the Mortgagee with evidence reasonably satisfactory to the Mortgagee that all buildings and improvements so restored, replaced and/or repaired and their contemplated use fully comply with all zoning and building laws, ordinances and regulations, and with all other applicable federal, state or local laws and requirements.

2. If at any time the estimated cost of restoration, replacement or repair shall exceed the Proceeds available therefor, the Mortgagors shall escrow additional monies with the Mortgagee in an amount equal to such excess estimated cost.

3. Each disbursement of the Proceeds during the course of restoration, replacement or repair shall be subject to receipt by the Mortgagee of a requisition signed by the Mortgagors stating (a) the requisition number, (b) the name and address of the person or entity to whom payment is to be made, or if the payment is to be made to the Mortgagors for a reimbursable advance, the name and address of the person or entity to whom the advance was made together with proof of payment by the Mortgagors, and (c) that each obligation for which payment is sought is unpaid or unreimbursed and has not been the basis of any previously paid requisition. Each requisition shall be accompanied by (i) an approved certification by a licensed A.I.A. architect reasonably acceptable to the Mortgagee as to the cost of materials furnished and work done and evidence that such work and materials are free and clear of liens, (ii) if requested by the Mortgagee, an updated title insurance endorsement as of the date of each such disbursement insuring the continued validity and priority of this Mortgage and (iii) such other documents, certificates or instruments as the Mortgagee shall reasonably require. No payment made prior to the final completion of work shall exceed 90% of the value of the work performed or materials furnished and incorporated into the Premises from time to time, and at all times the undisbursed balance of said Proceeds

(together with the additional security referred to in the preceding paragraph) shall be at least sufficient to pay for the cost of completion of the work, free and clear of liens. Said Proceeds are to be released not more than once a month, and the disbursement of said Proceeds shall be subject to such other provisions and safeguards as the Mortgagee then requires in connection with construction loans for similar projects. The administration of such provisions shall be at the sole cost and expense of the Mortgagor.

4. Final payment shall be made upon receipt by the Mortgagee of a certification by a licensed A.I.A. architect reasonably acceptable to the Mortgagee as to completion in accordance with the approved plans and specifications and, if requested by the Mortgagee, the issuance to the Mortgagee of a title policy endorsement reasonably satisfactory to the Mortgagee insuring the continued validity and priority of this Mortgage as a mortgage lien.

5. All costs and expenses incurred by the Mortgagee in disbursing said funds shall be paid for by the Mortgagors and may be deducted by the Mortgagee from the funds to be so advanced for such restoration, replacement or repair.

6. Nothing herein shall be construed to require the Mortgagee to advance any sums for any such restoration, replacement or repair beyond the amount of the Proceeds actually received by the Mortgagee and set aside for such purpose less the amount of the Mortgagee's costs and expenses referred to above.

7. The Mortgagors shall promptly notify the Mortgagee of any damage, destruction or institution of any proceedings for the condemnation or taking, by powers of eminent domain or purchase under threat thereof, of the whole or any part of the Premises.

8. Prior to an Event of Default, the Mortgagors shall adjust any insurable loss and settle any condemnation proceedings, provided the Mortgagors shall have obtained the prior written consent of the Mortgagee thereto which shall not be unreasonably withheld or delayed. Following the occurrence of an Event of Default, the Mortgagee shall have the exclusive right to adjust any insurable loss and settle any condemnation proceedings.

9. Any moneys released to the Mortgagors or paid or applied to the cost of restoration, replacement or repair shall in no event be deemed a payment of the Secured Obligations. The Mortgagee shall be under no obligation to question the amount of the Proceeds and may accept the same in the amount in which the same shall be paid.

10. Anything to the contrary herein contained notwithstanding, any Proceeds paid over to the Mortgagee and not used for repair, replacement or restoration shall be applied to pay any sums then due and owing to the Mortgagee with respect to the Secured Obligations, and, subject to the rights of the holders (including the Mortgagee) of any Permitted Encumbrances, any excess shall be paid over to the Mortgagor.

D. COMPLIANCE WITH LAWS. The Mortgagors shall comply in all material respects with all applicable federal, state and local laws, rules, regulations, ordinances,

building codes and orders in effect from time to time including, but not limited to, those relating to the environment, the payment of taxes, assessments and other governmental charges, zoning, and the use, occupancy, transfer or encumbrancing of the Premises the failure to comply with which would result in a lien upon the Premises or otherwise impair the value of the Premises. The Mortgagors additionally agrees to pay all costs required to comply with any of the above conditions, and to indemnify and hold the Mortgagee harmless against any loss, liability, cost or expense (including attorneys' fees) arising out of or relating to any proceeding instituted in connection with any alleged or actual violation of any of the foregoing not caused by the Mortgagee.

E. **TAXES AND OTHER CHARGES; MECHANICS' LIENS**. Except as otherwise provided in this Section II(E), the Mortgagors shall pay all taxes, water and sewer rents, fines, impositions and other similar claims, liens and encumbrances assessed, or which may be assessed, against the Premises or any part thereof, without any deduction or abatement, not later than five (5) days before the same shall become due and payable and shall simultaneously with each such payment, furnish to the Mortgagee receipts for the payment thereof in full. The Mortgagors will pay, from time to time when the same shall become due, all lawful claims and demands of mechanics, materialmen, laborers, and others, which, if unpaid, might result in, or permit the creation of, a lien on the Premises or any part thereof, or on the revenues, rents, issues, income and profits arising therefrom, and will do or cause to be done everything necessary so that the lien hereof shall be fully preserved, at the cost of the Mortgagors and without expense to the Mortgagee. If the Mortgagors shall in good faith, and by proper legal action, contest any taxes, assessments, fines, impositions, claims, liens, encumbrances or other charges, or the validity thereof, and provided no Event of Default is then existing and continuing, then the Mortgagors shall not be required to pay the same or to produce such receipts as long as such contest operates to prevent collections, and is maintained and prosecuted with diligence and shall not have been terminated or discontinued adversely to the Mortgagor. In addition to the foregoing, the Mortgagors will pay when due and will not suffer to remain outstanding, any charges for utilities, whether public or private, with respect to the Premises.

F. **FURTHER ASSURANCES; FILING AND RECORDING.**

1. The Mortgagors will, at its sole cost and expense, perform, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, security agreements, assignments, notices of assignment, financing statements, transfers and assurances as the Mortgagee shall from time to time reasonably require, for the better assuring, conveying, assigning, transferring and confirming unto the Mortgagee the property and rights hereby conveyed or assigned or intended now or hereafter so to be, or which the Mortgagors may be or may hereafter become bound to convey or assign to the Mortgagee, for carrying out the intention or facilitating the performance of the terms of this Mortgage or for filing, registering or recording this Mortgage and, on demand, will execute and deliver, and hereby authorizes the Mortgagee and irrevocably appoints the Mortgagee as the agent and attorney-in-fact of the Mortgagors to execute and file in its own name or in the

Mortgagor's name, to the extent it may lawfully do so, all such documents, instruments, certificates and financing statements.

2. The Mortgagors, forthwith upon the execution and delivery of this Mortgage, and thereafter from time to time upon request by the Mortgagee, and as may be required by law, will cause this Mortgage and any security instrument creating a lien or evidencing the lien hereof upon the Premises and the fixtures thereon and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect the lien hereof upon, and the interest of the Mortgagee in, the Premises and the fixtures thereon.

3. The Mortgagors will pay all filing, registration or recording fees, and all expenses incident to the execution and acknowledgment of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Premises and the fixtures thereon, and any instrument of further assurance, and all federal, state, county and municipal stamp taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Premises and the fixtures thereon or any instrument of further assurance.

G. **RIGHT TO REMEDY DEFECTS; INDEMNIFICATION.** If the Mortgagors shall at any time fail to pay any amount payable by it hereunder or fails to comply with any provision of this Mortgage, the Mortgagee may, after reasonable notice to the Mortgagors, pay such amount or comply with such provision and make such expenditures, including reasonable counsel fees, in connection therewith and with enforcing this Mortgage and for repairing, maintaining and preserving the Premises, for establishing, preserving, protecting and restoring the validity and priority of the lien hereof, for obtaining official tax searches of the Premises, for protecting and preserving any use being made of the Premises now or hereafter and for advances to any trustee or receiver of the Premises, as the Mortgagee deems advisable; each amount so paid or expended, with interest at the rate then in effect under the Secured Obligations plus four percent (4%) shall become part of the Secured Obligations and be secured hereby; and the Mortgagors shall pay to the Mortgagee, on demand, the amount of each payment or expenditure, with such aforesaid interest, but no such payment or compliance by the Mortgagee shall constitute a waiver of the Mortgagor's failure so to do or affect any right or remedy of the Mortgagee with respect thereto. The Mortgagors agrees to and does hereby indemnify the Mortgagee, its officers, directors, employees, agents, affiliates and assigns and the Mortgagors shall hold the Mortgagee, its officers, directors, employees, agents, affiliates and assigns harmless from and against any and all losses, claims, damages or liabilities (including all costs, expenses and reasonable counsel fees incurred in investigating or defending such claim) suffered by the Mortgagee, its directors, officers, employees, affiliates and agents and caused by, relating to, arising out of, resulting from or in any way connected with any of the items enumerated in the immediately preceding sentence, except to the extent resulting from the gross negligence or willful misconduct of the Mortgagee or its agents.

H. **PRESERVATION OF THE PREMISES; LIENS AND ENCUMBRANCES**

1. The Mortgagors shall keep the improvements now or hereafter on the Premises in good repair and condition, ordinary wear and tear excepted, and, with reasonable diligence, shall repair, replace or rebuild any material part of the Premises which may be destroyed by any casualty or become damaged, worn or dilapidated. The Mortgagors shall make any repairs needed to immediately preserve the value of the Premises within thirty (30) days after written notice thereof from the Mortgagee; provided, however, that in the event the Mortgagors are diligently undertaking such repairs but same cannot be completed within said 30-day period, the Mortgagee shall extend said 30-day period for as long as the Mortgagors and the Mortgagee shall agree is reasonably necessary in order to complete such repairs; provided further, however, that the Mortgagee shall be under no obligation to extend said period beyond ninety (90) days after the aforementioned written notice.

2. The Mortgagors shall not remove or demolish nor alter the design or structural character of any building now or hereafter erected upon the Premises without the prior written consent of the Mortgagee which consent shall not be unreasonably withheld or delayed. The Mortgagee shall consent to such proposed structural change or alteration upon receipt of (i) a certificate of the Mortgagors stating that no Event of Default then exists and is continuing and (ii) evidence reasonably satisfactory to the Mortgagee to the effect that the proposed structural change or alteration (upon completion) shall not diminish the value of the Premises.

3. The Mortgagors shall not suffer or permit waste of the Premises and shall cause the Premises to comply with all applicable building codes, ordinances, statutes and regulations of all federal, state and municipal governmental authorities and agencies having jurisdiction thereof, including but not limited to, all fire and safety codes.

4. The Mortgagors shall keep the Premises free of all mortgages, liens, charges, encumbrances, attachments, levies, distraints, other judicial process and burdens of every nature, except for Permitted Encumbrances.

I. **NOTIFICATION**. The Mortgagors shall notify the Mortgagee immediately of (a) the occurrence or existence of any Event of Default, (b) the inception of any action, suit, proceeding, inquiry or investigation at law or in equity before any court, public board or body wherein an unfavorable decision, ruling or finding would, to the extent not covered by insurance, have a material adverse effect upon the Premises, and (c) the occurrence of any substantial loss, substantial damage, destruction, condemnation or taking of the whole or any part of the Premises.

J. **RIGHT TO INSPECT PREMISES AND BOOKS AND RECORDS; APPRAISAL**

The Mortgagors shall permit the Mortgagee, by its duly authorized officers and agents during normal business hours and upon reasonable written notice, to enter upon and inspect the Premises and, to the extent and with such frequency as is reasonably required by the Mortgagee, the books and records of the Mortgagor. The Mortgagee shall also have the right, from time to time, upon reasonable notice to the Mortgagors, to conduct or cause to be conducted an appraisal or appraisals of the Premises, the cost of which shall be paid by the Mortgagor.

K. **FINANCIAL STATEMENTS.**

The Mortgagors will furnish the following information to the Mortgagee:

(1) Within 90 days after the end of each fiscal year of the Mortgagors, financial statements on the form approved by Mortgagee and true, correct and complete copies of the Mortgagors federal tax returns as filed;

(2) Within 30 days after the end of each fiscal year of the Mortgagors, an operating statement with respect to the Premises, on the form approved by the Mortgagee;

(3) From time to time and promptly upon each request, such other reports and information regarding the business, assets, liabilities, financial condition, results of operation or business prospects of the Mortgagors as the Mortgagee may reasonably requests;

(4) Prompt notice of any material adverse change with respect to the business, assets, liabilities, financial condition or results of operation of the Mortgagor.

In connection with the delivery of the tax returns which is referred to in clause 1 above, the Mortgagors shall also obtain and deliver to the Mortgagee an acknowledgment of reliance, on the form approved by the Mortgagee from the independence certified public accountant, if any, which prepares such tax returns.

L. **FURTHER INDEBTEDNESS.**

1. The Mortgagors shall not create, assume, incur, guarantee or in any manner become liable, contingently or otherwise, in respect of any indebtedness for money borrowed.

2. The Mortgagors shall not sell, transfer, assign, lease or otherwise dispose of (whether in one transaction or a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired).

3. The Mortgagors shall not guarantee, endorse, become surety for, or otherwise in any way become or be responsible for, the obligations of any other person whether by agreement to purchase the indebtedness of any other person, or agreement for the furnishing of funds, directly or indirectly, for the purpose of payment of indebtedness of any

other person, other than endorsements of negotiable instruments for deposit or collection in the ordinary course of its business.

M. **LEASES**.

1. The Mortgagors shall not lease or sublease all or any portion of the Premises or consent to the leasing, subleasing or assignment of any lease by any tenant of all or any portion of the Premises, or consent to the amendment, modification or termination of any lease with respect to the Premises, except for increases in rent, without the prior review and express prior written consent, both as to the form and substance thereof, of the Mortgagee, which consent shall not be unreasonably withheld or delayed.

2. All present and future lease of the Premises, or any part thereof, shall be subordinate in all respects to the lien of this Mortgage.

3. On or before January 31 of each year, the Mortgagors shall provide to the Mortgagee a current, certified rent roll with respect to all tenants and other occupants of the Premises. In addition, the Mortgagors shall provide to the Mortgagee, promptly upon execution thereof, certified copies of all leases, and all amendments, modifications and supplements to existing leases, entered into with respect to the Premises from and after the date hereof.

N. **NO DEDUCTION**. The Mortgagors shall claim no deduction upon the assessed value of the Premises on account of the monies owing to Mortgagee.

III. **INDEMNIFICATION**

1. The Mortgagors hereby agrees to indemnify the Mortgagee, its directors, officers, employees, affiliates and agents from and against any and all liabilities, suits, obligations, fines, damages, penalties, claims, losses, costs, charges and expenses (including, without limitation, reasonable architect's, engineer's, accountant's, consultant's and attorneys' fees and disbursements) (collectively, the "Losses") which may be imposed upon, incurred or asserted against the Mortgagee, its directors, officers, employees, affiliates and agents by reason of: (a) any construction relating to the Premises; (b) any capital improvements, other work or thing done in, on or about the Premises; (c) any use, non-use, misuse, possession, occupation, alteration, repair, condition, operation, maintenance or management of the Premises or any street, drive, sidewalk, curb, passageway or space comprising a part thereof or adjacent thereto; (d) any negligence or willful act or omission on the part of the Mortgagors, any lessee or any other occupant of the Premises or any agent, contractor, servant, employee, licensee or invitee or any of them; (e) the claims of any lessee or any party acting through or under any such lessee or otherwise arising under or as a consequence of any lessee; (f) any accident, injury (including death) or damage to any person or property occurring in, on or about any sidewalks, drives, curbs, passageways, streets, spaces or alleys adjacent to or on the Premises; (g) any Event of Default; (h) any lien or claim which may be alleged to have arisen on or against the Premises under any law or any liability asserted against the Mortgagee with respect thereto; (i) any tax or other imposition,

including, but not limited to, any imposition attributable to the execution, delivery, filing or recording of this Mortgage or any other documents executed by the Mortgagors in connection herewith; (j) any contest permitted pursuant to the provisions of this Mortgage or the other Loan Documents; and (k) any and all violations of law, including, without limitation, any and all federal, state and local laws, rules and regulations relating to the environment, existing at the Premises. The foregoing indemnity shall not apply to Losses resulting or arising from the gross negligence or willful misconduct of the Mortgagee.

2. The obligations of the Mortgagors under this Article IV shall not in any way be affected or limited by the absence of any insurance, by the amount of any insurance policy or by the failure or refusal of any insurance carrier to perform any obligation on its part under any insurance policies. If any claim, action or proceeding is made or brought against the Mortgagee or any of its directors, officers, employees, affiliates and agents, by reason of any event as to which the Mortgagors are obligated to indemnify the Mortgagee or any of its directors, officers, employees, affiliates and agents, then, upon demand by the Mortgagee, the Mortgagors, at its sole cost and expense, shall resist or defend such claim, action or proceeding in the Mortgagee's, or any of its directors, officers, employees, affiliates and agents, name, if necessary, by the attorneys for the Mortgagor's insurance company or by such attorneys as the Mortgagee shall approve in writing, which approval shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, the Mortgagee or any of its directors, officers, affiliates, employees and agents may engage its own attorneys in its reasonable discretion to defend it or to assist in its defense and the Mortgagors shall pay the reasonable fees and disbursements of such attorneys.

IV. EVENTS OF DEFAULT.

The following shall constitute events of default under this Mortgage (each, an "Event of Default"):

A. If any Event of Default or default shall occur under the terms of any of the Secured Obligations.

B. If the Mortgagors shall default in the performance or observance of any covenant, agreement or condition contained in this Mortgage and such default shall continue for fifteen (15) days after notice thereof from the Mortgagee.

C. If any representation or warranty made by the Mortgagors in this Mortgage or in any other Loan Document shall prove to have been false, incorrect or misleading in any material respect on the date as of which made.

D. If the Premises shall be sold, transferred, assigned or otherwise conveyed, including without limitation, the entering into by the Mortgagors of a long-term lease of the Premises, or if title to the Premises or any part thereof shall be transferred or conveyed to any person, firm, corporation, trust, association or other entity, including without limitation, the passing of title to, or possession of the Premises by, a receiver, trustee or assignee for the benefit of creditors.

E. If any default shall occur under the terms of any of the Permitted Encumbrances.

F. If a default or event of default occurs under a mortgage that is prior or subordinate to the lien of this Mortgage, including without limitation, if any mortgagee claims a right to possession or commences a foreclosure action.

G. (i) The Mortgagors shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian or other similar official for all or any substantial part of its assets, or (ii) the Mortgagors shall make a general assignment for the benefit of creditors; or (iii) the Mortgagors shall commence, or there shall be commenced against the Mortgagors, any case, proceeding or other action of a nature referred to in clause (i) above which (A) results in the entry of an order for relief of any such adjudication or appointment or (B) remains undismissed, undischarged or unbonded for a period of sixty (60) days; or (iv) there shall be commenced against the Mortgagors any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets, which results in the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within sixty (60) days from the entry thereof; or (v) the Mortgagors shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clauses (i), (ii), (iii) or (iv) above; or (v) the Mortgagors shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due.

H. The Mortgagors shall (i) default in any payment with respect to any indebtedness for money borrowed, whether from the Mortgagee or any other lender, beyond the period of grace, if any, provided in the instrument or agreement under which such indebtedness was created; or (ii) default in the observance or performance of any other agreement or condition relating to any such indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur, the effect of which default or other event is to cause, or to permit the holder of such indebtedness (or a trustee or agent on behalf of such holder) to cause, with the giving of notice if required, such indebtedness to become due prior to its stated maturity. In addition, the Mortgagors acknowledges and agrees that any Event of Default hereunder or under any other Loan Document shall be an event of default under and with respect to all other indebtedness, whether actual or contingent, of the Mortgagors to the Mortgagee.

I. A final judgment shall be entered against the Mortgagors by any court for the payment of money which, together with all other outstanding judgments against the Mortgagors, exceeds fifty thousand dollars ($50,000) in the aggregate, which judgment is not fully covered by insurance, or a warrant of attachment or execution or similar process shall

be issued or levied against property of the Mortgagors which, together with such other property subject to such process, exceeds in value fifty thousand dollars ($50,000) in the aggregate and, if within sixty (60) days (ten (10) days if such aggregate amount exceeds one hundred thousand dollars ($100,000)) after the entry, issue or levy thereof, such judgment, warrant or process shall not have been discharged or stayed pending appeal, or, if within sixty (60) days (ten (10) days if such aggregate amount exceeds one hundred thousand dollars ($100,000)) after the expiration of any such stay, such judgment, warrant or process shall not have been discharged.

J. The Mortgagors shall enter into any junior financing of the Premises without the prior written consent of the Mortgagee.

V. **REMEDIES**.

In case one or more Events of Default shall have occurred, the Mortgagee shall have the following rights and remedies:

A. The Mortgagee may declare all amounts outstanding (with accrued interest thereon) and all other amounts owing to it under the Secured Obligations to be immediately due and payable, whereupon the same shall become due and payable forthwith without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Mortgagor.

B. To take any action at law or in equity to collect the payments due under the Secured Obligations secured hereby or to enforce the performance and observance of the obligations, agreements and covenants of the Mortgagors contained in this Mortgage and the other Loan Documents.

C. Enter into possession of the Premises and employ watchmen to protect the Premises from injury.

D. To institute an action of mortgage foreclosure, or take other action as the law may allow, at law or in equity, for the enforcement of this Mortgage, and proceed therein to final judgment and execution for the entire unpaid balance of the Secured Obligations, including costs of suit, interest and reasonable attorneys' fees. In case of any sale of the Premises by virtue of judicial proceedings, the Premises may be sold in one parcel and as an entirety or in such parcels, manner or order as the Mortgagee in its sole discretion may elect. The failure to make any tenants parties defendant to a foreclosure proceeding and to foreclose their rights will not be asserted by the Mortgagors as a defense in any proceeding instituted by the Mortgagee to collect the Secured Obligations secured hereby or any deficiency remaining unpaid after the foreclosure sale of the Premises. Notwithstanding anything herein to the contrary, the Mortgagors shall continue to be responsible for the payment of taxes, insurance and all other amounts payable with respect to the Premises until title to the Premises shall be conveyed at a sheriff's sale or other similar proceeding.

E. If the Event of Default relates to the payment of any tax, assessment, water or sewer rent or governmental charge, or the payment of a premium for insurance, or the obligation to keep the Premises in satisfactory repair and condition, or to otherwise preserve the security of this Mortgage, then the Mortgagee, in addition to or in lieu of exercising any other rights which it may have hereunder or under any other document executed in connection with any Secured Obligations secured hereby, may pay the tax, assessment, water or sewer rent, governmental charge, insurance premium, or the cost of placing the Premises in satisfactory repair and condition, or the cost of otherwise preserving the security of this Mortgage, and the amount so paid shall be added to the moneys owing on the Secured Obligations and shall be secured hereby and shall be due and payable on demand with interest equal to the prevailing interest rate under the Secured Obligations plus four percent (4%).

F. Upon the occurrence of any Event of Default, the Mortgagee is hereby empowered and appointed attorney-in-fact of the Mortgagors to enter upon and take possession of the Premises and rent the same, either in its name or in the name of the owner of such property, and to demand, collect and receive from the tenants, lessees or other occupants then in possession of the Premises or any part thereof, the rents, issues and profits as they become due as well as all past due rents, income or profits which have not been collected by the Mortgagors, to endorse the name of the Mortgagors or any subsequent owner of the Premises on any checks, notes or other instruments for the payment of money, to give any and all acquaintances or any other instrument in relation thereto in the name of the Mortgagors, and to institute, prosecute, settle or compromise any summary or legal proceedings in the name of the Mortgagors or in the name of the Mortgagee for the recovery of such rents, income or profits, or for the abatement of any nuisance thereon, and to defend, at the Mortgagee's option and sole discretion, any legal proceedings brought against the Mortgagors arising out of the operation of the Premises. All rents, issues and profits collected or received by the Mortgagors after an Event of Default shall be accepted and held for the Mortgagee in trust and shall not be commingled with the funds and property of the Mortgagors, but shall be promptly paid over to the Mortgagee; and the Mortgagors agrees to pay the Mortgagee, if demanded by it, a reasonable rental for the portion of the Premises occupied by the Mortgagors, monthly in advance as a tenant from month to month, and in default of any such payment the Mortgagors may be dispossessed by summary proceedings, such tenancy to expire upon delivery of deed in foreclosure; and the Mortgagee shall apply the rents, issues and profits, after the payment of the necessary charges and expenses, including management fees and commissions, on account of the Secured Obligations hereby secured, being accountable only for rents, issues and profits as are collected by it while in possession.

G. Upon the filing of a complaint to collect the amount due on any Secured Obligation, the Mortgagee shall be entitled to the appointment of a receiver of the rents, issues and profits of the Premises without the necessity of proving either inadequacy of the security or insolvency of the Mortgagors or any person who may be legally or equitably liable to pay moneys secured hereby, and the Mortgagors and each such person waive such proof and consent to the appointment of a receiver.

H. To exercise any and all rights and remedies conferred upon secured parties by the Uniform Commercial Code and other applicable laws.

In addition to the above remedies, if the Mortgagors commits a breach or threatens to commit a breach of this Mortgage, the Mortgagee shall have the right and remedy, without posting bond or other security, to have the provisions of this Mortgage specifically enforced by any court having equity jurisdiction, it being acknowledged and agreed that any such breach or threatened breach will cause immediate and irreparable injury to the Mortgagee and that the Mortgagee's rights in and to the Premises will not provide an adequate remedy therefor.

All proceeds received from the sale or other disposition of the whole or any part of the Premises shall be applied as follows: (i) first, to the payment of all fees, costs and expenses incurred by the Mortgagee in connection with such sale or disposition; (ii) second, to the payment in full of the Secured Obligations; and (iii) third, the balance, if any, of such proceeds remaining after payment in full of the foregoing, to the Mortgagors or as a court of competent jurisdiction may otherwise direct.

Without limiting the foregoing, in exercising its remedies upon the occurrence of an Event of Default, the Mortgagee (i) shall not be responsible nor liable for any shortage, discrepancy, damage, loss or destruction of any part of the Premises regardless of the cause thereof unless the same shall happen through its gross negligence or willful misconduct; (ii) shall be entitled to the appointment (without notice and without proof of diminution in value of the Premises) of a receiver to take possession of all or any portion of the Premises and to exercise such powers as the court shall confer upon the receiver; and (iii) generally may perform all acts necessary or proper to carry out the intention of this Mortgage, as fully and completely as though the Mortgagee were the absolute owner of the Premises for all purposes, and the Mortgagors hereby ratifies and confirms all that the Mortgagee shall do by virtue of this grant of power.

The rights and remedies of the Mortgagee hereunder shall be in addition to every other right and remedy now and hereafter provided by law; the rights and remedies of the Mortgagee shall be cumulative and not exclusive one of the other; the Mortgagee may exercise the same at such times, in such order, to such extent, and as often as Mortgagee deems advisable, and without regard to whether the exercise of one precedes, concurs with, or succeeds the exercise of another; no delay or omission by the Mortgagee in exercising a right or remedy shall exhaust or impair the same, or constitute a waiver of, or acquiescence in, the Event of Default; and no waiver of an Event of Default by the Mortgagee shall extend to or affect any other Event of Default or impair any right or remedy with respect thereto.

VI. MISCELLANEOUS.

A. NOTICES. All notices and other communications given to or made upon any party hereto in connection with this Mortgage shall, except as otherwise expressly herein provided, be in writing and hand delivered or sent by first class United States mail, postage

prepaid, return receipt requested, or by reputable overnight courier providing a receipt against delivery, to the respective parties, as follows:

Mortgagors: Mary Hanslovan
Edward Hanslovan
address

-with a copy to-
Carl Balan, Esq.
address

Mortgagee: General Electric Capital Corporation
Old Ridgebury Road
Danbury, Connecticut 06810
Att: Mark Skura

-with a copy to-

Oppenheimer Wolff & Donnelly LLP
The Chrysler East Building – Suite 1900
New York, New York 10017-4011
Att: Elena Lazarou, Esq.

or to such changed address as may be fixed by notice. All such notices and other communications shall, except as otherwise expressly herein provided, be effective when received by the party to whom properly addressed, the written receipt by any employee of any such party constituting sufficient evidence of such receipt.

B. INDULGENCES; EXTENSIONS. The Mortgagee, with respect to the Secured Obligations secured hereby, the Premises and the Mortgagor's obligations hereunder, may waive compliance with any of the provisions hereof, and may release all or any part of the Premises from any lien hereof, without affecting the priority or validity of the lien hereof upon the remainder of the Premises.

C. INVALID PROVISIONS TO AFFECT NO OTHERS. In case any one or more of the covenants, agreements, terms or provisions contained in this Mortgage shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms or provisions contained herein shall be in no way affected, prejudiced or disturbed thereby.

D. SUCCESSORS AND ASSIGNS; PLURALS. All of the grants, covenants, terms, provisions and conditions of this Mortgage shall run with the land and bind the Mortgagors, its legal representatives, heirs, successors and assigns, and shall inure to the benefit of the Mortgagee, the successors and assigns of the Mortgagee and all subsequent

holders of this Mortgage. As used herein the singular shall include the plural and vice versa as the context requires.

E. **CAPTIONS**. The captions herein are inserted only for convenience of reference and in no way define, limit or describe the scope or intent of this Mortgage or any particular paragraph or section hereof, nor the proper construction hereof.

F. **GOVERNING LAW.** This Mortgage is to be construed according to the laws of the State of Ohio.

H. **COUNTERPARTS. THIS MORTGAGE CANNOT BE CHANGED ORALLY**

I. WAIVER OF JURY TRIAL. THE MORTGAGORS HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN CONNECTION WITH ANY AND ALL LITIGATION INVOLVING THE SUBJECT MATTER OF THIS MORTGAGE.

J. RECEIPT OF MORTGAGE. THE MORTGAGORS HEREBY ACKNOWLEDGES RECEIPT OF A TRUE COPY OF THIS MORTGAGE, WITHOUT CHARGE.

IN WITNESS WHEREOF, the Mortgagors have caused this Mortgage to be executed and delivered as of the day and year first above written.

WITNESS:

_____

Mary Hanslovan

_____

Sworn to before me this
___st day of August, 2002.

_____
Notary Public

WITNESS:

_____

Edward Hanslovan

By:_____

Sworn to before me this
___st day of August, 2002.

_____
Notary Public

MORTGAGE AND SECURITY AGREEMENT

Dated: August __, 2002

From

Edward Hanslovan
and
Mary Hanslovan
address

To

General Electric Capital Corporation
44 Old Ridgebury Road
Danbury, Connecticut 06801

LOCATION OF PREMISES:

Street Address:

Town:
County: _____
State: Pennsylvania
Section: _____
Block: _____
Lot: _____

After recording, please return to:

OPPENHEIMER WOLFF & DONNELLY LLP
The Chrysler East Building
666 Third Avenue, Suite 1900
New York, New York 10017-4011
Attn Elena Lazarou, Esq.

Exhibit C

ALL-STATE LEGAL 800-222-0510 FORM RECYCLED

HANSLOVAN COAL COMPANY MINERAL RESERVES AND SPECIFICATIONS

Location	Job Name	Mineable Acres	Mineral	Approx. Vein Height (in)	Approx. Vein Depth (ft)	Type of Vein	Approx. Amount (Tons)	Est. BTUs	Est. Sulfur (%)	Est. Ash (%)	Permit
Clover Run		480	Coal	50	90-95	U. Freeport	3,480,000	13.6-14.0k	1.20-1.80	8	Yes
			Limestone	264	95-100		38,776,320				
			Coal	35	110-115	L. Freeport	2,436,000	13.6-14.0k	1.20-1.80	8	
	Tower North	255	Coal	50	90-95	U. Freeport	1,848,750	13.6-14.0k	1.20-1.80	8	Yes
			Limestone	264	95-100		20,599,920				
			Coal	35	110-115	L. Freeport	1,294,125	13.6-14.0k	1.20-1.80	8	
Brockway	Buchanon	169	Coal	32	80-90	U. Freeport	784,160	13.6-14.0k	1.10-1.25	9-10	Yes
			Coal	40	130-140	L. Freeport	980,200	13.6-14.0k	1.10-1.25	9-10	
			Coal	192	350-400	Clarion	4,704,960	?	Low sulfur	?	No
	Sedlock	109	Coal	32	80-90	U. Freeport	505,760	13.6-14.0k	1.10-1.25	9-10	No
			Coal	40	130-140	L. Freeport	632,200	13.6-14.0k	1.10-1.25	9-10	
			Coal	192	350-400	Clarion	3,034,560	?	Low sulfur	?	No
	Kearney	100	Coal	32	80-90	U. Freeport	464,000	13.6-14.0k	1.10-1.25	9-10	No
			Coal	40	130-140	L. Freeport	580,000	13.6-14.0k	1.10-1.25	9-10	
			Coal	192	350-400	Clarion	2,784,000	?	Low sulfur	?	No
	Calhoun	153	Coal	192	350-400	Clarion	4,259,520	?	Low sulfur	?	No
	Deemer	97	Coal	192	350-400	Clarion	2,700,480	?	Low sulfur	?	No
	Gustafson	111	Coal	192	350-400	Clarion	3,090,240	?	Low sulfur	?	No
	James Patton	106	Coal	32	80-90	U. Freeport	491,840				
			Coal	192	350-400	Clarion	2,951,040	?	Low sulfur	?	No
	Ray Patton	81	Coal	192	350-400	Clarion	2,255,040	?	Low sulfur	?	No

	Smith	102	Coal	192	350-400	Clarion	2,839,680	?	Low sulfur	?	No
Location	**Job Name**	**Mineable Acres**	**Mineral**	**Approx. Vein Height (in)**	**Approx. Vein Depth (ft)**	**Type of Vein**	**Approx. Amount (Tons)**	**Est. BTUs**	**Est. Sulfur (%)**	**Est. Ash (%)**	**Permit**
Turkey Hil	I	370	Coal	20	20	C-prime	1,073,000	12.0-12.2k	0.6-0.8	9	Yes
			Coal	26	60	C	1,394,900	12.4-12.6k	0.6-0.8	10	
			Coal	24	105	B	1,287,600	13.8-14.0k	0.6-0.8	4	
	II	148	Coal	20	20	C-prime	429,200	12.0-12.2k	0.6-0.8	9	Yes
			Coal	26	60	C	557,960	12.4-12.6k	0.6-0.8	10	
			Coal	24	105	B	515,040	13.8-14.0k	0.6-0.8	4	
Morrisdale		100	Coal	36	80-85	B	522,000	13.0-13.5k	1.6-1.8	9	Yes

SUMMARY

Location	**Strip Mine Coal (Tons)**	**Strip Mine Limestone (Tons)**	**Deep Mine Coal (Tons)**
Clover Run	9,058,875	59,376,240	0
Brockway	3,946,320	0	29,111,360
Turkey Hil	5,257,700	0	0
Morrisdale	522,000	0	0
TOTAL	**18,784,895**	**59,376,240**	**29,111,360**

NOTES:

1) A density of 80 pounds per cubic foot = (145 * inch * acre) was used to compute coal reserves

2) A density of 169 pounds per cubic foot = (306 * inch * acre) was used to compute limestone reserves

3) Mineable acres represents the approximate amount of acres at each job location that have not been stripped										
Prepared by: Jim Davic (216) 977-1079 (7/8/02)										

Exhibit D

ALL-STATE®LEGAL 800-222-0510 EDR11 RECYCLED

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT (the "Mortgage") is made this ____ day of August, 2002, by Edward Hanslovan and Mary Hanslovan (the "Mortgagors"), in favor of General Electric Capital Corporation, whose principal business address is 44 Old Ridgebury Road, Danbury, Connecticut 06801 ("GE Capital" or the "Mortgagee").

WITNESSETH:

WHEREAS, GE Capital has agreed to (i) amend and restructure the outstanding obligations of Ed Hanslovan Coal Company, Inc. ("Debtor") of which the Mortgagors are principals, under, among other things, that certain Master Lease Agreement dated April 5, 1996, that certain Installment Note dated October 10, 1997, and that certain Master Security Agreement, dated October 10, 1997, and (ii) forego immediate enforcement of those certain Individual Guaranties executed by each of the Mortgagors and dated March 7, 1996 (the foregoing instruments shall hereinafter be collectively referred to as the "Secured Obligations"). To secure performance of all obligations of the Mortgagors to the Mortgagee hereunder and under each of the Secured Obligations, the Mortgagors hereby mortgage to the Mortgagee:

ALL THAT CERTAIN plot, piece or parcel of land, with the buildings and improvements thereon erected, situated, lying and being known as _____, more particularly described in Exhibit "1" attached hereto and incorporated by reference;

TOGETHER with all and singular the tenements, hereditaments, and appurtenances thereunto belonging, or in any wise appertaining, and the reversion or reversions, remainder and remainders; and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, in law and in equity, of the Mortgagors, of, in and to the same and every part and parcel thereof, with appurtenances, including all fixtures affixed to the same or intended so to be, and also, all machinery, equipment, improvements and personal property now in or upon or which may hereinafter be installed in or affixed to the same, to the extent the foregoing relate to or are necessary for the complete and comfortable use, enjoyment, maintenance, operation or occupancy thereof, including, but not limited to, furnaces, boilers, oil burners, radiators and piping, heating system, electrical system, panel boards, plumbing and bathroom fixtures, air conditioning, sprinkler systems, wash tubs, sinks, gas and electric fixtures, stoves, ranges, awnings, screens, window shades, refrigerators, kitchen cabinets, plants and shrubbery, as to which this Mortgage constitutes a security agreement (the "Property");

TOGETHER with all the right, title and interest of the Mortgagors in and to all streets, roads and public places, opened or proposed, adjoining the Property, and all easements and rights-of-way, public or private, all sidewalks and alleys, and all strips and gores of land now or hereafter used in connection with the Property;

TOGETHER with the rents, issues and profits arising or issuing from the Property or the improvements thereon as further security for the payment of the Secured Obligations of the Mortgagors, and the Mortgagors grants to the Mortgagee the right to enter upon and to possession of the Property for the purpose of collecting the same and to let the Property or any part thereof, and to apply the rents, issues and profits, after payment of all necessary charges and expenses, on account of the Secured Obligations as hereinafter provided;

TOGETHER with any and all awards, damages, payments, judgments, settlements and other compensation, including without limitation, insurance proceeds, and any and all causes of action, claims therefor and rights thereto, which may result from (i) taking or injury by virtue of the exercise of the power of eminent domain, (ii) a lawsuit or other legal proceeding, or (iii) any damage, injury or destruction in any manner caused to the Property or the improvements thereon, or any part thereof;

TOGETHER with all the estate, right, title, interest, property, possession, claim and demand whatsoever of the Mortgagors, in law as well as in equity, of, in and to the same and every part and parcel thereof with the appurtenances;

TOGETHER with all other assets and personal property of the Mortgagors relating to, or used in the operation of, the Property, including without limitation, all accounts, goods, fixtures, inventory, equipment, chattel paper, documents instruments and general intangibles (as such terms are defined in the Uniform Commercial Code), whether now owned or hereafter acquired;

AND ALSO, all proceeds of the foregoing.

ALL of which property and rights therein described above being hereinafter collectively referred to as the "Premises".

TO HAVE AND TO HOLD, the above granted and described Premises unto the Mortgagee, its successors and assigns, to its and their own proper use, benefit and behoove forever.

This Mortgage further creates a security interest in the fixtures included in the Premises and constitutes a security agreement and financing statement under the Uniform Commercial Code. The Mortgagors shall execute, file and refile such financing statements or other security agreements as the Mortgagee shall require from time to time with respect to such fixtures and other personal property and assets included in the Premises. The Mortgagors hereby authorizes the Mortgagee to file such financing statement or statements and any amendments thereto pursuant to said Uniform Commercial Code, without the signature of the Mortgagors, as the Mortgagee may deem necessary to perfect such interest or right in its favor.

PROVIDED ALWAYS, and these presents are made upon this express condition, that if the Secured Obligations shall be duly paid or performed as and when the same shall

become due and payable or be required to be performed, then these presents and the estate hereby granted shall cease, terminate and be void.

I. REPRESENTATIONS AND WARRANTIES OF THE MORTGAGOR.

The Mortgagors hereby represent and warrant to the Mortgagee as follows:

A. ORGANIZATION, POWER AND QUALIFICATION; AUTHORIZATION OF AGREEMENT

(a) The Mortgagors have all requisite authority to own and operate their properties and assets.

(b) The Mortgagors have full power and authority to execute, deliver and perform any action or step which may be necessary to carry out the terms of this Mortgage and this Mortgage is legal, valid and binding obligations on the Mortgagors enforceable in accordance with its terms, subject to any applicable bankruptcy, insolvency, general equity principles or other similar laws affecting the enforcement of creditors' rights generally.

B. **NO LEGAL BAR**. The execution, delivery and performance of this Mortgage will not (i) violate any provision of any existing law, statute, rule, regulation or ordinance, (ii) conflict with, result in a breach of or constitute a default under (a) the certificate of formation or operating agreement of the Mortgagors, (b) any order, judgment, award or decree of any court, arbitrator, or governmental authority, bureau or agency, or (c) any mortgage, indenture, lease, contract or other agreement or undertaking to which the Mortgagors are a party or by which the Mortgagors or any of its properties or assets may be bound, or (iii) result in the creation or imposition of any mortgage, security interest, restriction, lien or other encumbrance upon or with respect to any property or asset now owned or hereafter acquired by the Mortgagors, other than in favor of the Mortgagee.

C. **CONSENT**. No consent, license, permit, approval or authorization of, exemption by, notice to, report to, or registration, filing or declaration with any person or governmental authority, bureau or agency is required in connection with the execution, delivery, performance or validity of the Mortgage or the transactions contemplated thereby.

D. **COMPLIANCE WITH LAW**. The Mortgagors are not in violation of any applicable law, rule, regulation, statute, ordinance, or any order, judgment, award or decree of any court, arbitrator, or governmental authority, bureau or agency, the violation of which would have a materially adverse effect on the business, assets, liabilities or financial condition of the Mortgagors.

E. **NO DEFAULT**. The Mortgagors are not in default in any material respect in the payment or performance of any of its obligations or in the performance of any mortgage, indenture, lease, contract or other agreement or undertaking to which it is a party or by which it or any of its properties or assets may be bound, and no default or event of default has occurred and is continuing. The Mortgagors are not in default under any order, award or

decree of any court, arbitrator or governmental authority, bureau or agency binding upon or affecting it or by which any of its properties or assets may be bound or affected, and no such order, award or decree, if any, materially adversely affects the ability of the Mortgagors to carry on its business as presently conducted or to perform its obligations hereunder.

F. **NO LITIGATION**. No litigation, investigation or proceeding of or before any court, arbitrator or governmental authority, bureau or agency is currently pending, nor, to the knowledge of the Mortgagors, threatened, against the Mortgagors or any of the Mortgagors' properties and revenues which, if adversely determined, would materially adversely affect the ability of the Mortgagors to carry on its business as presently conducted or to perform its obligations hereunder.

G. **NO BURDENSOME RESTRICTIONS**. The Mortgagors are not a party to nor is bound by any contract or agreement or instrument nor subject to any restriction materially and adversely affecting the business or financial condition of the Mortgagors.

H. **TAX RETURNS AND PAYMENTS; FINANCIAL STATEMENTS.**

1. All federal, state and other tax returns of the Mortgagors required by law to be filed have been duly filed or extensions obtained, and all federal, state and other taxes, assessments and governmental charges or levies upon the Mortgagors or any of its properties, income, profits or assets which are due and payable have been paid, except such tax returns the nonfiling of which, and such taxes the non-payment of which, would not have a material adverse effect upon the business, assets, liabilities or financial condition of the Mortgagors and except for such taxes and assessments which the Mortgagors are disputing in good faith and for which the Mortgagors has established adequate reserves on its books for the payment of such disputed taxes or assessments in accordance with generally accepted accounting principles.

2. All financial statements and financial information provided to the Mortgagee by or on behalf of the Mortgagors fairly present the financial position and results of operations of the Mortgagors on the dates and for the periods then ended and show all direct liabilities and all known contingent liabilities of a material nature.

3. Since the date of the most recent financial statement provided to the Mortgagee by or on behalf of the Mortgagors, no material adverse change has occurred in the business, assets, liabilities, financial condition, results of operations or business prospects of the Mortgagors, and no event has occurred or failed to occur which has had or is likely to have a material adverse effect on the business, assets, liabilities, financial condition, results of operations or business prospects of the Mortgagor.

I. **FINANCIAL CONDITION**.

1. The Mortgagors are now, and after giving effect to the transactions contemplated hereby will be in, a financially solvent condition; the execution and delivery of this Mortgage does not constitute a "fraudulent conveyance" or "fraudulent transfer" within

the meaning of any applicable federal or state statute; and no bankruptcy or insolvency proceedings are presently pending by or against the Mortgagors.

2. No fact is known to the Mortgagors which has had or is likely in the future to have (so far as Mortgagors can reasonably foresee) a materially adverse effect upon the Mortgagor's business, assets, liabilities, condition, financial or otherwise, or results of operations that has not been set forth in the financial statements furnished to the Mortgagee or other reports or other papers or data otherwise disclosed in writing to the Mortgagee.

3. The Mortgagors do not intend to, nor does the Mortgagors believe that it will incur debts beyond its ability to pay such debts as they mature. The cash available to the Mortgagors are anticipated to be sufficient to pay all amounts on or in respect of debt of the Mortgagors when such amounts are required to be paid.

4. The Mortgagors does not believe that final judgments against it in actions for money damages will be rendered at a time when, or in an amount such that, the Mortgagors will be unable to satisfy any such judgments promptly in accordance with their terms (taking into account the maximum reasonable amount of such judgments in any such actions and the earliest reasonable time at which such judgments might be rendered). The cash available to the Mortgagors after taking into account all other anticipated uses of the cash of the Mortgagors are anticipated to be sufficient to pay all such judgments promptly in accordance with their terms.

J. **WARRANTY OF TITLE.** The Mortgagors are lawfully seized of an indefeasible estate in fee simple in the Premises, subject only to those exceptions (the "Permitted Encumbrances") set forth in that certain Title Insurance Commitment issued in connection with this Mortgage, as delivered to the Mortgagee and endorsed on the date hereof, which is incorporated herein by reference, and the Mortgagors will warrant and forever defend the title thereof unto the Mortgagee against all lawful claims whatsoever.

K. **ACCURACY AND COMPLETENESS OF INFORMATION.** All written information, reports and other papers and data furnished to the Mortgagee by the Mortgagors were, at the time the same were so furnished and remain, as of the date hereof, complete and correct in all material respects and did not and do not contain any untrue statement of fact or omit to state any material fact necessary in order to make the statements and information contained therein not misleading.

II. COVENANTS OF THE MORTGAGOR.

The Mortgagors hereby covenant and agree with the Mortgagee, until the Secured Obligations are performed and paid in full, as follows:

A. **PAYMENT OF SUMS SECURED.** The Mortgagors will pay the indebtedness as herein before provided. This Mortgage shall remain in full force and effect until the Secured Obligations and all other obligations under this Mortgage are fully and

indefeasibly paid and the performance obligations of the Mortgagors to the Mortgagee under the Loan Documents and this Mortgage have been satisfied in full.

B. **INSURANCE.**

1. The Mortgagors shall (a) keep in effect or cause to be kept in effect upon the Premises for the benefit of the Mortgagee insurance against loss or damage by fire and all other risks embraced within "all risk" and "extended coverage" including, but not limited to, vandalism and malicious mischief endorsements, in such amount, by such insurers, and containing such provisions as the Mortgagee may reasonably require, but in no event less than the replacement value of all improvements on the Premises, and (b) obtain or cause to be obtained public liability insurance in such minimum amounts and with such insurance companies as are reasonably satisfactory to the Mortgagee, but in no event less than $1,000,000 per occurrence.

2. Any insurance required pursuant to this Mortgage shall be so written or endorsed as to (a) name the Mortgagee as an additional insured, (b) contain the standard (non-contributing) mortgagee endorsement in favor of the Mortgagee as second mortgagee, (c) shall not contain any "co-insurance provisions", (d) shall be obtained from insurers which are reasonably satisfactory to the Mortgagee, and (e) with respect to insurance against loss or damage to property, name the Mortgagee as a "loss payee" and make losses payable to the as Second Mortgagee. The Mortgagors shall pay the premiums on the policies of all insurance required pursuant to this Mortgage as they become payable and shall deliver to the Mortgagee certificates of insurance and evidence of payment of all premiums, and, if requested by the Mortgagee, the original policies of property insurance and, if required, flood insurance, and certificates evidencing public liability insurance. All insurance shall provide that the Mortgagee is the Certificate Holder and the Mortgagors shall provide all such Certificates to the Mortgagee. Notwithstanding the foregoing, a mortgagee with a lien against the Premises senior in priority to this Mortgage ("Senior Mortgagee") shall have superior rights to insurance up to the amount of the Senior Mortgagee's mortgage.

3. All renewal or replacement policies shall be delivered by the Mortgagors, premiums paid, to the Mortgagee at least thirty (30) days before the expiration of the expiring policies. Each insurance policy shall provide that the Mortgagee shall be furnished with not less than thirty (30) days' prior written notice before any termination, cancellation, non-renewal or reduction in scope becomes effective as to the Mortgagee. If the Mortgagee becomes the owner of the Premises or any part thereof by foreclosure or otherwise, such policies shall become the absolute property of the Mortgagee.

C. **DAMAGE, DESTRUCTION AND CONDEMNATION**. If the Premises or any part thereof shall be damaged or either partially or totally destroyed, or if title to or the temporary use of the whole or any part of the Premises shall be taken, condemned or purchased under threat of condemnation by a competent authority for a public use or purpose, the Mortgagee shall be entitled to receive and shall receive any and all insurance proceeds or condemnation awards with respect thereto (hereinafter, the "Proceeds"), subject,

however, to the rights of any Senior Mortgagee. The Mortgagee shall have the right to participate in the defense of any condemnation action and the valuation of the Premises in connection therewith. So long as no Event of Default shall have occurred and be continuing hereunder, the Mortgagee shall remit such Proceeds to the Mortgagors to restore, replace or repair the Premises; provided, however, that if an Event of Default shall have occurred and be continuing hereunder, the Mortgagee shall have the right, in its sole and absolute discretion, to determine whether to apply such Proceeds to prepay the principal, interest and other charges on the Secured Obligations or to remit such Proceeds to the Mortgagors to restore, replace or repair the Premises. In any case in which Proceeds (and such additional funds) are to be applied to restore, replace or repair any part of the Premises, such restoration, replacement or repair shall in any event be subject to the satisfaction of the following conditions:

1. The Mortgagors shall submit or cause to be submitted to the Mortgagee for its approval, an estimate of the cost of restoration, replacement or repair of the Premises, accompanied by an architect's certification as to such costs and final plans and specifications with respect thereto. All buildings and improvements so restored, replaced or repaired shall be of substantially the same character and value as the buildings and improvements prior to such damage or destruction and shall be suitable for the purposes for which they were originally erected. The Mortgagors shall furnish the Mortgagee with evidence reasonably satisfactory to the Mortgagee that all buildings and improvements so restored, replaced and/or repaired and their contemplated use fully comply with all zoning and building laws, ordinances and regulations, and with all other applicable federal, state or local laws and requirements.

2. If at any time the estimated cost of restoration, replacement or repair shall exceed the Proceeds available therefor, the Mortgagors shall escrow additional monies with the Mortgagee in an amount equal to such excess estimated cost.

3. Each disbursement of the Proceeds during the course of restoration, replacement or repair shall be subject to receipt by the Mortgagee of a requisition signed by the Mortgagors stating (a) the requisition number, (b) the name and address of the person or entity to whom payment is to be made, or if the payment is to be made to the Mortgagors for a reimbursable advance, the name and address of the person or entity to whom the advance was made together with proof of payment by the Mortgagors, and (c) that each obligation for which payment is sought is unpaid or unreimbursed and has not been the basis of any previously paid requisition. Each requisition shall be accompanied by (i) an approved certification by a licensed A.I.A. architect reasonably acceptable to the Mortgagee as to the cost of materials furnished and work done and evidence that such work and materials are free and clear of liens, (ii) if requested by the Mortgagee, an updated title insurance endorsement as of the date of each such disbursement insuring the continued validity and priority of this Mortgage and (iii) such other documents, certificates or instruments as the Mortgagee shall reasonably require. No payment made prior to the final completion of work shall exceed 90% of the value of the work performed or materials furnished and incorporated into the Premises from time to time, and at all times the undisbursed balance of said Proceeds

(together with the additional security referred to in the preceding paragraph) shall be at least sufficient to pay for the cost of completion of the work, free and clear of liens. Said Proceeds are to be released not more than once a month, and the disbursement of said Proceeds shall be subject to such other provisions and safeguards as the Mortgagee then requires in connection with construction loans for similar projects. The administration of such provisions shall be at the sole cost and expense of the Mortgagor.

4. Final payment shall be made upon receipt by the Mortgagee of a certification by a licensed A.I.A. architect reasonably acceptable to the Mortgagee as to completion in accordance with the approved plans and specifications and, if requested by the Mortgagee, the issuance to the Mortgagee of a title policy endorsement reasonably satisfactory to the Mortgagee insuring the continued validity and priority of this Mortgage as a mortgage lien.

5. All costs and expenses incurred by the Mortgagee in disbursing said funds shall be paid for by the Mortgagors and may be deducted by the Mortgagee from the funds to be so advanced for such restoration, replacement or repair.

6. Nothing herein shall be construed to require the Mortgagee to advance any sums for any such restoration, replacement or repair beyond the amount of the Proceeds actually received by the Mortgagee and set aside for such purpose less the amount of the Mortgagee's costs and expenses referred to above.

7. The Mortgagors shall promptly notify the Mortgagee of any damage, destruction or institution of any proceedings for the condemnation or taking, by powers of eminent domain or purchase under threat thereof, of the whole or any part of the Premises.

8. Prior to an Event of Default, the Mortgagors shall adjust any insurable loss and settle any condemnation proceedings, provided the Mortgagors shall have obtained the prior written consent of the Mortgagee thereto which shall not be unreasonably withheld or delayed. Following the occurrence of an Event of Default, the Mortgagee shall have the exclusive right to adjust any insurable loss and settle any condemnation proceedings.

9. Any moneys released to the Mortgagors or paid or applied to the cost of restoration, replacement or repair shall in no event be deemed a payment of the Secured Obligations. The Mortgagee shall be under no obligation to question the amount of the Proceeds and may accept the same in the amount in which the same shall be paid.

10. Anything to the contrary herein contained notwithstanding, any Proceeds paid over to the Mortgagee and not used for repair, replacement or restoration shall be applied to pay any sums then due and owing to the Mortgagee with respect to the Secured Obligations, and, subject to the rights of the holders (including the Mortgagee) of any Permitted Encumbrances, any excess shall be paid over to the Mortgagor.

D. COMPLIANCE WITH LAWS. The Mortgagors shall comply in all material respects with all applicable federal, state and local laws, rules, regulations, ordinances,

building codes and orders in effect from time to time including, but not limited to, those relating to the environment, the payment of taxes, assessments and other governmental charges, zoning, and the use, occupancy, transfer or encumbrancing of the Premises the failure to comply with which would result in a lien upon the Premises or otherwise impair the value of the Premises. The Mortgagors additionally agrees to pay all costs required to comply with any of the above conditions, and to indemnify and hold the Mortgagee harmless against any loss, liability, cost or expense (including attorneys' fees) arising out of or relating to any proceeding instituted in connection with any alleged or actual violation of any of the foregoing not caused by the Mortgagee.

E. **TAXES AND OTHER CHARGES; MECHANICS' LIENS**. Except as otherwise provided in this Section II(E), the Mortgagors shall pay all taxes, water and sewer rents, fines, impositions and other similar claims, liens and encumbrances assessed, or which may be assessed, against the Premises or any part thereof, without any deduction or abatement, not later than five (5) days before the same shall become due and payable and shall simultaneously with each such payment, furnish to the Mortgagee receipts for the payment thereof in full. The Mortgagors will pay, from time to time when the same shall become due, all lawful claims and demands of mechanics, materialmen, laborers, and others, which, if unpaid, might result in, or permit the creation of, a lien on the Premises or any part thereof, or on the revenues, rents, issues, income and profits arising therefrom, and will do or cause to be done everything necessary so that the lien hereof shall be fully preserved, at the cost of the Mortgagors and without expense to the Mortgagee. If the Mortgagors shall in good faith, and by proper legal action, contest any taxes, assessments, fines, impositions, claims, liens, encumbrances or other charges, or the validity thereof, and provided no Event of Default is then existing and continuing, then the Mortgagors shall not be required to pay the same or to produce such receipts as long as such contest operates to prevent collections, and is maintained and prosecuted with diligence and shall not have been terminated or discontinued adversely to the Mortgagor. In addition to the foregoing, the Mortgagors will pay when due and will not suffer to remain outstanding, any charges for utilities, whether public or private, with respect to the Premises.

F. **FURTHER ASSURANCES; FILING AND RECORDING.**

1. The Mortgagors will, at its sole cost and expense, perform, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, security agreements, assignments, notices of assignment, financing statements, transfers and assurances as the Mortgagee shall from time to time reasonably require, for the better assuring, conveying, assigning, transferring and confirming unto the Mortgagee the property and rights hereby conveyed or assigned or intended now or hereafter so to be, or which the Mortgagors may be or may hereafter become bound to convey or assign to the Mortgagee, for carrying out the intention or facilitating the performance of the terms of this Mortgage or for filing, registering or recording this Mortgage and, on demand, will execute and deliver, and hereby authorizes the Mortgagee and irrevocably appoints the Mortgagee as the agent and attorney-in-fact of the Mortgagors to execute and file in its own name or in the

Mortgagor's name, to the extent it may lawfully do so, all such documents, instruments, certificates and financing statements.

2. The Mortgagors, forthwith upon the execution and delivery of this Mortgage, and thereafter from time to time upon request by the Mortgagee, and as may be required by law, will cause this Mortgage and any security instrument creating a lien or evidencing the lien hereof upon the Premises and the fixtures thereon and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect the lien hereof upon, and the interest of the Mortgagee in, the Premises and the fixtures thereon.

3. The Mortgagors will pay all filing, registration or recording fees, and all expenses incident to the execution and acknowledgment of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Premises and the fixtures thereon, and any instrument of further assurance, and all federal, state, county and municipal stamp taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Premises and the fixtures thereon or any instrument of further assurance.

G. **RIGHT TO REMEDY DEFECTS; INDEMNIFICATION.** If the Mortgagors shall at any time fail to pay any amount payable by it hereunder or fails to comply with any provision of this Mortgage, the Mortgagee may, after reasonable notice to the Mortgagors, pay such amount or comply with such provision and make such expenditures, including reasonable counsel fees, in connection therewith and with enforcing this Mortgage and for repairing, maintaining and preserving the Premises, for establishing, preserving, protecting and restoring the validity and priority of the lien hereof, for obtaining official tax searches of the Premises, for protecting and preserving any use being made of the Premises now or hereafter and for advances to any trustee or receiver of the Premises, as the Mortgagee deems advisable; each amount so paid or expended, with interest at the rate then in effect under the Secured Obligations plus four percent (4%) shall become part of the Secured Obligations and be secured hereby; and the Mortgagors shall pay to the Mortgagee, on demand, the amount of each payment or expenditure, with such aforesaid interest, but no such payment or compliance by the Mortgagee shall constitute a waiver of the Mortgagor's failure so to do or affect any right or remedy of the Mortgagee with respect thereto. The Mortgagors agrees to and does hereby indemnify the Mortgagee, its officers, directors, employees, agents, affiliates and assigns and the Mortgagors shall hold the Mortgagee, its officers, directors, employees, agents, affiliates and assigns harmless from and against any and all losses, claims, damages or liabilities (including all costs, expenses and reasonable counsel fees incurred in investigating or defending such claim) suffered by the Mortgagee, its directors, officers, employees, affiliates and agents and caused by, relating to, arising out of, resulting from or in any way connected with any of the items enumerated in the immediately preceding sentence, except to the extent resulting from the gross negligence or willful misconduct of the Mortgagee or its agents.

H. **PRESERVATION OF THE PREMISES; LIENS AND ENCUMBRANCES**

1. The Mortgagors shall keep the improvements now or hereafter on the Premises in good repair and condition, ordinary wear and tear excepted, and, with reasonable diligence, shall repair, replace or rebuild any material part of the Premises which may be destroyed by any casualty or become damaged, worn or dilapidated. The Mortgagors shall make any repairs needed to immediately preserve the value of the Premises within thirty (30) days after written notice thereof from the Mortgagee; provided, however, that in the event the Mortgagors are diligently undertaking such repairs but same cannot be completed within said 30-day period, the Mortgagee shall extend said 30-day period for as long as the Mortgagors and the Mortgagee shall agree is reasonably necessary in order to complete such repairs; provided further, however, that the Mortgagee shall be under no obligation to extend said period beyond ninety (90) days after the aforementioned written notice.

2. The Mortgagors shall not remove or demolish nor alter the design or structural character of any building now or hereafter erected upon the Premises without the prior written consent of the Mortgagee which consent shall not be unreasonably withheld or delayed. The Mortgagee shall consent to such proposed structural change or alteration upon receipt of (i) a certificate of the Mortgagors stating that no Event of Default then exists and is continuing and (ii) evidence reasonably satisfactory to the Mortgagee to the effect that the proposed structural change or alteration (upon completion) shall not diminish the value of the Premises.

3. The Mortgagors shall not suffer or permit waste of the Premises and shall cause the Premises to comply with all applicable building codes, ordinances, statutes and regulations of all federal, state and municipal governmental authorities and agencies having jurisdiction thereof, including but not limited to, all fire and safety codes.

4. The Mortgagors shall keep the Premises free of all mortgages, liens, charges, encumbrances, attachments, levies, distraints, other judicial process and burdens of every nature, except for Permitted Encumbrances.

I. **NOTIFICATION**. The Mortgagors shall notify the Mortgagee immediately of (a) the occurrence or existence of any Event of Default, (b) the inception of any action, suit, proceeding, inquiry or investigation at law or in equity before any court, public board or body wherein an unfavorable decision, ruling or finding would, to the extent not covered by insurance, have a material adverse effect upon the Premises, and (c) the occurrence of any substantial loss, substantial damage, destruction, condemnation or taking of the whole or any part of the Premises.

J. **RIGHT TO INSPECT PREMISES AND BOOKS AND RECORDS; APPRAISAL**

The Mortgagors shall permit the Mortgagee, by its duly authorized officers and agents during normal business hours and upon reasonable written notice, to enter upon and inspect the Premises and, to the extent and with such frequency as is reasonably required by the Mortgagee, the books and records of the Mortgagor. The Mortgagee shall also have the right, from time to time, upon reasonable notice to the Mortgagors, to conduct or cause to be conducted an appraisal or appraisals of the Premises, the cost of which shall be paid by the Mortgagor.

K. **FINANCIAL STATEMENTS.**

The Mortgagors will furnish the following information to the Mortgagee:

(1) Within 90 days after the end of each fiscal year of the Mortgagors, financial statements on the form approved by Mortgagee and true, correct and complete copies of the Mortgagors federal tax returns as filed;

(2) Within 30 days after the end of each fiscal year of the Mortgagors, an operating statement with respect to the Premises, on the form approved by the Mortgagee;

(3) From time to time and promptly upon each request, such other reports and information regarding the business, assets, liabilities, financial condition, results of operation or business prospects of the Mortgagors as the Mortgagee may reasonably requests;

(4) Prompt notice of any material adverse change with respect to the business, assets, liabilities, financial condition or results of operation of the Mortgagor.

In connection with the delivery of the tax returns which is referred to in clause 1 above, the Mortgagors shall also obtain and deliver to the Mortgagee an acknowledgment of reliance, on the form approved by the Mortgagee from the independence certified public accountant, if any, which prepares such tax returns.

L. **FURTHER INDEBTEDNESS.**

1. The Mortgagors shall not create, assume, incur, guarantee or in any manner become liable, contingently or otherwise, in respect of any indebtedness for money borrowed.

2. The Mortgagors shall not sell, transfer, assign, lease or otherwise dispose of (whether in one transaction or a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired).

3. The Mortgagors shall not guarantee, endorse, become surety for, or otherwise in any way become or be responsible for, the obligations of any other person whether by agreement to purchase the indebtedness of any other person, or agreement for the furnishing of funds, directly or indirectly, for the purpose of payment of indebtedness of any

other person, other than endorsements of negotiable instruments for deposit or collection in the ordinary course of its business.

M. **LEASES**.

1. The Mortgagors shall not lease or sublease all or any portion of the Premises or consent to the leasing, subleasing or assignment of any lease by any tenant of all or any portion of the Premises, or consent to the amendment, modification or termination of any lease with respect to the Premises, except for increases in rent, without the prior review and express prior written consent, both as to the form and substance thereof, of the Mortgagee, which consent shall not be unreasonably withheld or delayed.

2. All present and future lease of the Premises, or any part thereof, shall be subordinate in all respects to the lien of this Mortgage.

3. On or before January 31 of each year, the Mortgagors shall provide to the Mortgagee a current, certified rent roll with respect to all tenants and other occupants of the Premises. In addition, the Mortgagors shall provide to the Mortgagee, promptly upon execution thereof, certified copies of all leases, and all amendments, modifications and supplements to existing leases, entered into with respect to the Premises from and after the date hereof.

N. **NO DEDUCTION**. The Mortgagors shall claim no deduction upon the assessed value of the Premises on account of the monies owing to Mortgagee.

III. INDEMNIFICATION

1. The Mortgagors hereby agrees to indemnify the Mortgagee, its directors, officers, employees, affiliates and agents from and against any and all liabilities, suits, obligations, fines, damages, penalties, claims, losses, costs, charges and expenses (including, without limitation, reasonable architect's, engineer's, accountant's, consultant's and attorneys' fees and disbursements) (collectively, the "Losses") which may be imposed upon, incurred or asserted against the Mortgagee, its directors, officers, employees, affiliates and agents by reason of: (a) any construction relating to the Premises; (b) any capital improvements, other work or thing done in, on or about the Premises; (c) any use, non-use, misuse, possession, occupation, alteration, repair, condition, operation, maintenance or management of the Premises or any street, drive, sidewalk, curb, passageway or space comprising a part thereof or adjacent thereto; (d) any negligence or willful act or omission on the part of the Mortgagors, any lessee or any other occupant of the Premises or any agent, contractor, servant, employee, licensee or invitee or any of them; (e) the claims of any lessee or any party acting through or under any such lessee or otherwise arising under or as a consequence of any lessee; (f) any accident, injury (including death) or damage to any person or property occurring in, on or about any sidewalks, drives, curbs, passageways, streets, spaces or alleys adjacent to or on the Premises; (g) any Event of Default; (h) any lien or claim which may be alleged to have arisen on or against the Premises under any law or any liability asserted against the Mortgagee with respect thereto; (i) any tax or other imposition,

including, but not limited to, any imposition attributable to the execution, delivery, filing or recording of this Mortgage or any other documents executed by the Mortgagors in connection herewith; (j) any contest permitted pursuant to the provisions of this Mortgage or the other Loan Documents; and (k) any and all violations of law, including, without limitation, any and all federal, state and local laws, rules and regulations relating to the environment, existing at the Premises. The foregoing indemnity shall not apply to Losses resulting or arising from the gross negligence or willful misconduct of the Mortgagee.

2. The obligations of the Mortgagors under this Article IV shall not in any way be affected or limited by the absence of any insurance, by the amount of any insurance policy or by the failure or refusal of any insurance carrier to perform any obligation on its part under any insurance policies. If any claim, action or proceeding is made or brought against the Mortgagee or any of its directors, officers, employees, affiliates and agents, by reason of any event as to which the Mortgagors are obligated to indemnify the Mortgagee or any of its directors, officers, employees, affiliates and agents, then, upon demand by the Mortgagee, the Mortgagors, at its sole cost and expense, shall resist or defend such claim, action or proceeding in the Mortgagee's, or any of its directors, officers, employees, affiliates and agents, name, if necessary, by the attorneys for the Mortgagor's insurance company or by such attorneys as the Mortgagee shall approve in writing, which approval shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, the Mortgagee or any of its directors, officers, affiliates, employees and agents may engage its own attorneys in its reasonable discretion to defend it or to assist in its defense and the Mortgagors shall pay the reasonable fees and disbursements of such attorneys.

IV. EVENTS OF DEFAULT.

The following shall constitute events of default under this Mortgage (each, an "Event of Default"):

A. If any Event of Default or default shall occur under the terms of any of the Secured Obligations.

B. If the Mortgagors shall default in the performance or observance of any covenant, agreement or condition contained in this Mortgage and such default shall continue for fifteen (15) days after notice thereof from the Mortgagee.

C. If any representation or warranty made by the Mortgagors in this Mortgage or in any other Loan Document shall prove to have been false, incorrect or misleading in any material respect on the date as of which made.

D. If the Premises shall be sold, transferred, assigned or otherwise conveyed, including without limitation, the entering into by the Mortgagors of a long-term lease of the Premises, or if title to the Premises or any part thereof shall be transferred or conveyed to any person, firm, corporation, trust, association or other entity, including without limitation, the passing of title to, or possession of the Premises by, a receiver, trustee or assignee for the benefit of creditors.

E. If any default shall occur under the terms of any of the Permitted Encumbrances.

F. If a default or event of default occurs under a mortgage that is prior or subordinate to the lien of this Mortgage, including without limitation, if any mortgagee claims a right to possession or commences a foreclosure action.

G. (i) The Mortgagors shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian or other similar official for all or any substantial part of its assets, or (ii) the Mortgagors shall make a general assignment for the benefit of creditors; or (iii) the Mortgagors shall commence, or there shall be commenced against the Mortgagors, any case, proceeding or other action of a nature referred to in clause (i) above which (A) results in the entry of an order for relief of any such adjudication or appointment or (B) remains undismissed, undischarged or unbonded for a period of sixty (60) days; or (iv) there shall be commenced against the Mortgagors any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets, which results in the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within sixty (60) days from the entry thereof; or (v) the Mortgagors shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clauses (i), (ii), (iii) or (iv) above; or (v) the Mortgagors shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due.

H. The Mortgagors shall (i) default in any payment with respect to any indebtedness for money borrowed, whether from the Mortgagee or any other lender, beyond the period of grace, if any, provided in the instrument or agreement under which such indebtedness was created; or (ii) default in the observance or performance of any other agreement or condition relating to any such indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur, the effect of which default or other event is to cause, or to permit the holder of such indebtedness (or a trustee or agent on behalf of such holder) to cause, with the giving of notice if required, such indebtedness to become due prior to its stated maturity. In addition, the Mortgagors acknowledges and agrees that any Event of Default hereunder or under any other Loan Document shall be an event of default under and with respect to all other indebtedness, whether actual or contingent, of the Mortgagors to the Mortgagee.

I. A final judgment shall be entered against the Mortgagors by any court for the payment of money which, together with all other outstanding judgments against the Mortgagors, exceeds fifty thousand dollars ($50,000) in the aggregate, which judgment is not fully covered by insurance, or a warrant of attachment or execution or similar process shall

be issued or levied against property of the Mortgagors which, together with such other property subject to such process, exceeds in value fifty thousand dollars ($50,000) in the aggregate and, if within sixty (60) days (ten (10) days if such aggregate amount exceeds one hundred thousand dollars ($100,000)) after the entry, issue or levy thereof, such judgment, warrant or process shall not have been discharged or stayed pending appeal, or, if within sixty (60) days (ten (10) days if such aggregate amount exceeds one hundred thousand dollars ($100,000)) after the expiration of any such stay, such judgment, warrant or process shall not have been discharged.

J. The Mortgagors shall enter into any junior financing of the Premises without the prior written consent of the Mortgagee.

V. **REMEDIES**.

In case one or more Events of Default shall have occurred, the Mortgagee shall have the following rights and remedies:

A. The Mortgagee may declare all amounts outstanding (with accrued interest thereon) and all other amounts owing to it under the Secured Obligations to be immediately due and payable, whereupon the same shall become due and payable forthwith without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Mortgagor.

B. To take any action at law or in equity to collect the payments due under the Secured Obligations secured hereby or to enforce the performance and observance of the obligations, agreements and covenants of the Mortgagors contained in this Mortgage and the other Loan Documents.

C. Enter into possession of the Premises and employ watchmen to protect the Premises from injury.

D. To institute an action of mortgage foreclosure, or take other action as the law may allow, at law or in equity, for the enforcement of this Mortgage, and proceed therein to final judgment and execution for the entire unpaid balance of the Secured Obligations, including costs of suit, interest and reasonable attorneys' fees. In case of any sale of the Premises by virtue of judicial proceedings, the Premises may be sold in one parcel and as an entirety or in such parcels, manner or order as the Mortgagee in its sole discretion may elect. The failure to make any tenants parties defendant to a foreclosure proceeding and to foreclose their rights will not be asserted by the Mortgagors as a defense in any proceeding instituted by the Mortgagee to collect the Secured Obligations secured hereby or any deficiency remaining unpaid after the foreclosure sale of the Premises. Notwithstanding anything herein to the contrary, the Mortgagors shall continue to be responsible for the payment of taxes, insurance and all other amounts payable with respect to the Premises until title to the Premises shall be conveyed at a sheriff's sale or other similar proceeding.

E. If the Event of Default relates to the payment of any tax, assessment, water or sewer rent or governmental charge, or the payment of a premium for insurance, or the obligation to keep the Premises in satisfactory repair and condition, or to otherwise preserve the security of this Mortgage, then the Mortgagee, in addition to or in lieu of exercising any other rights which it may have hereunder or under any other document executed in connection with any Secured Obligations secured hereby, may pay the tax, assessment, water or sewer rent, governmental charge, insurance premium, or the cost of placing the Premises in satisfactory repair and condition, or the cost of otherwise preserving the security of this Mortgage, and the amount so paid shall be added to the moneys owing on the Secured Obligations and shall be secured hereby and shall be due and payable on demand with interest equal to the prevailing interest rate under the Secured Obligations plus four percent (4%).

F. Upon the occurrence of any Event of Default, the Mortgagee is hereby empowered and appointed attorney-in-fact of the Mortgagors to enter upon and take possession of the Premises and rent the same, either in its name or in the name of the owner of such property, and to demand, collect and receive from the tenants, lessees or other occupants then in possession of the Premises or any part thereof, the rents, issues and profits as they become due as well as all past due rents, income or profits which have not been collected by the Mortgagors, to endorse the name of the Mortgagors or any subsequent owner of the Premises on any checks, notes or other instruments for the payment of money, to give any and all acquaintances or any other instrument in relation thereto in the name of the Mortgagors, and to institute, prosecute, settle or compromise any summary or legal proceedings in the name of the Mortgagors or in the name of the Mortgagee for the recovery of such rents, income or profits, or for the abatement of any nuisance thereon, and to defend, at the Mortgagee's option and sole discretion, any legal proceedings brought against the Mortgagors arising out of the operation of the Premises. All rents, issues and profits collected or received by the Mortgagors after an Event of Default shall be accepted and held for the Mortgagee in trust and shall not be commingled with the funds and property of the Mortgagors, but shall be promptly paid over to the Mortgagee; and the Mortgagors agrees to pay the Mortgagee, if demanded by it, a reasonable rental for the portion of the Premises occupied by the Mortgagors, monthly in advance as a tenant from month to month, and in default of any such payment the Mortgagors may be dispossessed by summary proceedings, such tenancy to expire upon delivery of deed in foreclosure; and the Mortgagee shall apply the rents, issues and profits, after the payment of the necessary charges and expenses, including management fees and commissions, on account of the Secured Obligations hereby secured, being accountable only for rents, issues and profits as are collected by it while in possession.

G. Upon the filing of a complaint to collect the amount due on any Secured Obligation, the Mortgagee shall be entitled to the appointment of a receiver of the rents, issues and profits of the Premises without the necessity of proving either inadequacy of the security or insolvency of the Mortgagors or any person who may be legally or equitably liable to pay moneys secured hereby, and the Mortgagors and each such person waive such proof and consent to the appointment of a receiver.

H. To exercise any and all rights and remedies conferred upon secured parties by the Uniform Commercial Code and other applicable laws.

In addition to the above remedies, if the Mortgagors commits a breach or threatens to commit a breach of this Mortgage, the Mortgagee shall have the right and remedy, without posting bond or other security, to have the provisions of this Mortgage specifically enforced by any court having equity jurisdiction, it being acknowledged and agreed that any such breach or threatened breach will cause immediate and irreparable injury to the Mortgagee and that the Mortgagee's rights in and to the Premises will not provide an adequate remedy therefor.

All proceeds received from the sale or other disposition of the whole or any part of the Premises shall be applied as follows: (i) first, to the payment of all fees, costs and expenses incurred by the Mortgagee in connection with such sale or disposition; (ii) second, to the payment in full of the Secured Obligations; and (iii) third, the balance, if any, of such proceeds remaining after payment in full of the foregoing, to the Mortgagors or as a court of competent jurisdiction may otherwise direct.

Without limiting the foregoing, in exercising its remedies upon the occurrence of an Event of Default, the Mortgagee (i) shall not be responsible nor liable for any shortage, discrepancy, damage, loss or destruction of any part of the Premises regardless of the cause thereof unless the same shall happen through its gross negligence or willful misconduct; (ii) shall be entitled to the appointment (without notice and without proof of diminution in value of the Premises) of a receiver to take possession of all or any portion of the Premises and to exercise such powers as the court shall confer upon the receiver; and (iii) generally may perform all acts necessary or proper to carry out the intention of this Mortgage, as fully and completely as though the Mortgagee were the absolute owner of the Premises for all purposes, and the Mortgagors hereby ratifies and confirms all that the Mortgagee shall do by virtue of this grant of power.

The rights and remedies of the Mortgagee hereunder shall be in addition to every other right and remedy now and hereafter provided by law; the rights and remedies of the Mortgagee shall be cumulative and not exclusive one of the other; the Mortgagee may exercise the same at such times, in such order, to such extent, and as often as Mortgagee deems advisable, and without regard to whether the exercise of one precedes, concurs with, or succeeds the exercise of another; no delay or omission by the Mortgagee in exercising a right or remedy shall exhaust or impair the same, or constitute a waiver of, or acquiescence in, the Event of Default; and no waiver of an Event of Default by the Mortgagee shall extend to or affect any other Event of Default or impair any right or remedy with respect thereto.

VI. **MISCELLANEOUS**.

A. **NOTICES**. All notices and other communications given to or made upon any party hereto in connection with this Mortgage shall, except as otherwise expressly herein provided, be in writing and hand delivered or sent by first class United States mail, postage

prepaid, return receipt requested, or by reputable overnight courier providing a receipt against delivery, to the respective parties, as follows:

Mortgagors: Mary Hanslovan
Edward Hanslovan
address

-with a copy to-
Carl Balan, Esq.
address

Mortgagee: General Electric Capital Corporation
Old Ridgebury Road
Danbury, Connecticut 06810
Att: Mark Skura

-with a copy to-

Oppenheimer Wolff & Donnelly LLP
The Chrysler East Building – Suite 1900
New York, New York 10017-4011
Att: Elena Lazarou, Esq.

or to such changed address as may be fixed by notice. All such notices and other communications shall, except as otherwise expressly herein provided, be effective when received by the party to whom properly addressed, the written receipt by any employee of any such party constituting sufficient evidence of such receipt.

B. **INDULGENCES; EXTENSIONS**. The Mortgagee, with respect to the Secured Obligations secured hereby, the Premises and the Mortgagor's obligations hereunder, may waive compliance with any of the provisions hereof, and may release all or any part of the Premises from any lien hereof, without affecting the priority or validity of the lien hereof upon the remainder of the Premises.

C. **INVALID PROVISIONS TO AFFECT NO OTHERS**. In case any one or more of the covenants, agreements, terms or provisions contained in this Mortgage shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms or provisions contained herein shall be in no way affected, prejudiced or disturbed thereby.

D. **SUCCESSORS AND ASSIGNS; PLURALS**. All of the grants, covenants, terms, provisions and conditions of this Mortgage shall run with the land and bind the Mortgagors, its legal representatives, heirs, successors and assigns, and shall inure to the benefit of the Mortgagee, the successors and assigns of the Mortgagee and all subsequent

holders of this Mortgage. As used herein the singular shall include the plural and vice versa as the context requires.

E. **CAPTIONS**. The captions herein are inserted only for convenience of reference and in no way define, limit or describe the scope or intent of this Mortgage or any particular paragraph or section hereof, nor the proper construction hereof.

F. **GOVERNING LAW**. This Mortgage is to be construed according to the laws of the State of Ohio.

H. **COUNTERPARTS. THIS MORTGAGE CANNOT BE CHANGED ORALLY**

I. WAIVER OF JURY TRIAL. THE MORTGAGORS HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN CONNECTION WITH ANY AND ALL LITIGATION INVOLVING THE SUBJECT MATTER OF THIS MORTGAGE.

J. RECEIPT OF MORTGAGE. THE MORTGAGORS HEREBY ACKNOWLEDGES RECEIPT OF A TRUE COPY OF THIS MORTGAGE, WITHOUT CHARGE.

IN WITNESS WHEREOF, the Mortgagors have caused this Mortgage to be executed and delivered as of the day and year first above written.

WITNESS:

_____

Mary Hanslovan

_____

Sworn to before me this
___st day of August, 2002.

_____
Notary Public

WITNESS:

_____

Edward Hanslovan

By:_____

Sworn to before me this
___st day of August, 2002.

_____
Notary Public

MORTGAGE AND SECURITY AGREEMENT

Dated: August __, 2002

From

Edward Hanslovan
and
Mary Hanslovan
address

To

General Electric Capital Corporation
44 Old Ridgebury Road
Danbury, Connecticut 06801

LOCATION OF PREMISES:

Street Address:

Town:
County: _____
State: Pennsylvania
Section: _____
Block: _____
Lot: _____

After recording, please return to:

OPPENHEIMER WOLFF & DONNELLY LLP
The Chrysler East Building
666 Third Avenue, Suite 1900
New York, New York 10017-4011
Attn: Elena Lazarou, Esq.

ALL-STATE® LEGAL 800-222-0510 ED11 RECYCLED

MODIFICATION AGREEMENT
GE Capital Account No. 6048055-003

THIS MODIFICATION AGREEMENT ("Modification Agreement") is made and entered into as of this ___ day of August 2002, by and between GENERAL ELECTRIC CAPITAL CORPORATION ("GE Capital"), a Delaware corporation with a place of business at 44 Old Ridgebury Road, Danbury, Connecticut and ED HANSLOVAN COAL COMPANY, INC. ("Debtor") a corporation with a place of business at Route 2 Box 230, Morrisdale, PA 16858

RECITALS

WHEREAS, the Debtor leased certain commercial equipment from GE Capital pursuant to a Master Lease Agreement dated April 5, 1996 (as modified or amended, the "Lease");

WHEREAS, the Debtor is currently in default of the obligations due under the Lease;

WHEREAS, the Debtor has requested that GE Capital modify the obligations due under the Lease; and

WHEREAS, GE Capital is willing to modify Debtor's obligations under the Lease as requested subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of these promises and the covenants contained herein and for other good and valuable consideration, the receipt and adequacy of which the parties hereby acknowledge, the parties hereby agree as follows:

I. ACKNOWLEDGMENTS, REPRESENTATION AND COVENANTS: Debtor does hereby represent, acknowledge, warrant and covenant to GE Capital that:

(1) The recitals set forth above are true and accurate;

(2) The Lease is duly executed, binding obligation of Debtor and has not been terminated and the copies of same attached hereto as Exhibit A, respectively, and made a part hereof are true, complete and accurate copies of same;

(3) The Debtor has adequate power and capacity to enter into this Modification Agreement;

(4) The entry into and performance by Debtor of the obligations under this Modification Agreement, and the Lease do not (i) violate any judgment, order law or regulation applicable to Debtor; or (ii) result in any breach of, constitute a default under or result in the creation of any lien, charge, security interest or other encumbrance upon any unit of Equipment (as defined in the Lease) pursuant to any indenture security agreement, deed of trust, bank loan or credit agreement or other instrument to which Debtor is a party;

(5) There are no suits or proceedings pending or threatened in court or before any regulatory commission, board or other administrative governmental agency against or affecting Debtor, which will have a material adverse effect on the ability of Debtor to fulfill its obligations under this Modification Agreement, or the Lease;

(6) The financial statements of Debtor, heretofore delivered to GE Capital accurately present the financial position of Debtor, as of the date of delivery, and there has been no material adverse change in the financial condition of Debtor since the date of such financial statements;

(7) Debtor agrees that, notwithstanding any provision to the contrary herein, it will continue to fulfill any and all of its duties and obligations under the Lease except as those duties and obligations are modified by this Modification Agreement;

(8) As of the date hereof, there is Five Hundred Thirteen Thousand One Hundred Ninety Seven Dollars and 32/100 ($513,197.32) due and owing under the Lease, ("the Account Balance")

II. MODIFICATION:

(1) The payment schedule of the Lease is hereby modified to reflect payment of the Account Balance as follows:

(a) One (1) payment of Seven Thousand Seven Hundred Nineteen Dollars and 88/100 ($7,719.88) by August 31, 2002;

(b) Thirty Six (36) monthly payments of Fourteen Thousand Forty One Dollars and 4/100 ($14,041.04), each payable on the 15th of the month commencing with the month of September 2002, and ending August 2005.

(2) The Lease is hereby modified, as necessary, to incorporate the modifications set forth herein.

III. ADDITIONAL SECURITY: To further secure its obligations to GE Capital under the Lease, and as additional consideration for entering into this Modification Agreement, the Debtor agrees to grant GE Capital:

(1) a security interest in and to the premises located at Morris Township, Clearfield County, executing, a Mortgage and Security Agreement in favor of GE Capital, substantially in the form annexed as Exhibit B hereto within ten (10) days of the date hereof;

(2) a security interest in certain mineral reserves, more fully described in the annexed Exhibit C, by executing a Mortgage and Security Agreement in favor of GE Capital substantially in the form annexed as Exhibit D hereto within ten (10) days of the date hereof;

IV. REMAINING TERMS AND CONDITIONS CONTINUE IN EFFECT

(1) Except as expressly modified herein, allconditions and terms of the Lease shall continue in full force and effect in accordance with its original terms and conditions. NO TERMS OR CONDITIONS OF THE LEASE HAVE BEEN ALTERED OR ADJUSTED IN ANY WAY EXCEPT FOR THE DUE DATES OF PAYMENT OF THE ACCOUNT BALANCE.

(2) All Exhibits referenced herein and attached hereto are incorporated herein by reference.

(3) If this Modification Agreement is deemed unenforceable in any respect, then the parties agree that the Lease shall be enforceable in accordance with their original terms and conditions as if this Modification Agreement had never been executed.

(4) It is the intention of the parties to comply with all applicable usury laws; accordingly, it is agreed that, notwithstanding any provision to the contrary in this Modification Agreement or the Lease, in no event shall any of the foregoing require the payment or permit the collection of interest in excess of the maximum amount permitted by applicable law. If any such excess interest is contracted for, charged or received thereunder, or in the event that all of the Account Balance shall be prepaid, so that under any of such circumstances the amount of interest contracted for, charged or received under this Modification Agreement or the Lease results in the Account Balance exceeding the maximum amount of interest permitted by applicable law, then in such event (a) the provisions of this Section shall govern and control, (b) neither Debtor nor any other person or entity now or thereafter liable for the payments shall be obligated to pay the amount of such interest to the extent that it is in excess of the maximum amount of interest permitted by applicable law, (c) any such excess which may have been collected shall be either applied as a credit against the then unpaid Account Balance or refunded to the party having paid same, at the option of GE Capital, and (d) the effective rate of interest shall be automatically reduced to the maximum lawful contract rate allowed under applicable law as now or hereafter construed by the courts having jurisdiction thereof.

(5) Any payment received from Debtor may be applied by GE Capital at any time against any obligation due and owing by Debtor under the Modification Agreement or the Lease, in GE Capital's sole discretion, notwithstanding any statement appearing on or referred to in any remittance from customer or any prior application of such payment. In the event any bankruptcy proceedings are instituted by or against Debtor under any applicable bankruptcy law within 90 days after receipt by GE Capital of any such payment, such payment shall be deemed applicable to unpaid obligations then due thereunder in the inverse order of maturity.

(6) Debtor hereby certifies, agrees and acknowledges that the Equipment is installed and fully operational and is now and will continue to be used in the conduct of the Debtor's business.

(7) This Modification Agreement shall be binding upon and shall inure to the benefit of all the parties hereto and their respective administrators, successors and permitted assigns.

(8) No waiver, amendment, release, or modification of this Modification Agreement shall be established by conduct, custom, or course of dealing, but solely by an instrument in writing duly executed by the parties.

(9) Debtor shall take any and all acts and execute any and all documents reasonably requested by GE Capital to effectuate the terms of this Modification Agreement. In the event the Debtor fails to do so, or fails to timely execute any of the documents referenced herein, then this Modification Agreement shall become null and void and of no force or effect, and the parties shall return to the status quo and shall deemed to have waived any rights or defenses with respect to the Lease.

(10) This Modification Agreement shall be governed by and interpreted under the laws of the State of Connecticut.

(11) The invalidity or unenforceability of any one or more phrases, sentences, clauses, or section contained in this Modification Agreement shall not affect the validity or enforceability of the remaining portions of this Modification Agreement, or any part thereof.

(12) Debtor unconditionally waives its rights to a jury trial or any claim or cause of action based upon or arising out of this Modification Agreement, any of the related documents, any dealing between GE Capital and the Debtor relating to the subject matter of this Modification Agreement or any related documents or transactions, and/or the relationship that is being established between GE Capital and the Debtor. The scope of this waiver is intended to be all encompassing of any and all disputes that may be filed in any court. This waiver is irrevocable. This waiver may not be modified either orally or in writing. This waiver also shall apply to any subsequent amendments, renewals, supplements or modifications to this Modification Agreement, any related documents, or to any other documents or agreements relating to this transaction or any related transaction. This Modification Agreement may be filed as a written consent to a trial by the court.

(13) Debtor agrees to pay all reasonable attorneys' fees and other costs incurred by GE Capital in connection with the enforcement, assertion, defense or preservation of GE Capital's rights and remedies under this Modification Agreement, or if prohibited by law, such lesser sum as may be permitted. Debtor further agrees that such fees and costs shall constitute and be added to the Account Balance.

(14) This Modification Agreement may be executed in counterparts and facsimile signatures shall be deemed originals.

IN WITNESS WHEREOF, the parties hereto have executed this Modification Agreement and have caused this Modification Agreement to be executed by their respective duly authorized representatives as of the day first above-written.

DEBTOR:

ED HANSLOVAN COAL COMPANY, INC.

By: Ed. Hanslovan

Title: Pres.

GENERAL ELECTRIC CAPITAL CORPORATION

By: _____

Title: _____

EACH OF THE UNDERSIGNED GUARANTORS HEREBY AGREES AND CONSENTS TO ALL OF THE TERMS, CONDITIONS, AND MODIFICATION SET FORTH HEREIN.

MARY HANSLOVAN

By: Mary Hanslovan

Title: Sec. Treas.

EDWARD HANSLOVAN

By: Edward Hanslo

Title: Pres.

HANSLOVAN TRUCKING COMPANY, INC.

By: Mary Hanslovan

Title: Pres.

Exhibit A

Lease Agreement # 1278

6048055-002
00024280

MASTER LEASE AGREEMENT

THIS MASTER LEASE AGREEMENT, dated as of March 07, 1996, (the "Master Agreement") is entered into between Vision Financial Group, Inc., a Pennsylvania corporation (hereinafter called "Lessor"), having its principal place of business at The Pennsylvanian, 1100 Liberty Avenue, Pittsburgh, Pennsylvania 15222, and Ed Hanslovan Coal Co., Inc., a Pennsylvania corporation (hereinafter called "Lessee"), having its principal place of business at Box 230, Route 2, Morrisdale, Pennsylvania 16858.

As used herein, the terms "Basic Rent Date", "Casualty Value", "Expiration Date", "Installation Date", "Installation Location", "Overdue Rate" and any additional defined terms required shall have the meanings with respect to each item of Equipment set forth on the Equipment Schedule which describes such item of Equipment.

Section I - Lease and Rental

1.1 Lease of Equipment. Subject to the terms and conditions of this Master Agreement, Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the items of personal property (collectively the "Equipment" or individually an "item of Equipment") described in Equipment Schedules executed by Lessor and Lessee from time to time pursuant to this Master Agreement. Each Equipment Schedule shall be considered a separate lease incorporating the terms and conditions of this Master Agreement and shall be referred to herein as the "Lease" with respect to the Equipment described on such Equipment Schedule. Notwithstanding Lessee's possession and use of the Equipment, Lessor shall retain the full legal title to the Equipment, it being expressly understood that the Lease is a true lease of Equipment owned by Lessor and not a security instrument. On the Installation Date of each item of Equipment, such item of Equipment shall be deemed delivered, accepted by Lessee and subject to the terms and conditions of the Lease. Upon Lessor's request, Lessee will promptly execute and deliver an Acceptance Certificate (prepared by Lessor), confirming such Installation Date. Lessor may complete information, on Lessee's behalf, on the Acceptance Certificate if it is returned incomplete by Lessee.

1.2 Rental. Lessee shall pay to Lessor or its Assignee the rent set forth on the Lease for each item of Equipment (hereinafter referred to as "Basic Rent"). Lessee shall also pay to Lessor or its Assignee the following amounts ("Supplemental Rent" and, together with Basic Rent, "Rent"): (i) On the date provided herein, any amount payable hereunder as Casualty Value or any other amounts payable by Lessee pursuant to the Lease; and (ii) On demand, to the extent permitted by applicable law, interest at the Overdue Rate on any payment of Rent which is not received by Lessor or Assignee on the applicable due date. Interest shall accrue from the due date until the amount is received.

1.3 Net Lease. The Lease is a net lease, and Lessee acknowledges and agrees that Lessee's obligation to pay all Rent thereunder, and the rights of Lessor in and to such Rent, shall be absolute and unconditional and shall not be subject to any abatement, reduction, set-off, defense, counterclaim or recoupment ("Abatements") for any reason whatsoever, including, without limitation, Abatements due to any present or future claims of Lessee against Lessor under the Lease or otherwise, against the manufacturer or supplier of any item of Equipment, or by reason of any defect in or damage to, or any loss or destruction of any item of Equipment, or the interference with the use thereof, or the bankruptcy or insolvency of Lessor, it being the express intention of Lessor and Lessee that all Rent payable by Lessee thereunder shall be and continue to be payable in all events. To the extent permitted by applicable law, Lessee hereby waives any and all rights and remedies conferred upon a lessee by sections 2A-508 through 2A-522 of the UCC, including, but not limited to, Lessee's rights to: (i) cancel or repudiate this Lease; (ii) reject the Equipment or revoke acceptance of the Equipment; (iii) a security interest in the Equipment in Lessee's possession or control for any reason; (iv) specific performance, replevin, detinue, sequestration, claim and delivery of the like for any Equipment identified to this Lease. To the extent permitted by applicable law, Lessee also hereby waives any rights now or hereafter conferred by statute or otherwise which may require Lessor to sell, lease or otherwise use any Equipment in mitigation of Lessor's damages hereunder or which may otherwise limit or modify any of Lessor's rights or remedies hereunder.

1.4 **Term of Lease.** The term of the Lease for each item of Equipment shall commence on the Installation Date and shall expire on the Expiration Date for such item of Equipment unless, as provided herein, the Lease shall have been earlier terminated, or the term of the Lease shall have been extended. The Lease shall be automatically extended beyond the Expiration Date, unless (i) Lessor has previously terminated the Lease (as provided in Section 4.2) or (ii) at least 120 days prior to the Expiration Date, Lessee gives Lessor written notice of its election to terminate the Lease on the Expiration Date and then properly surrenders the Equipment to Lessor (as set forth in Section 3.11 herein) on the day immediately following the Expiration Date. The term of the Lease extension shall be for successive full monthly periods until terminated by either party giving to the other not less than four months prior written notice of termination. If the term of the Lease is so extended, all terms and conditions of the original Lease shall remain in full force and effect.

Section II - Representations and Warranties

2.1 **Warranties; Disclaimers.** Lessee represents to Lessor that, as of the Installation Date, Lessee shall have (a) inspected the Equipment, (b) determined that all items of Equipment are of a size, design, capacity and manufacture selected by it, and (c) satisfied itself that all items of Equipment are suitable for Lessee's purposes. Lessee acknowledges that (i) Lessor did not select, manufacture or supply the Equipment, (ii) Lessor acquired the Equipment or the right to possession and use of the Equipment in connection with the Lease, and (iii) Lessee has reviewed and approved the supply contract evidencing Lessor's purchase of the Equipment. EXCEPT AS SPECIFICALLY PROVIDED HEREIN, LESSOR HEREBY DISCLAIMS ANY AND ALL REPRESENTATIONS AND WARRANTIES, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE DESIGN OR CONDITION OF THE EQUIPMENT, ITS MERCHANTABILITY OR ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OR CAPACITY OF THE EQUIPMENT, OR ITS CONFORMITY TO THE SPECIFICATIONS OF ANY ORDERS RELATING THERETO, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN LESSOR AND LESSEE, ARE TO BE BORNE BY LESSEE AT ITS SOLE RISK AND EXPENSE. LESSOR SHALL NOT BE LIABLE IN ANY WAY TO LESSEE (i) FOR ANY LOSS, DAMAGE, OR EXPENSE OF ANY KIND CAUSED DIRECTLY OR INDIRECTLY BY THE EQUIPMENT, ITS OPERATION, OR THE INSTALLATION, USE, MAINTENANCE, HANDLING, OR STORAGE THEREOF, OR BECAUSE IT IS OR BECOMES UNSUITABLE OR UNSERVICEABLE, OR FOR ANY INTERRUPTION OF SERVICE OR LOSS OF USE THEREOF, OR (ii) FOR ANY LOSS OF BUSINESS OR PROFITS OR INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, WHATSOEVER OR HOWSOEVER CAUSED, AND REGARDLESS OF WHETHER A CLAIM IS BASED UPON CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY IN TORT, OR OTHER THEORY. LESSOR MAKES NO PATENT WARRANTIES OR REPRESENTATIONS WHATSOEVER. Lessee agrees to look solely to the manufacturer or the supplier of the Equipment and all assignable warranties made by the manufacturer or the supplier of Lessor are hereby assigned to Lessee for the term of the Lease.

2.2 **Quiet Enjoyment.** Lessor covenants that so long as no Event of Default has occurred under the Lease, Lessee may quietly possess the Equipment subject to and in accordance with provisions of the Lease.

Section III - Covenants of Lessee

3.1 **Use of Equipment.** Lessee shall use the Equipment in a manner which will not disqualify it for manufacturer maintenance, and in compliance with all laws, rules and regulations of every governmental authority having jurisdiction over the Equipment and with the provision of all policies of insurance carried by Lessee pursuant to Section 3.5. Lessee shall pay all costs, expenses, fees and charges incurred in connection with the use and operation of the Equipment.

3.2 **Maintenance.** Lessee shall, at its expense, take all actions necessary to maintain and repair the Equipment to keep it in as good operating condition as it was when it first became subject to the Lease, ordinary wear and tear resulting from proper use excepted and, unless otherwise expressly provided for in the Lease, shall enter into and keep in force a maintenance agreement with the manufacturer or other maintenance provider acceptable to Lessor to provide such maintenance and repair. Lessee shall, at its expense, promptly replace all parts of any item of Equipment that become worn out, lost, stolen, destroyed, or unfit for use with replacement parts free of any encumbrance (and title thereto shall vest in Lessor immediately upon installation); provided, however that the foregoing requirement to replace parts of Equipment shall not apply in the case of an Event of Loss as described in Section 3.4(b)(ii) herein.

3.3 **Taxes.** In addition to the [illegible]due hereunder, Lessee agrees to pay and [illegible]ify Lessor for, and hold Lessor harmless from and against all taxes, assessments, fees and charges (hereinafter called "Imposts") together with any penalties, fines or interest thereon levied and imposed by any governmental agency or unit (state, local, federal, domestic or foreign): (a) with respect to the Lease; (b) upon the Equipment, its value or any interest of Lessor and/or Lessee therein; (c) upon or on account of any sale, rental, purchase, ownership, possession, use, operation, maintenance, delivery or return of the Equipment; or (d) on account of, or measured by, the gross earnings or gross receipts arising from the Equipment, or value added thereto, other than taxes imposed on or measured by the net income or capital of Lessor. If Lessor is obligated to directly pay any Impost, the amount of such Impost shall become Supplemental Rent to be paid by Lessee upon Lessor's demand. Unless otherwise specified in the Lease, Lessee agrees to make and file all reports and returns required to be made with respect to Imposts and indemnifies and holds Lessor harmless from all loss, cost, damage or expense arising out of any failure to prepare and promptly file any such reports or returns. In the event Lessor is billed for any Impost or is obligated to file any tax report or return, Lessee shall reimburse Lessor, upon invoice, an amount equal to Lessor's average administrative costs of preparing such reports and returns plus any related payments. If any Impost is assessed while Lessee has possession of the Equipment, then Lessee's liability for such Impost shall continue, notwithstanding the expiration or termination of the Lease, until all such Imposts are paid by Lessee.

3.4 **Loss of Equipment.**

(a) **Risk of Loss.** Lessee shall bear the entire risk of the Equipment being lost, damaged, destroyed or rendered permanently unfit or unavailable for use after its shipment to Lessee and until it is surrendered to Lessor in accordance with Section 3.11 hereof.

(b) **Damage/Event of Loss.** (i) In the event any item of Equipment is damaged to a material extent in Lessor's judgement by any occurrence whatsoever, Lessee shall promptly notify Lessor and shall determine within 15 days of the date of such notice whether such item of Equipment can be repaired. If such Equipment can be repaired, Lessee shall, at its cost and expense, repair such Equipment to its original condition. (ii) In the event any item of Equipment shall be lost, stolen, destroyed, damaged beyond repair or rendered permanently unfit or unavailable for use (through a governmental taking or any other event), for any reason whatsoever (any such occurrence being referred to as an "Event of Loss"), Lessee shall promptly notify Lessor and pay to Lessor, on the first day of the month immediately following such Event of Loss, an amount equal to the Casualty Value applicable to such item of Equipment calculated as of the immediately preceding Basic Rent Date plus any unpaid Rent and the installment of Basic Rent for such item of Equipment due on the Basic Rent Date following the Event of Loss. After the payment of such amounts, Lessee's obligation to pay further Basic Rent for such item of Equipment shall cease, but Lessee's obligation to pay Supplemental Rent, if any, for such item of Equipment, and to pay Rent for all other items of Equipment shall remain unchanged. (iii) Following payment of the Casualty Value and Basic Rent for an item of Equipment in accordance with the provisions of paragraph (ii) of this Section 3.4(b), Lessee may, as agent for Lessor, dispose of such item of Equipment as soon as it is able to do so on an as is, where is basis without representation or warranty. Lessee may, after paying Lessor the amounts specified in the immediately preceding paragraph (ii) retain all of such sale proceeds up to an amount equal to the sum of the Casualty Value plus the reasonable costs of sale with any excess proceeds remitted to Lessor.

(c) **Disposition of Insurance and Other Proceeds.** The proceeds of insurance or any condemnation of an item of Equipment for which an Event of Loss has occurred shall be paid to Lessor (to the extent that Lessor has not previously received all Casualty Value and other payments required to be made by Lessee pursuant to the Lease), and the remainder, if any, shall be paid to Lessee. The proceeds of insurance with respect to damage to an item of Equipment, the repair of which, in the opinion of Lessee, is practicable, shall unless an Event of Default hereunder has occurred and is continuing, be applied either to such repair or to the reimbursement of Lessee for the cost of such repair.

3.5 **Insurance.**

(a) **Coverage.** Lessee will insure for the following risks with insurers of recognized responsibility: (i) All risk of loss and physical damage to the Equipment in amounts not less than the greater of (i) the fair market replacement value or (ii) the aggregate Casualty Value of all Equipment from time to time. (ii) Comprehensive public liability and property damage insurance with respect to the condition, possession, maintenance, operation and use of the Equipment, in an amount not less than $2,000,000 for each occurrence.

(b) **Delivery of Certificates.** Lessee shall deliver to Lessor and any Assignee(s) a valid Certificate of Insurance for each such insurance policy upon the execution thereof and a Certificate of Insurance for each renewal policy not less than 30 days prior to the expiration of the original policy or any renewal policy. Such insurance shall (i) include as additional parties insured and loss payees Lessor and any Assignee(s) of whom Lessee has notice, (ii) provide that such insurance shall not be materially changed or canceled without at least 30 days notice to Lessor and such Assignees, and (iii) provide that such policy shall not be invalidated by any negligence of, or breach of warranty by, Lessee. Upon the request of Lessor, Lessee shall provide any additional data related to the insurance as Lessor reasonably requests.

3.6 Indemnity. Lessee hereby indemnifies and holds Lessor harmless from and against all claims, costs, expenses, damages, losses and liabilities whatsoever (including without limitation claims involving strict liability in tort), incurred by Lessor (including fees and expenses of counsel), as a result of or incident to (a) the ownership, management, control, use, operation, or storage of the Equipment, or any part thereof during the term of the Lease, (b) any defect in the Equipment resulting in costs, expenses, damages or liabilities, (c) any actual or claimed patent or similar infringement, or (d) any default by Lessee under the Lease. Lessee and Lessor shall each give the other immediate written notice of any suit, attachment, lien or other judicial process affecting the Equipment of which they have knowledge. Lessee shall satisfy, pay and discharge any and all judgments and fines that may be recovered against Lessor in any such action or actions. Lessor shall have the right to appear in defense of any such suit or proceeding. The appearance of Lessor in such a suit or proceeding shall not constitute a waiver of its right to require Lessee to fulfill its obligations under the Lease.

3.7 Inspection. Lessee shall permit any person designated by Lessor, at Lessor's expense, to visit and inspect the Equipment, or any part thereof, at such reasonable times and places and as often as Lessor may reasonably request.

3.8 Possession; Assignment; Pledge. Lessee shall not:

(a) ASSIGN OR IN ANY WAY DISPOSE OF ALL OR ANY PART OF ITS RIGHTS OR OBLIGATIONS UNDER THIS LEASE OR ENTER INTO ANY SUBLEASE OF ALL OR ANY PART OF THE EQUIPMENT WITHOUT THE PRIOR WRITTEN CONSENT OF LESSOR. Lessor hereby agrees that Lessee may permit the parent or a subsidiary of Lessee to use the Equipment in the ordinary course of its business at the Installation Location; or

(b) Assign the Lease or its interest hereunder; or

(c) Create, incur, assume or suffer to exist any liens on or with respect to the Equipment, Lessor's title thereto or any interest therein (and Lessee will promptly, at its own expense, take such action as may be necessary duly to discharge any such lien), except (i) the respective rights of Lessor and Lessee as herein provided, (ii) inchoate materialmen's, mechanic's or other like liens arising in the ordinary course of business of Lessee and not delinquent, and (iii) liens granted by Lessor to any Assignee; or

(d) Move any item of Equipment from the Installation Location (set forth in the Lease) without the prior written consent of Lessor, such consent not to be unreasonably withheld.

3.9 Identification. Upon request, Lessee shall mark or permit Lessor to mark each item of Equipment in a reasonably prominent location with a legend stating Lessor's ownership of such item of Equipment and Lessee shall not allow the name of any other party to be placed on the Equipment.

3.10 Alterations, Modifications or Additions. Lessee may, at its own expense and upon prior notice to Lessor, make or permit others to make Equipment alterations, modifications or additions (such as memory upgrades and feature additions), provided such alterations, modifications or additions are readily removable without causing material damage to the Equipment, do not interfere with the maintenance thereof, do not create a safety hazard, and are not subject to any security interest, rent or other right or claim held or retained by a third party. Such alterations, modifications and additions may be removed by Lessee at the expiration or termination of the Lease term (including any extensions), and shall be removed at such time if requested by Lessor. Any such alterations, modifications and additions which are not removed by Lessee shall become the property of Lessor. Except as specially provided above, no Equipment alterations, modifications or additions shall be made or permitted by Lessee.

3.11 Transportation and Equipment Return. All transportation, rigging, ... insurance and other charges payable for delivery of the Equipment to and from the premises of Lessee, and all installation, disconnect and packing charges, shall be paid by Lessee or the Equipment supplier. On or before the Expiration Date or earlier termination of the Lease, Lessee shall at its cost and expense surrender possession of the Equipment at such location(s) in the continental United States of America as Lessor may direct. The Equipment shall be repacked and returned to Lessor in the original or functionally equivalent packing materials provided by the vendor at delivery, with all cables, diagnostics, documentation and accessories (if any) provided upon delivery or at any time during the term of the Lease. Upon the return of the Equipment, Lessee shall identify on the outside of each container the serial numbers and models of the Equipment packed therein. The Equipment is to be in the same condition upon its surrender as when the Lease commenced (ordinary wear and tear resulting from proper use excepted). Computer, communications and similar equipment shall be returned with a certificate from the manufacturer that the Equipment (including any software) has been tested and is functioning properly, that the operating system is at current level, and that the Equipment is qualified for manufacturer maintenance at standard rates without any reconditioning, initial set-up or license charges. In the event that Lessee does not provide such a certificate, Lessor shall have the right to have the Equipment tested and Lessee shall promptly pay for the cost of such testing and any parts, shipping materials, or repairs necessary to bring the Equipment to its original performance condition (ordinary wear and tear excepted) and any updates necessary to bring the operating system to current level. The Lease shall remain in full force and effect and Lessee shall continue to pay Rent on the Equipment until it is surrendered to Lessor in the condition and with the certification described above.

3.12 Financial Statements. Lessee shall upon execution hereof and within 90 days after the close of each fiscal year thereafter, furnish, or cause to be furnished to Lessor and any Assignee, the reviewed annual financial statements of Lessee. In addition, upon request, Lessee will provide to Lessor and any Assignee quarterly financial statements in a form reasonably acceptable to the Lessor.

3.13 Federal Income Taxes. All Tax Benefits are for the account of the Lessee.

3.14 Representations and Warranties. Lessee hereby covenants, represents and warrants to Lessor that (i) it is a corporation duly organized, validly existing and in good standing in its state of incorporation and in every jurisdiction in which the Equipment will be located, (ii) it has taken all corporate action required to authorize the execution, delivery and performance of this Master Agreement and each Lease, and such execution, delivery and performance will not conflict with or violate any provisions of its charter or articles or certificate of incorporation, by-laws or any provisions of any agreement, order, decree or judgment by which it is bound, nor is it now in default under any of the same, (iii) there is no litigation or proceeding pending or threatened against it which may have a materially adverse effect on Lessee or which would prevent or hinder performance of its obligations hereunder, (iv) this Master Agreement, each Lease and all documents provided therewith constitute valid obligations of Lessee, binding and enforceable against it in accordance with their respective terms, (v) it has the power to enter into each Lease and no further action by any party is required to effectuate this Master Agreement and each Lease, (vi) all financial statements heretofore presented to Lessor are true, correct and present fairly the financial condition and results of operations of Lessee and do not contain any untrue statements or material omissions.

Section IV - Default & Remedies

4.1 Events of Default. The occurrence of any of the following shall constitute an "Event of Default" hereunder:

(a) Lessor shall fail to receive all or any portion of any installment of Rent or other payment on or before the date such sum becomes due and payable; or

(b) Any representation or warranty made in the Lease, or in any report, certificate, financial statement or other statement furnished to Lessor pursuant to the provisions of the Lease, shall prove to have been false or misleading in any material respect as of the date on which the same was made; or

(c) An attachment or other lien against the Equipment resulting from any Lessee action, failure to act or responsibility shall be issued or entered and shall remain undischarged or unbonded for ten days; or

(d) Lessee (i) becomes insolvent, or (ii) files any application or petition in any tribunal for the appointment of a receiver or trustee for all or a significant portion of its assets, or (iii) commences any proceeding under any bankruptcy or reorganization statute or under any provision of the U.S. Bankruptcy Code or under any dissolution or liquidation law whether now or hereafter in effect, or if any petition or application of the type described above is commenced against Lessee and is not dismissed within thirty days, or (iv) makes an assignment for the benefit of creditors or an order is entered appointing a trustee or receiver for Lessee or any significant portion of its assets or adjudicating Lessee a bankruptcy; or

(e) A proceeding or case is commenced without the application or consent of Lessee, in any court of competent jurisdiction, seeking (i) the liquidation, reorganization, dissolution, winding up of Lessee or composition or readjustment of the debts of Lessee, (ii) the appointment of a trustee, receiver, custodian, liquidation or similar official for Lessee or for all or any substantial part of its assets, or (iii) similar relief with respect to Lessee under any law providing for the relief of debtors; or an order for relief is entered with respect to Lessee in an involuntary case under the United States Bankruptcy Code, and now or hereafter in effect, or an action under the laws of the jurisdiction of incorporation or organization of Lessee, similar to any of the foregoing, is taken with respect to Lessee without its application or consent; or

(f) Lessee ceases to exist or terminates its independent operations by reason of any discontinuance, dissolution, liquidation, merger, sale of substantially all of its assets, or otherwise ceases doing business as a going concern; or

(g) Lessee defaults under any promissory note, credit agreement, loan agreement, conditional sales contract, guaranty, lease, indenture, bond, debenture or other material obligation whatsoever, and a party thereto or a holder thereof is entitled to accelerate the obligations of Lessee thereunder; or Lessee defaults in meeting any of its trade, tax or other current obligations as they mature, unless such obligations are being contested diligently and in good faith.

4.2 Remedies.

(a) If an Event of Default occurs under the Lease, Lessor may give Lessee notice of the Event of Default and upon the giving of such notice or at any time thereafter do any or all of the following (as Lessor in its sole discretion elects): (1) proceed by appropriate court action or actions to enforce performance by Lessee of the applicable covenants and terms of the Lease or to recover damages for the breach thereof; (2) take possession (by summary proceedings or otherwise) of any or all items of Equipment subject to the Lease without prejudice to any other remedy or claim herein referred to; (3) hold, sell, lease, or otherwise dispose of, any or all items of Equipment subject to the Lease, in any manner Lessor (in its sole discretion) elects; (4) receive from Lessee upon demand for any or all Equipment subject to the Lease the following amounts which Lessee shall be obligated to pay: (i) any unpaid Rent past due, (ii) as liquidated damages for loss of bargain and not as a penalty, the Rent otherwise due on the Basic Rent Date immediately following the date such demand is made, plus the remaining aggregate Casualty Value for such Equipment under the Lease calculated as of the Basic Rent Date immediately preceding the
date such notice is given, (iii) all costs and expenses incurred in searching for, taking, removing, keeping, storing, repairing, and restoring such items of Equipment, (iv) all other amounts then owing by Lessee hereunder, and (v)

all costs and expenses, including (without limitation) reasonable legal fees and expenses, incurred by Lessor as a result of an Event of Default, termination of this Lease, or the exercise by Lessor of its remedies under this Section 4.2; (5) by notice to Lessee, declare the Lease (for any or all Equipment) terminated without prejudice to Lessor's rights in respect of all obligations set forth in this Section 4.2 and any other obligations under the Lease then accrued and remaining unsatisfied; or (6) avail itself of any other remedy or remedies provided for by any statute or otherwise available by law, in equity or in bankruptcy or insolvency proceedings.

(b) The remedies set forth in Section 4.2(a) are not intended to be exclusive, and each shall be cumulative. The amounts to be paid to Lessor under clause (4) of Section 4.2(a) shall be increased by interest, at the Overdue Rate, to the date of receipt by Lessor of the amount payable under said clause, from the respective due dates of such amounts or (with respect to costs, expenses, and losses for which Lessor is entitled to payment or reimbursement under said clause) from the respective dates incurred by Lessor.

(c) Any amounts received by Lessor as the result of it sale, lease during the original term hereof, or other disposition of the Equipment under subparagraph (3) of Section 4.2(a) shall be paid or applied in the following order: (1) to any remaining obligation of Lessee under subparagraph (4) of Section 4.2(a), (2) to reimburse Lessee for the Casualty Value previously paid as liquidated damages, and (3) to Lessor, any remaining balance.

Section V - Miscellaneous

5.1 Security Deposit. Lessee shall pay to Lessor for each item of Equipment described on a Lease, as a security deposit, an amount equal to the last Basic Rent payment payable thereunder, or such other amount which is expressly set forth in the Lease; such security deposit shall be paid with the first Basic Rent payment and will be returned to Lessee within 15 days of the Expiration Date, provided that (i) all the Equipment under the Lease has been returned to Lessor at the place and in the condition required herein and (ii) there are no uncured events of default by Lessee under the Lease. Lessor shall have the right to deduct from the security deposit any amount not paid to Lessor when due. No such deduction shall diminish Lessee's obligation to pay all sums due Lessor and any amounts deducted from the security deposit which are subsequently paid by Lessee shall be used to restore the security deposit to its original amount. Upon demand from Lessor, Lessee shall pay the amount necessary to so restore the security deposit.

5.2 Expenses. Lessor and Lessee each shall bear and be responsible for its own respective costs and expenses incurred in connection with the preparation, execution and delivery of this Master Agreement and the Lease. Lessee shall pay and be responsible for any license or registration fees for the Equipment. Lessee shall, unless otherwise provided on the Lease, reimburse Lessor for any out-of-pocket Lessor costs and expenses in arranging or committing the debt financing for Equipment leased thereunder, provided that Lessee's liability for such amounts shall not exceed one percent of the aggregate Basic Rent payable throughout the term of such Lease.

5.3 Performance of Lessee's Obligations. If Lessee shall fail to make any payment or perform any act required by the Lease, Lessor may, but shall not be obligated to, make such payment or perform such act for the account of and at the expense of Lessee without waiving or releasing any obligation or default. All sums expended and losses incurred by Lessor pursuant to this Section 5.3, plus interest thereon at the Overdue Rate from the date on which such sums are expended (or losses are incurred) to the date on which Lessee reimburses Lessor therefor, shall be included as Supplemental Rent hereunder and shall be paid by Lessee to Lessor upon demand.

5.4 Assignment by Lessor. Lessor may sell, transfer, grant a security interest in or assign part or all of its right, title and interest in and to the Lease, the Equipment, the Rent or any other sums due or to become due by Lessee hereunder, to third parties; and such third parties may also make such sales, transfers, grants and assignments to other third parties (all third parties referred to in this Section 5.4 being called an "Assignee" or the "Assignees"). In the event of an assignment of the Lease, (a) such assignment (unless otherwise expressly set forth therein) will not relieve the original Lessor from its duties and obligations hereunder and shall not be construed to be an assumption by the Assignee of such obligation; (b) upon notice from Lessor, Lessee shall make all payments for Rent and other amounts due under the assigned Lease directly to the Assignee identified in such notice or its designee; (c) Lessee's obligations hereunder shall not be subject to any reduction, abatement, defense, set-off, counterclaim or recoupment for any reason whatsoever; and (d) Lessee will not, after obtaining knowledge of any such assignment, consent to any modification of the assigned Lease without the consent of any Assignees of which Lessee has notice. Reference to Lessor throughout this Master Agreement shall be deemed to include any Assignees; provided, however, that the Assignees shall have no duties and obligations hereunder, except the obligation, so long as no Event of Default has occurred and the Assignee continues to receive all sums assigned

hereunder, to permit Lessee to possess, use, and quietly enjoy the Equipment, according to the terms hereof. Lessee acknowledges that any sale, assignment or grant of security interest shall not materially change Lessee's duties or obligations under this Lease nor materially increase the burdens or risks imposed on Lessee.

5.5 **Further Assurances.** It is expressly understood and agreed that all of the Equipment shall be and remain personal property notwithstanding the manner in which the same may be attached or affixed to realty, and Lessee shall do all acts and enter into all agreements necessary to insure that the Equipment remains personal property and hereby indemnifies Lessor for all loss, cost, damage, and expense (including fees and expenses of counsel) related to or arising out of any claim that the Equipment constitutes a fixture or a part of the realty in or upon which it is located. Upon request of Lessor, Lessee shall at any time and from time to time after the execution and delivery of the Lease, execute and deliver such further documents (including but not limited to opinions of counsel, acknowledgements of assignment, waivers, certificates, and UCC-1 financial statements) and do such further acts and things as Lessor may reasonably request in order fully to effect the purposes of the Lease, and any assignment hereof. Lessee hereby appoints Lessor, with full power of substitution, as its agent and attorney-in-fact, which
appointment is irrevocable and coupled with an interest, to execute any financing statements in Lessee's name and to perform all other acts which Lessor deems appropriate and necessary to perfect Lessor's interest in the Equipment.

5.6 **Rights, Remedies, Powers.** Each and every right, remedy and power granted to Lessor hereunder shall be cumulative and in addition to any other right, remedy or power herein specifically granted or now or hereafter existing in equity, at law, by virtue of any statute or otherwise and may be exercised by Lessor from time to time concurrently or independently and as often and in such order as Lessor may deem expedient. Any failure, partial exercise, or delay on the part of Lessor in exercising any such right, remedy or power, or abandonment or discontinuance of steps to enforce the same, shall not operate as a waiver thereof or affect Lessor's right thereafter to exercise the same.

5.7 **Confession of Judgement.** UPON LESSEE'S DEFAULT HEREUNDER, LESSEE HEREBY AUTHORIZES AND EMPOWERS ANY ATTORNEY OF ANY COURT OF RECORD TO APPEAR FOR LESSEE AND, WITH OR WITHOUT ONE OR MORE DECLARATIONS FILED, ENTER A JUDGEMENT OR JUDGEMENTS AGAINST LESSEE IN FAVOR OF LESSOR, ITS SUCCESSORS OR ASSIGNS, AS OF ANY TERM FOR THE FULL AMOUNT THEN DUE, WITH OR WITHOUT ACCELERATION, TOGETHER WITH INTEREST THEREON AND ANY OTHER SUMS DUE HEREUNDER PLUS COST OF SUIT AND AN ATTORNEY'S COMMISSION OF FIFTEEN PERCENT (15%), WITHOUT STAY OF EXECUTION. LESSEE HEREBY RELEASES LESSOR FROM ALL ERRORS AND DEFECTS WHATSOEVER IN ENTERING SAID JUDGEMENT, WAIVES ALL EXEMPTIONS FROM LEVY AND SALE OF ANY PROPERTY THAT NOW IS OR HEREAFTER MAY BE EXEMPTED BY LAW AND AGREES THAT NO WRIT OF ERROR, APPEAL, PETITION TO STAY, OPEN OR STRIKE OFF JUDGEMENT OR OTHER OBJECTION SHALL BE FILED OR MADE WITH RESPECT THERETO.

5.8 **Headings.** Section headings are inserted for convenience only and shall not affect any interpretation of this Master Agreement. The words "herein", "hereof", "hereby", "hereto", "hereunder", and words of similar import refer to this Master Agreement as a whole (including any supplements, addenda and riders thereto to the extent applicable and the Lease on which the leased Equipment is described) and not to any particular section, or subdivision hereof.

5.9 **Governing Law.** This Master Agreement and each Lease shall be deemed to have been made under, and shall be governed by, the laws of the Commonwealth of Pennsylvania in all respects, including matters of construction, validity and performance.

5.10 **Severability.** If any provision of the Lease is prohibited by, or is unlawful or unenforceable under any applicable law of any jurisdiction, such provision shall, as to such jurisdiction, be ineffective to the extent of such prohibition without invalidating the remaining provisions hereof; provided, however, that any such prohibition in any jurisdiction shall not invalidate such provisions in any other jurisdiction; and provided, further, that where the provisions of any such applicable law may be waived, they hereby are waived by Lessee to the full extent permitted by law to the end that the Lease shall be deemed to be a valid and binding agreement in accordance with its terms.

5.12 **Chattel Paper.** An executed Lease (Equipment Schedule), marked "Original", shall be the original of the Lease for the Equipment described on such Lease. All other executed counterparts of the Lease shall be marked "Duplicate". To the extent that the Lease constitutes chattel paper, as such term is defined in the Uniform Commercial Code of the applicable jurisdiction, no security interest in the Lease may be created through the transfer of possession of any counterpart other than the Original of a Lease.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Master Agreement to be executed as of the date first written above.

Vision Financial Group, Inc.
(Lessor)

By: _____
Print Name: _____
Title: Frederick S. Summers
CEO & Chairman

Ed Hanslovan Coal Co., Inc.
(Lessee)

By: _____
Print Name: Edward Hanslovan
Title: President

Doc #: 127801

Equipment Schedule No. 1
to the Master Lease Agreement (the "Lease") dated as of March 07, 1996
between
Vision Financial Group, Inc. ("Lessor")
and
Ed Hanslovan Coal Co., Inc. ("Lessee")

****

Section I - Equipment Description and Defined Terms

Equipment Description: (1) EX1800 LD-2 Hitachi Shovel, S/N 182-0296, as better described on the corresponding Acceptance Certificate(s), having an Estimated Lessor's Cost of $1,650,000.00, and additional Collateral as detailed on the attached Schedule "A".

Vendor: Rudd Equipment

Installation Location: Brockway, PA

Installation Date: For each item of Equipment, the earliest of (i) the date the item is installed and accepted by the Lessee, or (ii) the date the Lessor remits all (or any part) of its acquisition cost of the item to the manufacturer, or (iii) five (5) days following delivery of the item by the Manufacturer to lessee. In the event that individual items of Equipment described herein are accepted on different dates, then each item of Equipment will have a separate Installation Date to reflect the date described in the preceding sentence. On or about the Installation Date for each item of Equipment, Lessee shall deliver an Acceptance Certificate to Lessor.

Lease Factors:

Factor Type	Factor
Daily Lease Factor:	.0713%
Lease Factor:	2.137%

First Basic Rent Date: The first day of the calendar month immediately following the last Installation Date for all the Equipment described herein.

Basic Rent: An amount equal to 2.137% of Lessor's Cost for each item of Equipment payable on each Basic Rent Date. In addition, Lessee shall, on the First Basic Rent Date, make an initial payment for each Unit of Equipment equal to .0713% of Lessor's Cost for each day from and including the Installation Date to the First Basic Rent Date.

Expiration Date: The later of (i) the last day of the month in which the 53rd Basic Rent Date occurs or (ii) the last day of any extension of this Lease.

Basic Rent Dates: The first day of each of 53 months, commencing with and including the First Basic Rent Date (for a total of 53 Basic Rent Dates, each one month apart), and the first day of each month thereafter during the term of any extension of this Lease.

Initialled by:
Lessor
Lessee

Lessor's Cost: The amount shown above as "Estimated Lessor's Cost" or any greater amount as Lessor may be obligated to pay the Manufacturer for purchase of the Equipment. In the event the Lessor's Cost (for the purpose of this Lease) is different from the Estimated Lessor's Cost shown above, such amount shall be shown on the Acceptance Certificate and shall be binding on Lessor and Lessee.

Casualty Value: The Casualty Value from time to time for any item of Equipment subject to this Lease shall be an amount equal to the greater of (a) the item of Equipment's fair market value at the time of the Casualty Value determination or (b) the product of (i) the Lessor's Cost of such item of Equipment times (ii) the percentage indicated in the table immediately below for the Basic Rent Date immediately preceding the date of the Event of Loss, or notice of an Event of Default.

Basic Rent Date in Months	Casualty Value (as a % of Lessor's Cost)
0-12	115% - 108%
13-24	107% - 101%
25-36	100% - 92%
37-48	91% - 82%
49-53	81% - 70%
53 and thereafter	69%, declining by 1/4% per month, but in no event less than 20%.

Casualty Value for any Event of Loss during a Basic Rent Date period shown shall be a pro rata amount determined from the table immediately above.

Overdue Rate: The lesser of 5.0% per month or the maximum rate permitted by law.

Section II - Special Conditions

Equipment Acquisition: Lessee represents that it has specified and ordered the equipment described herein from the Manufacturer pursuant to purchase agreements or purchase orders between the Lessee and the Manufacturer, and Lessee will execute and deliver to the Manufacturer an Assignment of such agreements in a form which will permit the Lessor to purchase directly from the Manufacturer the Equipment described hereon. Lessor will remit the net purchase price which is due to the Manufacturer on a normal (net 30 days) basis or a more favorable basis if made available by the Manufacturer.

Supplemental Rent: In addition to Easic Rent payable by Lessee, Lessee shall pay to the Lessor as Supplemental Rent on each Basic Rent Date an amount equal to the product of 2.244% multiplied by any Soft Costs paid by Lessor. "Soft Costs" shall mean all software, freight charges, transportation charges, installation charges and other similar non-hardware costs.

Initialled:
Lessor:
Lessee:

Financing: Lessor's obligations hereunder are contingent upon Lessor being able to raise long-term senior non-recourse debt against the security of this Lease and the Equipment. If Lessor determines that the aforesaid financing is not available under terms acceptable to Lessor, the Lessor shall have the right, upon notice to Lessee, to terminate this Lease. Upon the happening of such an event, Lessor shall be released from all obligations under this Equipment Schedule.

Purchase/Renewal Option: Provided that Lessee has given 90 or more days' written notice to the Lessor and no Event of Default has occurred hereunder, the Lessee shall have the option to purchase all (but not less than all) of the Equipment subject to this Equipment Schedule on its original Expiration Date for $236,872, or renew for (7) additional rents of $35,261 and then purchase for an amount equal to $1.00.

Tax Representation: All tax benefits are for the account of the Lessee.

Title, Registration Identification Marks: If requested by Lessor or required by federal, state or local law, Lessor shall furnish to Lessee and Lessee shall, at Lessee's expense, affix to the Equipment a sign, tag or other form of notice to disclose Lessor's ownership of the Equipment or that the Equipment is leased, and Lessee shall keep and maintain such sign, tag or other form of notice affixed or attached to the Equipment throughout the Lease Term. Lessee will not allow the name of any persons other than Lessor or its assignee to be placed on any Equipment as a claim of ownership other than that of Lessor; provided, however, that Lessee may cause such Equipment to be lettered with the names or initials or other insignia customarily affixed by the Manufacturer thereof or used by Lessee on equipment used by it of the same or a similar type for convenience of identification of its rights to use such Equipment as permitted under this Lease or normal advertising displays.

Maintenance and Repair: In addition to the terms contained in the Lease, Lessor and Lessee agree that the following shall be included in the Lease and made a part hereof:

(i) The Lessee shall at its sole cost and expense, service, repair, overhaul and maintain the Equipment in the condition that it was in when delivered to the Lessee, ordinary wear and tear excepted, in good operating order, consistent with prudent industry practice (but in any event of the same extent that the Lessee would, in the prudent management of its properties, maintain similar equipment if owned or leased by the Lessee), and in compliance with all applicable laws, ordinances, regulations, the conditions of all insurance policies required to be maintained by the Lessee pursuant to this Lease, and all written requirements as to repair and maintenance practices (if any) issued by the Manufacturer of the Equipment including, but not limited to:

Initialled by:
Lessor
Lessee:

(ii) The Lessee shall make all additions, modifications and improvements to each item required by applicable law, ordinance or regulation.

(a) Daily maintenance such as a routine check of each unit of Equipment at the beginning of each shift.

(b) Repairs that may be required if any unit of Equipment is damaged or any part of a component thereof fails as the result of over-loading or abusive or improper usage.

(iii) The Lessee shall replace all parts that become worn out, lost, stolen, destroyed, damaged beyond repair or other wise rendered permanently unfit for use with replacement parts each of which shall be in at least as good condition as the part being replaced (assuming the replaced part to have been maintained to the standard required by this Lease), be free of liens except those permitted by the Lessor and immediately become the property of Lessor. The Lessor shall not be required in any way to maintain, repair or rebuild any item of Equipment and Lessee expressly waives the right to perform any such actions at the expense of the Lessor pursuant to any law at any time in effect.

(iv) The Lessee shall deliver to the Lessor copies of the plans, specifications, operation manuals and other warranties and documents furnished by the manufacturer of the Equipment and such other documents in the Lessee's possession relating to the maintenance and methods of operation of the Equipment.

(v) Lessor, at its sole discretion, may from time to time, at reasonable times and with reasonable notice to Lessee, inspect the Equipment at its sole cost and expense. Lessor shall notify, in writing to Lessee, any discrepancies found pertaining to the general condition of the Equipment as required by the Lease and this Equipment Schedule. Lessee shall then have 30 days to rectify the discrepancies, within thirty (30) days Lessor shall have the right to cause such discrepancies to be rectified and shall invoice Lessee for all costs and expenses related to rectifying the discrepancies. Such invoice shall be paid promptly upon receipt by Lessee.

Equipment Return:

(i) Upon the expiration or earlier termination of this Lease or any renewal or extension hereof, with respect to an item of Equipment, the Lessee at its sole cost and expense, shall return such item of Equipment to the Lessor together with all license plates and all registration certificates, certificates of ownership, maintenance and repair records and similar documents in the Lessee's possession, in the condition in which such item of Equipment is required to be maintained pursuant to this Lease.

(ii) Upon return of the Equipment, Lessor or its agent shall inspect the Equipment; if in the Lessor's opinion the Equipment is not in compliance with the conditions herein described, a mutually acceptable independent appraiser shall be appointed by the Lessor to inspect the Equipment for the purpose of determining the repairs, additions, or replacements, if any, which are necessary to place the Equipment in the condition described in the Lease and as described herein.

(a) The Equipment must be in good operating order within the Manufacturer's accepted tolerances for operation in all material respect and in compliance with Section 3.1 of the Lease.

Initialled by:
Lessor:
Lessee:

(b) When the Equipment is surrendered to Lessor, it will be free of all evidence of advertising or insignia placed on it by Lessee in a manner as not to cause damage to the appearance of the Equipment and meet all legal and regulatory conditions necessary for the Lessor to sell or lease it to a third party.

(c) The Equipment shall have no abnormal dents or scrapes, and not require major repairs.

(d) All components and features furnished with the Equipment will be in working condition subject to normal wear and tear.

(iii) In the event that any necessary repairs or replacements are not completed by the Expiration Date, Lessee shall pay to Lessor, interim rent equal to the Daily Lease Factor, multiplied by the Lessor's Cost of the item of Equipment, for each day in excess of the term of this Lease, until such repairs or replacements are completed and the Equipment returned to the Lessor. The frequency of such payments shall not be less than monthly.

By execution hereof, the undersigned confirm that this Equipment Schedule, marked "Original", together with a reprographic copy of the Master Lease Agreement incorporated herein by reference, will constitute an original, separable, and enforceable agreement of lease, independent of any other Equipment Schedules.

The Lease constitutes the entire agreement between the Lessor and Lessee with respect to the Equipment, and any change or modification thereto and any related agreement must be in writing and signed by the parties thereto.

Vision Financial Group, Inc.
(Lessor)

By: _____
Title: Frederick S. Summers
CEO & Chairman

Ed Hanslovan Coal Co., Inc.
(Lessee)

By: Edward F. Hanslovan
Title: President

Doc #: 127801-01

ACCEPTANCE CERTIFICATE NO. 1 OF 1
For Equipment Schedule No. 1 to the
Master Lease Agreement dated as of March 07, 1996 (the "Lease")
between
Vision Financial Group, Inc. ("Lessor")
and
Ed Hanslovan Coal Co., Inc. ("Lessee")

Equipment Acceptance: The Lessee hereby certifies that the following Equipment (as set forth in the Equipment Schedule identified below) has been delivered and installed as of the Installation Date at the location and on the date indicated below. This Equipment has been tested and inspected by the Lessee, found to be in good order and is accepted as Equipment under the Lease, on the Installation Date indicated below. Further, the Lessee hereby certifies that the information set forth hereon is accurate and supersedes and amends the Equipment Schedule identified below.

Equipment Schedule:	No. 1
Installation Location:	Brockway, PA
Installation Date:	April 10, 1996
First Basic Rent Date:	May 01, 1996
Description of Equipment:	(1) Hitachi EX 1800 LD-2 Hydraulic Shovel S/N 182-0296
Lessor's Cost:	$1,650,000.00
Lease Factor:	2.137%
Basic Rent:	$35,261.00 for 53 equal monthly installments in advance commencing with the payment due on the First Basic Rent Date.
Lease Term:	53 months (without early termination) commencing on the First Basic Rent Date and preceded by a period from the Installation Date to the First Basic Rent Date.

Lessee hereby confirms the acceptance of the Equipment described above under the Lease, the Lease Factor, the First Basic Rent Date, Lessor's Cost and other information described above, and the Lessee hereby represents and warrants that the Lease is in full force and effect, there have been no defaults thereunder, the Equipment is in good order and repair and there are no agreements between Lessor and Lessee other than the Lease and the Equipment Schedule which cover the leasing of this Equipment.

Ed Hanslovan Coal Co., Inc.
(Lessee)

By: Edward J. Hanslovan
Title: President
Date: As of the Installation Date

TO: Vision Financial Group, Inc.
1100 Liberty Avenue
Pittsburgh, PA 15222

ADDITIONAL SECURITY AGREEMENT - LEASE

Ladies/Gentlemen:

In consideration of any financial accommodations or leases previously, now or hereafter made or granted by you to us, with us or for our benefit, we agree as follows:

1. **Definitions.** (a) "Agreement": this Agreement; (b) "Other Agreements": any note, agreement or document heretofore, now or hereafter executed by us for your benefit or by us and transferred to you; (c) "Obligations": all of our now existing or hereafter arising payment and performance obligations to you howsoever created by us or acquired by you; (d) "Collateral": all property described in Section 2 of this Agreement; (e) "Policies": all policies of insurance required under the Other Agreements to be maintained with respect to the Equipment, (f) "Equipment": the personal property described in Section 2(a) of this Agreement; (g) "Guarantor": any guarantor with respect to any of the Obligations; and (h) "person": any individual or entity whatsoever. Each term defined in such of the Other Agreements which have been executed between you and us or by us specifically for your benefit and not defined in this Agreement shall have the meaning provided in such Other Agreement. Any term used in this Agreement and not defined herein or in such Other Agreement executed between you and us, or by us specifically for your benefit, shall have the meaning provided in the Uniform Commercial Code to the extent the same is defined or used therein.

2. **Collateral.** To secure both our payment and full and prompt performance and observance of all of our Obligations, we hereby grant to you a first priority security interest in and to all of the following: (a) all of the following equipment, vehicles and fixtures, together with all additions attachments, accessories, improvements, parts, repairs and appurtenances thereto, now or hereafter made or acquired, and all substitutions and replacements thereof:

DESCRIPTION (quantity, model no., year, etc.)	SERIAL NUMBER
See attached Exhibit "A"	

(b) all of the Policies; (c) all products and proceeds (including without limitation any arising from the sale, lease or rent) of the Equipment and Policies; and (d) all books, records and files pertaining to the foregoing. We shall execute and deliver to you, at such time or times as you may request, all financing statements, certificates of title and other documents and instruments that you may deem necessary to perfect and maintain perfected your security interests in the Collateral. A copy of this Agreement may serve and be filed as a financing statement. We shall make appropriate entries on our books and records disclosing your security interests in the Collateral. Except for certain titled vehicles, the Equipment is now and shall at all times while any Obligations are outstanding be located at our address (set forth below) and shall not be removed therefrom without your prior written consent. Under no circumstances whatsoever shall we remove any item of Equipment to outside the continental United States.

3.1 **General Affirmative Warranties, Representations and Covenants.** Except as otherwise specifically provided in any of the Other Agreements, we warrant and represent to and covenant with you that: (a) your security interest in each item of Collateral (1) is now and shall at all times constitute a first priority security interest in such Collateral, and (2) is not now and shall not become subordinate or junior to the lien or claim of any person or entity; (b) we have the right and power and are duly authorized to enter into this Agreement, (c) our execution of this Agreement does not constitute a breach of any provision contained in our articles of incorporation or bylaws or partnership agreement, as the case may be, or of any other agreement to which we are now or may hereafter become a party or by which we are or may hereafter become bound; (d) all taxes, assessments and governmental charges of any nature which are or may be due by us in connection with any part of the Collateral have been fully paid, and we shall maintain reserves adequate in amount to fully pay, and shall promptly pay when due (unless timely and appropriately contested), all such liabilities which may hereafter accrue; (e) we shall permit you (or any person designated by you), during our usual business hours, to have access to and examine any and all of our books and records in connection with the Collateral and permit the copying of the same; (f) we shall promptly notify you of any decline in value of the Collateral and the amount of such decline; and (g) we shall keep and maintain all of the Equipment in good operating condition and repair and shall make all necessary replacements of and renewals thereto so that the value and operating efficiency thereof shall at all times be maintained and preserved.

3.2 **General Negative Covenants.** Except as otherwise provided in any of the Other Agreements, we covenant with you that we shall not: (a) grant to or in favor of any person or entity (other than you) a security interest in or permit to exist a lien or claim upon any of the Collateral; (b) permit any levy, attachment or restraint to be made affecting any of the Collateral, (c) permit any item of Equipment to become a fixture to real estate or accession to other property; or (d) sell, lease, assign, transferor in any other manner dispose of, encumber or permit the disposition or encumbrance of any Collateral or interest therein.

3.3 **Warranties, True/Survival.** All of our warranties, representations and covenants in this Agreement and all conditions to be performed by us pursuant to this Agreement are true and have been satisfied at the time of our execution of this Agreement and shall survive the execution, delivery and closing of this Agreement.

4. **Insurance.** At our sole expense, we shall (a) keep the Equipment insured against loss or damage by fire, theft, accident and all other hazards and risks ordinarily insured against by owners or users of such properties in similar businesses, and (b) maintain public liability insurance relating

ADDITIONAL PROVISIONS

6.2 **Your Rights** In the event of a Default, you may, without notice or demand, do any one or more of the following: (a) declare all or any part of the Obligations immediately due and payable, (b) cease advancing money or extending credit to or for our benefit, (c) exercise any or all of the rights accruing to a secured party upon default by a debt or under the Uniform Commercial Code and any other applicable law; (d) take possession of all or any part of the Collateral and use or store it in our premises (without charge to you), or remove or require us, at our expense, to remove it to such other place or places as you may deem convenient; (e) sell or otherwise dispose of the Collateral at public or private sale as you deem advisable, for cash or credit (provided, however, that you may (i) become the purchaser at any such sale and, you may, in lieu of actual payment of the purchase price, offset the amount thereof against our Obligations, and (ii) deduct and retain from the proceeds of any such sale all amounts owed to you in respect of the Obligations including without limitation all amounts in connection with any taking of the Collateral); (f) use, without charge or liability, any of our labels, trade names, licenses or other of our rights, properties or interests in properties in advertising for sale, selling or otherwise disposing of any of the Collateral, and (g) exercise all powers granted under any of the Other Agreements. In connection with Vision'Ssale of Collateral, the same may be sold in its then condition or after further repair or preparation thereof, utilizing in connection therewith, without charge or liability to you therefor, any and all of our assets. If at any time or times hereafter you shall employ counsel for advice or other representation (i) to enforce any of your rights in any way relating to any of the Collateral or in respect of the Obligations against us, Guarantor or any other person or entity that may be obligated to you by virtue of this Agreement or any of the Other Agreements (including our account debtors), or (ii) to defend any action brought by us or any Guarantor contesting or enforceability of this Agreement or any of the Other Agreements, you may collect all reasonable attorney's fees arising from such services.

7. **Our Obligations, Waiver, Notice.** All of your rights and remedies granted under this Agreement and the Other Agreements are cumulative and nonexclusive. In the event of a Default by us, we waive and release: any right we may have to assert, by way of counterclaim or affirmative defense in any action to enforce our obligations hereunder, any claim whatsoever against you; any and all claims and causes of action which we may now or ever have against you as a result of any possession, repossession, collection or disposition by you of any of the Collateral, notwithstanding the effect of any such action upon our business; all rights of redemption from any such sale, and the benefit of all valuation, appraisal and exemption laws. If you seek to take possession of any of the Collateral by replevin or other court process, we hereby irrevocably waive any bonds, surety and security relating thereto required by any statute, court rule or otherwise as an incident to such possession and any demand for possession of the Collateral prior to the commencement of any suit or action to recover possession thereof. Any notice of any kind required to be given by you may be personally delivered to us or may be deposited in the United States mail, postage prepaid, and duly addressed to us at our address set forth below. Any such notice shall be deemed to constitute reasonable and fair notice to us of any such action if so delivered or mailed at least five (5) days prior to such proposed action.

8.1 **Collection, Demand, Waivers.** We agree that all instruments delivered to you on account of the Obligations shall constitute conditional payment until you actually receive such funds. We agree that you shall have the continuing exclusive right to apply and re-apply any and all payments received by you on account of the Obligations in such manner as you may deem advisable notwithstanding any entry by you upon any of your books and records. We hereby waive: (a) notice and opportunity for hearing; (b) demand, protest and notices of protest or dishonor; (c) notices of payment and nonpayment; (d) notices of default, release, compromise, settlement, extension or renewal of any documents or instruments at any time held by you on which we may in any way be liable; and (e) notice of acceptance thereof.

8.2 **Reimbursement.** We shall pay you on demand all charges and expenses which you incur in protecting or enforcing your security interests in the Collateral, in enforcing the payment or performance of the Obligations, and in defending any claim asserted by us against you. Without waiving or releasing any Default or Obligation, you may perform any Obligations that we fail or refuse to perform, and may, at anytime or times hereafter, but shall be under no obligation to so do, pay, acquire or accept any assignment of any lien or claim against the Collateral asserted by any person or entity.

8.3 **Alteration/Waiver.** This Agreement may not be altered or amended except in a writing signed by your and our authorized representatives. Your failure at any time to require strict performance by us of any agreement or Obligation shall not waive or diminish any right by you thereafter to demand strict compliance and performance. Any waiver by you of any Default by us shall not waive or affect any other Default by us, whether such Default is prior or subsequent to such other Default and whether of the same or a different type. None of our agreements and Obligations contained in this Agreement or any of the Other Agreements and no Default shall be deemed waived by you unless such waiver is by a written instrument specifying such waiver, signed by one of your officers and directed to us. Upon our payment in full to you of the Obligations, we shall release you of any and all claims, causes of action, debts and liabilities relating in any manner whatsoever to the Equipment.

8.4 **Severability, Discretion.** If any provision of this Agreement or the application hereof is held invalid or unenforceable, the remainder of this Agreement and the application hereof will not be affected thereby, the provisions of this Agreement being severable in any such instance. To the extent this Agreement grants any discretion to you in the exercise of your rights, such discretion shall be absolute and unconditional.

8.5 **Power of Attorney.** We hereby irrevocably make and appoint you (and any person designated by you) as our true and lawful attorney with full power to: (a) sign our name on any form, title, document or instrument and make all necessary corrections thereto that you shall deem necessary or appropriate to perfect and maintain perfected the security interests in the Collateral (including correcting or inserting serial numbers, as needed); (b) make, settle and adjust claims under the Policies and endorse our name on any draft instrument or other item of payment in respect of the Policies; (c) take control in any manner of any item of payment or proceeds of Collateral; and (d) prepare, file and sign our name on any proof of claim in bankruptcy or s milar document against any obligor. The Power of Attorney granted by this Section is coupled with an interest and is irrevocable so long as any Obligations remain outstanding.

8.6 **Connecticut.** This Agreement shall be deemed to have been made in Danbury, Connecticut. THIS AGREEMENT AND ALL TRANSACTIONS PURSUANT HERETO SHALL BE GOVERNED AND CONSTRUED IN ALL RESPECTS (INCLUDING BUT NOT LIMITED TO THE LEGALITY OF ANY INTEREST CHARGED TO US PURSUANT THERETO) BY THE LAWS OF THE STATE OF CONNECTICUT. In order to induce you to accept this Agreement, we agree that all actions or proceedings arising in connection with, out of, or in any way related to this Agreement ("Litigation") may be litigated, at your sole discretion, in courts located in the State of Connecticut. WE HEREBY WAIVE ANY RIGHT WE MAY HAVE TO TRANSFER OR CHANGE THE VENUE OF ANY LITIGATION. To the extent permitted by the law of the state of our place of business, WE HEREBY IRREVOCABLY WAIVE THE RIGHT TO TRIAL BY JURY WITH RESPECT TO ANY ACTION OR PROCEEDING IN WHICH YOU AND WE ARE PARTIES.

8.7 **Other Provisions.** This Agreement shall be binding upon and inure to your and our benefit and our respective heirs, personal representatives, successors and assigns. We shall have no right to assign this Agreement or any Obligations without your prior written consent. We warrant and represent to and covenant with you that: (a) no oral representations, agreements or understandings shall in any manner whatsoever modify or explain any of the terms and conditions herein; and (b) all such oral

Schedule A

To: _____ Lease _____ Financing Agreement
_____ UCC - 1 X_____ Subordination Agreement
_____ Other (specify: _____)

Dated April 5, 1996

Between
GE Capital Commercial Asset Funding
General Electric Capital Corporation
and

Pennsylvania Capital Bank

Equipment Location: _____ Street Address
_____ City, State, Zip Code

Item #	Equipment Description (including quantity)	Year & Model #	Serial No.
1	One (1) Hitachi Hydraulic Track Shovel, 14' rock bucket, automatic lube fire suppression system	75 EX1800LD-2	182-0296 R→ year?
2	One (1) Michigan Front End Loader	1983 275C 15	492B-185
3	One (1) Michigan Front End Loader	1984 275C 18	492B337CAC
4	One (1) Komatsu Crawler Tractor	1984 D455 25	1606 R→ wrong year
5	One (1) Euclid Off Road End Dump	1978 R-50 30	68 362 R
6	One (1) Euclid Off Road End Dump	1979 R-50 30	69 000 R
7	One (1) Euclid Off Road End Dump	1980 R-50 30	69 920R → Never years
8	One (1) Euclid Off Road End Dump	1981 R50 40	69 994 R
9	One (1) Euclid Off Road End Dump	1980 R-50 40	68 986 R
10	One (1) Euclid Off Road End Dump	1980 R-50 40	68 989 R
11	One (1) Kolberg Rotary Breaker	7 year 2600 series	
12	One (1) International Truck mounted with Reich Model F2574 Drill model T-650-C	1995 40	1HTGGGCT5LH240596 650TWCH0090

Together with all parts, accessories, attachments, substitutions, repairs improvements and replacements, and any and all rights thereunder and proceeds thereof, including without limitation insurance proceeds.

Pennsylvania Capital Bank

By: _____

Title: Asst Commercial Loan Manager

R→ SOMETHING on ResponCEF

j:\masters\hanslova.lea

826 - 635

Schedule A

To: _____ Lease _____ Financing Agreement
_____ UCC - 1 X Subordination Agreement
_____ Other (specify: _____)

Dated April 5, 1996

Between
GE Capital Commercial Asset Funding
General Electric Capital Corporation
and

Pennsylvania Capital Bank

Equipment Location: _____ Street Address

_____ City, State, Zip Code

Item #	Equipment Description (including quantity)	Year & Model #		Serial No.
13	One (1) Hough Front End Loader	1978	400 15	2693
14	One (1) Hough Front End Loader	1978	400 15	2617
15	One (1) Hough Front End Loader	1976	400 15	2410
16	One (1) Hough Front End Loader	1975	400 15	2302
17	One (1) Hough Front End Loader		400 15	
18	One (1) Michigan Front End Loader	1976	275 B 10	425C-517
19	One (1) Michigan Front End Loader	1976	275 B 10	425C-531
20	One (1) Komatsu Crawler Tractor	1978	D355 10	1077 R
21	One (1) Komatsu Crawler Tractor	1975	D355 10	1790 R
22	One (1) Komatsu Crawler Tractor	1976	D355 10	2100 R
23	One (1) Komatsu Crawler Tractor	1978	D455 15	1048 R
24	One (1) Kolberg Crush & Conveyor, 90 ft. radial stacker	1981		6486163615088
25	One (1) Kolberg Crush & Conveyer, 150 ft. radial stacker	1988		6486163615088

Together with all parts, accessories, attachments, substitutions, repairs improvements and replacements, and any and all rights thereunder and proceeds thereof, including without limitation insurance proceeds.

Pennsylvania Capital Bank

By: Susan A. Kratzer

Title: Asst. Vice President Loan Manager

Schedule A

To: _____ Lease _____ Financing Agreement
_____ UCC - 1 X Subordination Agreement
_____ Other (specify: _____)

Dated April 5, 1996

Between
GE Capital Commercial Asset Funding
General Electric Capital Corporation
and

Pennsylvania Capital Bank

Equipment Location: _____ Street Address

_____ City, State, Zip Code

Item #	Equipment Description (including quantity)	Year & Model #		Serial No.	
26	One (1) Ford Mechanics truck	1985	F600	1FDXR80UXFVA03713	3 -
27	One (1) Ford Mechancis truck	1995	F600	1FDXF80C4SVA77476	15
28	One (1) Ford Utility truck	1979	F400	V90LVDC9777	10
29	One (1) Davey Drill	1979		1881233	3 -
30	One (1) International Water truck	1975		DC0202A0FD862580	3
31	One (1) Chevrolet Pick-up truck	?		2GECK14H9E1177602	2
32	One (1) Viking pump			19001	1
33	One (1) Army Surplus Fertilizer truck			640942	

Together with all parts, accessories, attachments, substitutions, repairs improvements and replacements, and any and all rights thereunder and proceeds thereof, including without limitation insurance proceeds.

Pennsylvania Capital Bank

By: Susan P Kintzer

Title: Asst Relationship Manager

RUDD EQUIPMENT COMPANY

INVOICE

BUNCHER INDUSTRIAL DISTRICT
BUILDING 1, AVENUE A
LEETSDALE, PA 15056-0005

P.O. BOX 5
LEETSDALE, PA 15056-0005
(412) 322-1112

TIN 61-1096179

REMIT TO: DEPT. L 142P • PITTSBURGH, PA 15264

Sold To

VISION FINANCIAL GROUP, INC.
1100 LIBERTY AVENUE
ATTN: KIM SMITH
PITTSBURGH PA 15222

[illegible] HANDLEMEN COAL CO.
BROADWAY PA

Customer P.O. No.	Date Ordered	Invoice Date	Reference No.	Customer No.	Page	Invoice No.
-	12/15/95	3/12/96	0004478	PM92400	1	0001241

Make	Model	Serial No.	Equipment No.	Hour/Miles
HITACHI	EX1800LC-2	182-0295		

Description	B/O	Quantity	Unit Price	Total Price

HITACHI MODEL EX1800LC-2
HYDRAULIC SHOVEL
WITH (2) CUMMINS KTA19-C525
ENGINES; 14 CU. YD. ROCK BUCKET;
94,700 Lbs. COUNTERWEIGHT; ALL
WEATHER CAB; AIR CONDITIONING;
CATWALKS; HANDRAILS; SEAT BELT;
AUTOMATIC LUBE SYSTEM; FIRE
SUPPRESSION SYSTEM

SERIAL NUMBER: 182-0295 1 1,550,000.00

NON-TAXABLE PA 320-9507

SHIP VIA: TRUCK 3/11/96 FOB: PIT

TERMS: NET CASH-RECEIPT OF INVOICE

SALESMAN: MAURER,PAT
Ordered from CLEARFIELD, PA

Credit Amount

Invoice Total 1,550,000.00

TERMS: NET 30 DAYS FROM DATE OF INVOICE. INTEREST AT THE RATE OF 1½% PER MONTH WILL BE CHARGED ON THE UNPAID BALANCE. INTEREST IS CALCULATED ON THE BASIS OF 18% PER ANNUM SIMPLE INTEREST.

VISION
Financial Group, Inc.
GUARANTY

The Pennsylvanian • 1100 Liberty Avenue • Pittsburgh, PA 15222
(412) 261-6465 • Fax (412) 261-9404

LESSEE: Ed Hanslovan Coal Co., Inc.

LEASE NUMBER: 127801-01 DATE: March 07, 1996

For valuable consideration, the receipt of which is hereby acknowledged, and to induce Lessor, Vision Financial Group, Inc., to enter into the foregoing Equipment Lease with Lessee, the Undersigned hereby irrevocably and unconditionally guarantee(s) to Lessor the full performance by said Lessee of any and all of Lessee's obligations under the Equipment Lease identified above for the original term and any and all renewal terms, including without limitation the payment by Lessee of all rentals and other amounts due and to become due according to the terms of said Equipment Lease, whether at maturity or earlier by reason of default of the Lessee or otherwise.

The Undersigned hereby waives notice of acceptance of this guaranty and of any liability to which it applies or may apply under the terms hereof, and waives presentment, demand for payment, notice of dishonor or non-payment, protest, notice of protest on any such liabilities, suit or taking other action by Lessor against, and giving any notice of default or other notices of any kind to, or making any demand on any party liable thereon, including the Undersigned.

Lessor may, at any time and from time to time, without the consent of or notice to the Undersigned and without impairing or releasing the obligations of the Undersigned hereunder (1) change the manner, place or terms of payment or change or extend the time of payment of or extend or renew the term of or renew or alter any liability of the Lessee under the Lease and this guaranty shall apply to the liabilities of the Lessee, as changed, renewed or altered in any manner, and (2) exercise or refrain from exercising any rights against Lessee or others (including the Undersigned) or otherwise act or refrain from acting, and (3) settle or compromise liabilities hereby guaranteed (including any liabilities hereunder) or may subordinate the payment of all or any part thereof to the payment of any liabilities which may be due to Lessor or others, and (4) apply any sum whatsoever paid or howsoever realized to any liability or liabilities of Lessee regardless of what liability or liabilities of Lessee remain unpaid.

No invalidity, irregularity, or unenforceability of the liabilities hereby guaranteed shall affect, impair, or be a defense to this guaranty and this guaranty is a primary obligation of the Undersigned.

This guaranty is a continuing one and the Undersigned agree(s) that all liabilities to which it applies or may apply under the terms thereof shall be conclusively presumed to have been created in reliance hereon and as to each of the Undersigned this guaranty shall continue until all of the liabilities of the Lessee have been fully and completely performed and discharged.

In the event that said Equipment Lease shall have more than one Lessee, this guaranty shall apply to the obligations of all such Lessees, jointly and severally.

No delay on the part of Lessor in exercising any of its rights under the Lease or under this guaranty and no partial or single exercise thereof and no action or nonaction by Lessor, with or without notice to the Undersigned or anyone else, shall constitute a waiver or any right or shall affect or impair this guaranty. Lessor shall not be required to first resort to Lessee or to any other persons, firms or entities for payment and in the event of any default by Lessee, the Undersigned shall be responsible to Lessor for full performance of all of Lessee's obligations under this Lease.

UPON DEFAULT, UNDERSIGNED HEREBY EMPOWER THE PROTHONOTARY OR ANY ATTORNEY OF ANY COURT OF RECORD WITHIN THE UNITED STATES OR ELSEWHERE TO APPEAR FOR THEM AND, WITH OR WITHOUT ONE OR MORE DECLARATIONS FILED, ENTER A JUDGMENT OR JUDGMENTS AGAINST THEM OR ANY OF THEM IN FAVOR OF LESSOR, ITS SUCCESSORS OR ASSIGNS, AS OF ANY TERM FOR THE SUM THEN DUE, INTEREST THEREON, AND ANY OTHER SUMS DUE BY LESSEE PLUS COSTS OF SUIT AND AN ATTORNEY'S COMMISSION OF FIFTEEN PERCENT (15%) FOR COLLECTION WITH RELEASE OF ALL ERRORS AND WITHOUT STAY OF EXECUTION.

The term "Undersigned" as used herein shall mean the Undersigned or any or more of them if this guaranty is executed by more than one signer, all agreements and promises herein shall be construed to be and are hereby declared to joint and several in each and every particular and shall be fully binding upon and enforceable against either, any or all of such signers. The death of the Undersigned, or any of them, shall not revoke this guaranty as to such decedent.

This guaranty and every part thereof shall be binding upon the Undersigned and upon the heirs, legal representatives, successors and assigns the Undersigned, and of each of them respectively and shall inure to the benefit of Lessor, its successors and assigns.

IN WITNESS WHEREOF, this Guaranty has been duly executed by the Undersigned intending to be legally bound, this 3rd day of April, 1996.

WITNESS:

Mary Beth Spiegle

Mary Beth Spiegle

GUARANTOR(S):

X Edward J. Hanslovan

Edward J. Hanslovan

X Mary E. Hanslovan

Mary E. Hanslovan

LOAN AND SECURITY AGREEMENT

This LOAN AND SECURITY AGREEMENT (this "Agreement") dated April 5,1996, is entered into by and between Vision Financial Group, Inc., a Pennsylvania corporation ("Debtor") having its principal office at 1100 Liberty Ave. Pittsburgh, PA 15222, and GENERAL ELECTRIC CAPITAL CORPORATION, a New York corporation (the "GE Capital"), with an office at 44 Old Ridgebury Road, Danbury, CT 06810, with reference to the following facts:

A. Debtor is the current lessor under Equipment Schedule No. 1 to Master Lease Agreement No. 1278 dated March 7, 1996 (the "Master Lease") entered into between Ed Hanslovan Coal Co., Inc. ("Lessee") and Debtor as lessor (said Equipment Schedule, the Master Lease as it relates to such Equipment Schedule, and all addenda, attachments, schedules, exhibits and riders as they relate to the Equipment Schedule, being hereinafter collectively referred to as the "Lease").

B. Debtor desires to borrow from GE Capital and GE Capital desires to lend to Debtor the principal sum of $1,489,093.77 (the "Loan") evidenced by Debtor's Promissory Note (the "Note") substantially in the form of Exhibit A attached hereto, such loan to be secured by all of Debtor's right, title and interest in and to the Lease and the Equipment subject thereto;

NOW THEREFORE, in consideration of the Loan and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to secure the payment by Debtor of all principal and interest owed under the Promissory note and the prompt performance of all the covenants and conditions contained in the Promissory note, the parties agree to the following terms and conditions:

SECTION 1 SECURITY INTEREST

1.1 Grant of Security Interest. Debtor hereby mortgages, assigns, pledges, and grants a security interest in, and hypothecates unto GE Capital, its successors and assigns, the following described properties, rights, interest and privileges (collectively, the Collateral"):

(a) The equipment which is the subject of the Lease together with all accessories, attachments and appurtenances appertaining or attached thereto, and all substitutions, renewals and replacements, of and improvements to any and all of said Equipment (other than those not financed by GE Capital and which can be removed from the Equipment without impairing its operation or value as originally configured) together with all rents, proceeds, issues, income and profits therefrom, other than "Excepted Amounts" as defined below, (hereinafter collectively referred to as the "Equipment").

(b) All rights, title and interest of Debtor, as lessor, in, under and to the Lease and all rents and other sums due and to become due thereunder, including any and all extensions or renewals thereof insofar as the same cover or relate to the Equipment, and all proceeds of the foregoing (other than Excepted Amounts).

"Excepted Amounts" shall mean all rental payments due Debtor prior to the first rental payment assigned to GE Capital hereunder, all sales, use personal property or similar taxes payable by Lessee, all related tax indemnity payments made or to be made by Lessee pursuant to Section(s) 3.3 of the Master Lease.

(Initial)

SECTION 2 COVENANTS AND WARRANTIES

Debtor covenants, warrants and agrees as follows:

2.1 Warranty of Title. Debtor has good title to the Collateral, free and clear in each instance of all security interests, liens, claims and encumbrances whatsoever, except for the interest of Lessee under the Lease and the lien created by this Agreement. Debtor has full power and authority to grant a first lien security interest in the Collateral to GE Capital and hereby warrants said title to and said first lien security interest in the Collateral against all claims and demands whatsoever (excepting only in the case of the Equipment, the right and interest of Lessee under the Lease).

2.2 Further Assurances. Debtor shall upon written direction from GE Capital and at Debtor's own expense do, execute, acknowledge and deliver all and every further acts, deeds, conveyances, transfers and assurances reasonably necessary or proper for the better assuring, conveying, assigning and confirming unto GE Capital all of the Collateral. Debtor shall perform all obligations of the lessor under the Lease however arising, as if this Agreement had not been made.

2.3 Recordation and Filing. Debtor shall execute and GE Capital shall prepare and file, if not already filed, such financing statements or other documents and such continuation statements with respect to financing statements previously filed relating to the security interest created under this Agreement in the Collateral as may be required from time to time by GE Capital.

2.4 Modifications of the Lease. Debtor shall not without the prior written consent of GE Capital:

(a) Declare a default or exercise the remedies of the lessor under, terminate, modify or accept a surrender of or permit modification, surrender or termination of, the Lease or consent to the creation or existence of any security interest or other lien to secure the payment of indebtedness upon the leasehold estate created by the Lease or any part thereof; or

(b) Collect any rental payment under the Lease (other than Excepted Amounts) prior to the date for payment thereof provided for by the Lease or extend any time for payment or grant any waiver of consent under the Lease.

2.5 Power of Attorney in Respect to the Lease. Debtor does hereby irrevocably constitute and appoint GE Capital its true and lawful attorney with full power of substitution, for it and in its name, place and stead, to ask, demand, collect, receive, receipt for, sue for, compound and give acquittance for any and all rents, income and other sums which are assigned under Section 1.1(b) of this Agreement with full power to settle, adjust or compromise any claim thereunder as fully as Debtor could itself do, and to endorse the name of Debtor on all commercial paper given in payment or in part payment thereof, and in its discretion to file any claim or take any other action or proceedings, either in its own name or in the name of Debtor, or otherwise, which GE Capital may deem necessary or appropriate to collect any and all sums which may be or become due or payable under Lease, or which may be necessary or appropriate to protect and preserve the right, title and interest of GE Capital in and to the Collateral.

2.6 Notice of Default. Debtor further covenants and agrees that it shall give GE Capital prompt written notice of any event or condition, other than non-payment of rent, constituting an event of default under the Lease of which Debtor has actual notice.

2.7 Retention of Title. Debtor shall not encumber, sell, allow Lessee to sublease the Equipment (except as provided in the Lease), assign or otherwise dispose of any interest in the Collateral. The representations and warranties of Debtor made to GE Capital hereunder and in the acknowledgment letter executed by and among Debtor, GE Capital and Lessee substantially in the form attached hereto as Exhibit B shall survive the termination of this Agreement.

2.8 Totality of Documents. Debtor represents and warrants that (i) the Lease has been duly executed by an authorized representative of Debtor and Lessee; (ii) the Lease constitutes the valid and

_____ (Initial)

binding obligations of Debtor and Lessee and is enforceable in accordance with its terms; (iii) the Equipment has been delivered to and accepted by Lessee; (iv) the Lease represents the total and complete agreement between Debtor and Lessee with respect to the Collateral; (v) Debtor has entered into no other agreements, whether written or oral, with Lessee, in respect of the Collateral; (vi) the original executed copy of each Equipment Schedule which has been delivered by Debtor to GE Capital is the only copy marked "Original", and all other copies of said Schedule have been stamped or marked as duplicates; and (vii) Debtor or Debtor's designated agent shall retain the original executed Master Lease Agreement for the benefit of GE Capital with respect to the Equipment Schedules assigned hereunder (with Debtor providing GE Capital with a certified copy of the Master Lease, which together with an original Equipment Schedule shall constitute chattel paper for purposes of the Uniform Commercial Code).

2.9 Collection of Sales/Use and Property Tax. Debtor agrees that it shall invoice Lessee, where necessary, for any and all taxes to be paid by Lessee pursuant to the Lease, and upon Debtor's receipt of such amounts from Lessee, Debtor shall cause such taxes to be promptly paid to the appropriate taxing authority.

2.10 Acknowledgment of Commercial Loan. Debtor acknowledges that GE Capital has advised Debtor that it is receiving the Loan evidenced by the Note from GE Capital in the ordinary course of GE Capital's commercial lending business and that GE Capital is acquiring the Note for its own account for investment and not with a view to, or for sale in connection with, any distribution thereof.

2.11 Disclaimer of Tax Benefits. Debtor acknowledges and agrees that GE Capital has made absolutely no representations or warranties as to the availability of tax benefits, including but not limited to the investment tax credit and depreciation deductions.

SECTION 3 APPLICATION OF MONIES RECEIVED

3.1 Application of Rents and Other Payments by Lessee. Debtor agrees to instruct Lessee to make all payments due under the Lease (excluding Excepted Amounts) directly to GE Capital or in accordance with GE Capital's instructions until such time as Debtor's obligations hereunder and under the Note have been discharged. Debtor agrees that should it receive any such payments or any proceeds for or with respect to the Collateral (other than Excepted Amounts) it will promptly forward such payments to GE Capital or in accordance with GE Capital's instructions. The rents and other sums received by GE Capital pursuant to this Agreement shall be held by GE Capital as part of the Collateral and, so long as no event of default referred to in Section 4 hereof has occurred and is continuing, or, which with the lapse of time or the giving of notice, or both, would constitute an event of default as so defined, all such rents and other sums shall be paid and applied as follows:

(a) The amounts from time to time received by GE Capital which constitute payment of rent under the Lease shall be applied first, to the payment of the amounts of interest and principal (with interest being allocated first, then principal) then due and payable on the Note; second, any balance on such payment of rentals shall be applied first to interest and then to principal for each successive payment due under the Note .

(b) Any amounts received by GE Capital which constitute settlement by Lessee of an Event of Loss or payment by Lessee of the Casualty Value pursuant to Section 3.4 of the Lease, shall be paid and applied to prepay the Note.

3.2 Application of Payments in Event of Default. Notwithstanding anything else contained in this Section, if any event of default referred to in Section 4 hereof has occurred and is continuing, all amounts received by GE Capital (other than Excepted Amounts) under this Agreement shall be applied in the manner provided for in Section 4 with respect to proceeds and avails of the Collateral.

SECTION 4 DEFAULTS AND OTHER PROVISIONS

_____ (Initial)

4.1 Event of Default Defined. The term "Event of Default" for the purpose hereof shall mean (i) any one or more breaches by Debtor under the terms and conditions of the Note or this Agreement; (ii) a failure by Debtor in the due observance or performance of any covenant, condition or agreement required to be observed or performed by Debtor pursuant to the terms of the Lease; or (iii) a default by Lessee as defined in Section 4.1 of the Lease.

4.2 Remedies Upon Event of Default. Upon the occurrence of an Event of Default GE Capital shall be entitled to take all actions permitted to GE Capital under the Uniform Commercial Code and any other applicable law, including but not limited to selling the Lease and its right in the Equipment at private or public sale, in bulk or in parcels, with or without notice, and without having the Equipment present at such sale. In addition to, and without in any way limiting the foregoing GE Capital may at its sole discretion:

(a) Upon the occurrence of an Event of Default under Section 4.1(i), all of Debtor's right, title and interest in and to the Lease and the Equipment leased thereunder shall be deemed irrevocably and unconditionally assigned to GE Capital and Debtor shall otherwise cooperate with GE Capital in all reasonable ways to enable GE Capital to collect the rent or other amounts due under the Lease, take possession of the Equipment leased thereunder, or otherwise obtain any remedy available under the Lease or protect GE Capital's investment.

(b) Upon the occurrence of an Event of Default under Section 4.1, Debtor shall, within ten (10) days after GE Capital's written demand to Debtor, immediately prepay to GE Capital the full amount of the then outstanding balance of the Note (the "Pay-Off Balance"). Upon receipt of the Pay-Off Balance, GE Capital agrees to release its security interest in the Collateral. Debtor's obligations under this paragraph shall be absolute and unconditional, and GE Capital shall not be required to first seek or exhaust any other remedies against any Lessee or any Equipment. Should Debtor refuse to pay the Pay-Off Balance to GE Capital within said ten (10) day period, then Debtor shall also be obligated to pay GE Capital all costs, expenses, and reasonable attorney's fees incurred by GE Capital in connection with the enforcement and collection of said Pay-Off Balance.

(c) Notwithstanding all other provisions of this Agreement, in the event a Lease Payment is not paid by Lessee on or before the tenth (10th) day after GE Capital shall have given Debtor written notice of Lessee failure to timely remit lease payments in accordance with the Lease (the "Past Due Date"), Debtor may, not later than the tenth (10th) day following the Past Due Date (the "Debtor Payment Date"), either (i) provided that there exists no other Lessee breach of its obligations under the Lease, cure such rent default by paying to GE Capital, in immediately available funds, such past due Lease Payment ("Cure Payment"); or (ii) deliver to GE Capital a notice informing GE Capital that Debtor has elected not to make such payment. Debtor will be deemed to have elected not to make such payment if no such notice is received by GE Capital on or before Debtor Payment Date. If Debtor elects not to make such payment, GE Capital may immediately proceed to take whatever action it may deem necessary to enforce its rights with respect to the Lease and Equipment under the provisions of this agreement or otherwise. The Cure Payment procedure provided for herein relates solely to a Lessee's failure to timely remit Lease Payments and is not applicable to any other breaches by Lessee of its obligations under the Lease.

4.3 Sale of Collateral. Any sale by GE Capital whether under any power of sale hereby given or by virtue of judicial proceedings, shall operate to divest all right, title, interest, claim and demand whatsoever, either at law or in equity, of Debtor in and to the property sold and shall be a perpetual bar, both at law and in equity, against Debtor, its successors and assigns and any and all persons claiming the property sold or any part thereof under, by or through Debtor, its successors or assigns (subject, however, to the then existing rights, if any of Lessee under the Lease and to the rights and interest of Debtor, its successors and assigns, in the proceeds of such sale which are in excess of the amount required to satisfy the provisions of Sections 4.4 (a) and 4.4 (b) hereof).

_____ (Initial)

4.4 Application of Sale Proceeds and Other Recoveries. The proceeds of any sale of the Collateral or any part thereof, and the proceeds and the avails of any remedy hereunder shall be paid and applied as follows:

(a) To the payment of cost and expenses of foreclosure or suit, if any, and of such sale, and the reasonable compensation of the agents, attorneys and the counsel of GE Capital and of all proper expenses, liabilities and advances incurred or made hereunder by GE Capital, or the holder or holders of the Note, and of all taxes, assessments or liens (if any) superior to the lien of these presents, except any taxes, assessments or other superior lien subject to which said sale may have been made;

(b) To the payment to GE Capital or the holder or holders of the Note to the amount then owing or unpaid on the Note for principal and interest and in case any such proceeds shall be insufficient to pay the whole amount so due upon the Note then to the payment of such principal and/or interest then owing on the Note as GE Capital or the holders of such Note shall elect; and

(c) To the payment to Debtor of all sums remaining.

4.5 No Waiver; Remedies Cumulative. No delay or omission of GE Capital, its successors or assigns, or of any holder of the Note, to exercise any right or power arising from any default on the part of Debtor shall exhaust or impair any such right or power or prevent its exercise during the continuance of such default. No waiver by GE Capital or any holder or holders of the Note of any such default, whether such waiver be full or partial, shall extend to or be taken to affect any subsequent default or to impair the rights resulting therefrom, except as may be otherwise provided herein.

SECTION 5 MISCELLANEOUS

5.1 Successors and Assigns. Whenever any of the parties hereto is referred to, such reference shall be deemed to include the successors and assigns of such party; and all covenants, premises and agreements in this Agreement contained by or on behalf of Debtor or by or on behalf of GE Capital shall bind and inure to the benefit of the respective successors and assigns of such parties whether so expressed or not.

5.2 Release. GE Capital shall release this Agreement and the lien thereof by proper instrument or instruments at such time as all indebtedness secured hereby has been fully paid or discharged.

5.3 Communications. All communications and notices provided for herein shall be in writing and shall be deemed to have been given on the fourth (4th) business day after the same have been deposited in the United States mail, registered or certified, postage prepaid, addressed as follows:

If to GE Capital: GENERAL ELECTRIC CAPITAL CORPORATION
11590 Century Blvd., Suite 111
Cincinnati, OH 45246
Attn: Zone Credit Manager

If to Debtor:

Vision Financial Group, Inc.
1100 Liberty Ave.
Pittsburgh, PA 15220

If to Lessee:

Ed Hanslovan Coal Co., Inc.

_____ (Initial)

Route 2, Box 230
Morrisdale, PA 16858

or as to any of the foregoing parties at such other address as such party may designate by notice duly given in accordance with this Section to other parties.

5.4 Governing Law. This Loan and Security Agreement has been delivered in the State of Connecticut and shall be governed by, and be construed in accordance with, the laws of the State of Connecticut.

5.5 Non-Recourse Nature of Note. GE Capital agrees that, except as otherwise provided in Section 4.2(b), GE Capital will look solely to the Collateral for repayment of the Loan, without recourse against Debtor, and that Debtor shall not be personally liable for the payment of the Note or any other sums provided herein or in the Note. The foregoing shall not limit, restrict or impair the right of GE Capital to accelerate the maturity of the Note upon any event of default or to exercise all rights provided for hereunder or otherwise realize upon the Collateral.

5.6 Modification. This Agreement may not be modified except by a written agreement signed by both parties.

5.7 Jury Trial Waiver. THE PARTIES TO THIS AGREEMENT HEREBY UNCONDITIONALLY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OR ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF, DIRECTLY OR INDIRECTLY, THIS LOAN AND SECURITY AGREEMENT, THE NOTE WHICH RELATES TO IT AND ANY OF THE RELATED DOCUMENTS, AND DEALINGS BETWEEN THEM RELATING TO THE SUBJECT MATTER OF THIS TRANSACTION OR ANY RELATED TRANSACTIONS, AND/OR THE RELATIONSHIP THAT IS BEING ESTABLISHED BETWEEN THEM. The scope of this waiver is intended to be all encompassing of any and all disputes that may be filed in any court (including, without limitation, contract claims, tort claims, breach of duty claims, and all other common law and statutory claims). THIS WAIVER IS IRREVOCABLE MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THE WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT, ANY RELATED DOCUMENTS, OR TO ANY OTHER DOCUMENTS OR AGREEMENT RELATING TO THIS TRANSACTION OR ANY RELATED TRANSACTION. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

IN WITNESS WHEREOF, The parties hereto, intending to be legally bound hereby have caused this Agreement to be executed all as of the day and year first above written.

GE CAPITAL:

GENERAL ELECTRIC CAPITAL CORPORATION

By: Daryl Marcus

Title: Territory Credit Manager

DEBTOR:

Vision Financial Group, Inc.

By: _____

Title: _____

PROMISSORY NOTE

$1,489,093.77 Dated: April 5, 1995

FOR VALUE RECEIVED, Vision Financial Group, Inc., a corporation organized under the laws of the State of Pennsylvania ("Borrower"), hereby promises to pay to the order of GENERAL ELECTRIC CAPITAL CORPORATION, a corporation organized under the laws of the laws of the State of New York ("GE Capital"), the principal sum of One million four hundred eigthy-nine thousand ninety-three and 77/100 Dollars (U.S. $1,489,093.77) (the "Principal Sum") together with interest thereon at the rate of nine and eight tenths percent (9.8%) per annum payable in the manner and at the times hereinafter set forth.

This promissory note is given pursuant to the terms of a loan and security agreement (the "Loan Agreement") dated of even date herewith between the Borrower and GE Capital to which this promissory note is subject in all respects. Capitalized terms used in this promissory note and not otherwise defined shall have the meanings assigned to them in the Loan and Security Agreement dated April 5, 1996 between Borrower and GE Capital (the "Loan Agreement").

This promissory note is given to evidence a loan of the Principal Sum by GE Capital to the Borrower the repayment of which, together with interest thereon; shall be satisfied by GE Capital's receipt of the payments which are required to be made in accordance with the Lease referred to in Schedule A hereto (the "Account Document"). Payment by the party named in the Account Document (the "Account Party") of the installments due thereunder in the manner and at the times required by the Account Document shall constitute payment of the Principal Sum and all interest due hereunder; similarly, any default by the Account Party to make the payments required to be made in the manner and at the times set forth in the Account Document shall constitute default hereunder. All payments received by GE Capital shall be applied first in payment of all outstanding interest (including default interest, if applicable) and the balance of each payment shall thereafter be applied to reduce the outstanding amount of the Principal Sum.

The acceptance by GE Capital of any payment which is less than payment in full of all amounts due and owing at such time shall not constitute a waiver of GE Capital's right to receive payment in full at such time or at any prior or subsequent time. Interest shall be calculated on the basis of a 365 day year.

Time is of the essence hereof. If any installment or any other sum due under this promissory note is not received within ten (10) days after its due date, the Borrower agrees to pay, in addition to the amount of each such installment or other sum, a late payment charge of five percent (5%) of the amount of said installment or other sum, but not exceeding any lawful maximum. In the event that (i) payment of any amount due hereunder is not made within ten (10) days after the same becomes due and payable; or (ii) the provisions of the Loan Agreement so require, then the entire principal sum remaining unpaid, together with all interest thereon and any other sum payable under this promissory note, at the election of GE Capital, shall immediately become due and payable, with interest thereon at the lesser of eighteen percent (18%) per annum or the highest rate not prohibited by applicable law from the date of such accelerated maturity until paid (both before and after any judgment). The payment by the Account Party of late charges and interest on overdue installments, as provided for in the Account Document, shall constitute full satisfaction of the Borrower's obligation for late charges and default interest.

It is the intention of the parties hereto to comply with the applicable usury laws; accordingly, it is agreed that, notwithstanding any provision to the contrary in this promissory note or the Loan Agreement, in no event shall this promissory note or the Loan Agreement require the payment or permit the collection of interest in excess of the maximum amount permitted by applicable law. If any such excess interest is contracted for, charged or received under this promissory note or the Loan Agreement, or in the event that all of the principal balance shall be prepaid, so that under any of such circumstances the

event (a) the provisions this paragraph shall govern and control, (b) neither the Borrower nor any other person or entity now or hereafter liable for the payment hereof shall be obligated to pay the amount of such interest to the extent that it is in excess of the maximum amount of interest permitted by applicable law, (c) any such excess which may have been collected shall be either applied as a credit against the then unpaid principal balance or refunded to the Borrower, at the option of GE Capital, and (d) the effective rate of interest shall be automatically reduced to the maximum lawful contract rate allowed under applicable law as now or hereafter construed by the courts having jurisdiction thereof. It is further agreed that without limitation of the foregoing, all calculations of the rate of interest contracted for, charged or received under this promissory note or the Loan Agreement which are made for the purpose of determining whether such rate exceeds the maximum lawful contract rate, shall be made, to the extent permitted by applicable law, by amortizing, prorating, allocating and spreading in equal parts during the period of the full stated term of the indebtedness evidenced hereby, all interest at any time contracted for, charged or received from the Borrower or otherwise by GE Capital in connection with such indebtedness; provided, however, that if any applicable state law is amended or the law of the United States of America preempts any applicable state law, so that it becomes lawful for GE Capital to receive a greater interest per annum rate than is presently allowed, the Borrower agrees that, on the effective date of such amendment or preemption, as the case may be, the lawful maximum hereunder shall be increased to the maximum interest per annum rate allowed by the amended state law or the law of the United States of America.

The Borrower and all sureties, endorsers, guarantors or any others (each such person, other than the Borrower, an "Obligor") who may at any time become liable for the payment hereof jointly and severally consent hereby to any and all extensions of time, renewals, waivers or modifications of, and all substitutions or releases of, security or of any party primarily or secondarily liable on this promissory note or the Loan Agreement or any term and provision of either, which may be made, granted or consented to by GE Capital, and agree that suit may be brought and maintained against any one or more of them, at the election of GE Capital without joinder of any other as a party thereto. The Borrower and each Obligor hereby waives presentment, demand for payment, notice of nonpayment, protest, notice of protest, notice of dishonor, and all other notices in connection herewith, as well as filing of suit (if permitted by law) and diligence in collecting this promissory note or enforcing any of the security hereof, and agrees to pay (if permitted by law) all expenses incurred in collection, including GE Capital's actual attorneys' fees.

THE BORROWER HEREBY UNCONDITIONALLY WAIVES ITS RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF, DIRECTLY OR INDIRECTLY, THIS PROMISSORY NOTE, ANY OF THE RELATED DOCUMENTS, ANY DEALINGS BETWEEN THE BORROWER AND GE CAPITAL RELATING TO THE SUBJECT MATTER OF THIS TRANSACTION OR ANY RELATED TRANSACTIONS, AND/OR THE RELATIONSHIP THAT IS BEING ESTABLISHED BETWEEN THE BORROWER AND GE CAPITAL. The scope of this waiver is intended to be all encompassing of any and all disputes that may be filed in any court (including, without limitation, contract claims, tort claims, breach of duty claims, and all other common law and statutory claims). THIS WAIVER IS IRREVOCABLE MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THE WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS PROMISSORY NOTE, ANY RELATED DOCUMENTS, OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THIS TRANSACTION OR ANY RELATED TRANSACTION. In the event of litigation, this promissory note may be filed as a written consent to a trial by the court.

This promissory note, the Loan Agreement and the documents executed in connection therewith constitute the entire agreement of the Borrower and GE Capital with respect to the subject matter hereof and supersedes all prior understandings, agreements and representations, express or implied.

No variation or modification of this promissory note, or any waiver of any of its provisions or conditions, shall be valid unless in writing and signed by an authorized representative of the Borrower and GE Capital. Any such waiver, consent, modification or change shall be effective only in the specific instance and for the specific purpose given.

_____ (Initial)

Notwithstanding anything contained in this promissory note to the contrary, Borrower shall be liable for and upon the indebtedness evidenced by this promissory note only to the extent of, and GE Capital's exclusive rights to collect or recover payment of such indebtedness are limited to, (i) the security for the payment of such indebtedness pursuant to the Loan Agreement and such liability may be enforced and such rights may be exercised only in the manner and under the conditions set forth in the Loan Agreement and (ii) the mandatory prepayment provisions set forth in Section 4.2(b) of the Loan Agreement.

This promissory note may only be assigned by GE Capital as part of an assignment of all of GE Capital's rights under the Loan Agreement.

IN WITNESS WHEREOF, the Borrower has executed and delivered this promissory note on the date first above written.

Vision Financial Group, Inc.

By: _____

Title: _____

SCHEDULE A TO PROMISSORY NOTE

Description of Account:

Fifty Two (52) monthly rentals in the amount of Thirty Five Thousand Two Hundred Sixty One and 00/100 Dollars ($35,261.00), commencing with the month of June 1, 1996 and ending September 1, 2000.

(Initial)

ACCEPTANCE AND DELIVERY

TO: GE Capital Commercial Asset Funding
General Electric Capital Corporation
44 Old Ridgebury Road
Danbury, CT 06810

We are pleased to confirm the following:

1. We have read the lease, financing, loan, security or other agreement ("Agreement") which we executed with you on April 5, 1996 and understood its terms before we signed it; and
2. We selected both the personal property ("Equipment") which is the subject of the Agreement and the supplier from whom the Equipment was purchased, and we understand that neither the supplier nor any salesman or agent of the supplier is an agent or representative of yours or your assigns; and
3. Having examined the Equipment, its parts and accessories, we are completely satisfied with its delivery to us at our location as specified in the Agreement; and
4. The Equipment has been installed in good condition and inspected and accepted by us as satisfactory, and it satisfies all the purposes for which it was chosen; and
5. We understand and agree that neither you nor your assigns make any WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, as to any matter whatsoever concerning the condition of the Equipment or the use or maintenance of it; and
6. If the Equipment is not properly installed, does not operate as represented by the supplier or is unsatisfactory for any reason, we shall make any and all claims in respect thereof solely against the supplier and shall nevertheless pay you or your assigns all sums payable under the Agreement, and we waive any and all rights, claims and set-offs against you or your assigns that might otherwise have arisen under the Agreement; and
7. WE CERTIFY that the Equipment is and shall be used for BUSINESS PURPOSES exclusively; and
8. We understand that you reply on this signed Acceptance and Delivery and the truth of all statements in it when you pay the supplier; and
9. We understand that the Agreement may be assigned to another party, and we consent to that assignment; and
10. We understand that we are responsible for filing returns and paying all taxes and other charges payable to all federal, state and local authorities relative to the Equipment and the Agreement.

DO NOT SIGN THIS ACCEPTANCE AND DELIVERY UNTIL ALL OF THE EQUIPMENT HAS BEEN DELIVERED AND INSTALLED.

Today's Date: April 10, 1996

Date of delivery of the Equipment:

April 10, 1996

Customer Name: Vision Financial Group, Inc.

By: _____

Title: _____

j:\masters\young-r\accep&dc.doc

To: GE Capital Commercial Asset Funding
General Electric Capital Corporation
44 Old Ridgebury Road
Danbury, CT 06810

ASSIGNMENT OF LEASE (WITHOUT RECOURSE)

In consideration of the extension of certain financial accommodations (including the sum of $1,489,093.77) by the General Electric Capital Corporation ("GE Capital"), a New York Corporation, to Vision Financial Group, Inc. ("Assignor"), a Pennsylvanian Corporation, with principal offices located at 1100 Liberty Avenue, Pittsburgh, Pennsylvania 15222 the receipt and sufficiency of which is hereby acknowledged by Assignor, Assignor hereby sells, assigns, transfers and sets over to GE Capital, its successors and assigns, without recourse: (a) all of Assignor's right, title and interest in and to that certain lease agreement dated 52 rents @ $$35,261 each, commencing June 01, 1996, March 07, 1996 (the "Lease") between Assignor as Lessor and Ed Hanslovan Coal Co., Inc. as Lessee ("Lessee"), and all of those agreements and instruments executed in connection with the Lease including without limitation all financing statements and guaranties (the Lease and all of said agreements and instruments collectively the "Agreements"), together with all of Assignor's rights and remedies thereunder; (b) all rental and other payments due and to become due under the Agreements; and (c) all of Assignor's rights and interests in and to the property the subject of the Lease (the "Equipment"). (The Equipment is more fully described in the Lease.)

GE Capital shall have the right, in GE Capital's own behalf and in GE Capital's own name, to take any action under the Agreements which Assignor might have taken, save for this Assignment. Contemporaneously with execution hereof, Assignor shall deliver to GE Capital all of the Agreements.

Assignor warrants and represents to and covenents with GE Capital that:

a. each of the Agreements is genuine and enforceable against Lessee (and all others who are parties thereto), the only agreements executed with respect to the Equipment, and the copies given to GE Capital by Assignor are the only originals thereof;

b. the Equipment is and will continue to be free and clear of all security interests, claims, liens and encumbrances of any kind or nature whatsoever (other than any security interest granted to GE Capital);

c. Assignor is the lawful owner of the Equipment and has absolute right and title to each and every item of Equipment;

d. Assignor has the full legal right, power and authority to execute this Assignment and to consummate all of the actions contemplated by this Assignment, the execution and delivery of this Assignment by Assignor has been approved by all necessary corporate or other action, and none of Assignor's obligations hereunder will result in any breach of any provision of any agreement or instrument to which Assignor is a party or by which Assignor is bound;

e. all signatures, names, addresses, amounts and other statements contained in the Agreements are true and correct;

f. each of the Agreements conforms to all applicable laws and regulations and is legally enforceable in the state or states where the Lessee and the Equipment are located, and if filing or recording of any of the Agreements or any other or similar instrument is required or permitted by law, the same has been so filed or recorded as to be effective against all persons;

g. the Equipment has been delivered to and accepted by Lessee in a condition satisfactory to Lessee;

h. Assignor has complied and will continue to comply with all of its representations, warranties, convenants and all other obligations to Lessee under each of the Agreements;

i. Assignor will indemnify and hold GE Capital harmless from and defend GE Capital against any liability or expense under or an account of any of the Agreements;

j. Lessee understands the terms of each of the Agreements and has neither disputed any obligation arising under any of the Agreements nor has any claim of defense or offset with respect to any of the Agreements or any of Lessee's obligations thereunder;

k. no amount due under any of the Agreements has been prepaid by Lessee, and no deposit has been paid by Lessee except as specifically stated in the Agreements delivered to GE Capital;

l. except as to any titled vehicles, the Equipment is presently located at Lessee's address as shown in the Lease and shall not be moved from said location except upon the prior written consent of GE Capital;

m. Lessee has complied with all of its obligations to Assignor under each of the Agreements, and Lessee is not presently in default of any of such obligations; and

n. Assignor has not made any prior sale or assignment of any of the Agreements or any item of Equipment to any person, firm or corporation or granted any waiver under or agreed to any modification or amendment of the Agreements or any of them.

RCB/Standard/CAF/assignme:1

If Assignor shall be breached any of its warranties, covenants or obligations to GE Capital under this Assignment, or any representation made to GE Capital under this Assignment shall be false, Assignor shall repurchase the Agreements from GE Capital for the total amount of all unpaid payments thereunder, whether due or to become due, at the time of such repurchase, together with all costs of collection, if any, including, but not limited to attorney's fees.

To secure both the performance by Lessee of all of its obligations under the agreements and the performance by Assignor of all of its obligations hereunder, Assignor hereby grants to GE Capital and its successors and assigns, a security interest, pursuant to the Uniform Commercial Code and any other applicable law, in the Equipment and all parts, repairs, improvements, attachments, accessories and additions thereto now or hereafter at any time made or acquired, and all proceeds, substitutions and replacements thereof; provided, however, any such substitution or replacement may only be made with GE Capital's prior written consent. Assignor shall execute a UCC-1 financing statement or such similar instrument as GE Capital shall require naming Assignor, as debtor, and GE Capital, as secured party, evidencing GE Capital's security interest herein granted. Assignor hereby grants GE Capital an irrevocable power of attorney and authorizes and empowers GE Capital to execute and file all forms, documents and titles and make all necessary corrections thereto to perfect and record its security interest in the Equipment. If Lessee shall be deemed to be in default under the terms of any of the Agreements, all amounts due under the Agreements shall at GE Capital's sole election, become immediately due and payable to GE Capital, and GE Capital will be entitled to exercise any and all rights and remedies available to it under the Uniform Commercial Code and any other applicable law in respect of the Equipment, including but not limited to the right to require Assignor to assemble the Equipment and make it available to GE Capital at a place designated by GE Capital and to enter upon the premises where the Equipment, or any part of the Equipment may be, and take possession thereof. In the event of repossession after any default by Lessee, Assignor hereby WAIVES NOTICE OF AND OPPORTUNITY FOR HEARING. Assignor shall not (and shall not permit Lessee to) sell, transfer, move, assign or encumber, in any manner whatsoever, the Equipment (or any part thereof) without the prior written consent of GE Capital. Under no circumstances whatsoever shall item of Equipment be moved outside the continental United States.

GE Capital shall have no obligation of lessor under the Lease, and nothing herein shall relieve Assignor of any of its obligations under the Lease or any of the Agreements. Assignor shall have no authority to, and will not, without GE Capital's prior written consent, accept collections, repossess or consent to the return of the Equipment, or modify or amend, in any respect, the terms of any of the Agreements. Any failure or delay by GE Capital in enforcing any right hereunder shall not be deemed a waiver of such right or of any subsequent default by Assignor or of GE Capital's right to require strict performance of Assignor's obligations under this Assignment. This Assignment shall be binding upon Assignor and its successors and assigns and shall inure to the benefit to GE Capital and its successors and assigns. If GE Capital shall retain an attorney for the purpose of enforcing any of its rights against Assignor under this Assignment, Assignor shall be responsible for and reimburse GE Capital for all such attorney's fees and costs. Assignor shall execute and deliver to GE Capital, on demand and from time to time, such other and additional documents and instruments as GE Capital shall deem necessary to effectuate this Assignment.

Assignor subordinates to GE Capital any right Assignor has or might have: (a) in the Equipment; (b) against Lessee; (c) against any guarantor under any guaranty; and (d) by reason of payment to GE Capital of any payments under any of the Agreements or otherwise. Assignor hereby waives notice of: acceptance hereof; amendment or modification of any of the Agreements; the granting to Lessee of any indulgences or extensions of time for payment; and all other notices or formalities to which Assignor might otherwise be entitled.

If GE Capital takes possession of the Equipment, or any part thereof, and the same shall be sold at a public or private sale, GE Capital shall deduct and retain from the proceeds of such sale or sales any and all amounts whatsoever paid of expended in connection with any such taking of possession or sale, including attorney's fees paid by GE Capital. The balance of any such proceeds shall be applied to GE Capital to the indebtedness secured hereby, in such order and manner as GE Capital may determine.

Assignor waives any right it may have to assert, by way of counterclaim or affirmative defense in any action to enforce Assignor's obligations hereunder, any claim whatsoever against GE Capital. The foregoing provision shall not bar Assignor from asserting the substance of any such counterclaim in a separate action against GE Capital.

Assignor warrants and represents to and covenants wit GE Capital that: this Assignment contains the entire agreement of the parties; all prior agreements, commitments, understandings, representations, warranties and negotiations in connection herewith, if any, are hereby merged into this Assignment; and no oral representations shall in any manner whatsoever modify or explain any of the terms and conditions of this Assignment or any of the Agreements.

This Assignment shall be governed by and construed in accordance with the laws of the State of Connecticut. Assignor hereby agrees that all actions or proceedings arising, directly or indirectly, in connection with, out of or related to this Assignment may be litigated, at GE Capital's sole discretion and election, in courts in Connecticut, and Assignor hereby subjects itself to the jurisdiction of any local, state or federal court located within Connecticut.

IN WITNESS WHEREOF, Assignor has executed this Assignment this ____ day of _____, 19 96.

Witness: _____ _____ (Assignor)

(SEAL)

Attest: Dana M. Minster

(Sign and Print Name)

Dana M. Minster

By: _____

Title: _____

RDB/Standard/CAF/assignme:2

Exhibit B
Form of Acknowledgment Letter

General Electric Capital Corporation
44 Old Ridgebury Road
Danbury, CT 06810

RE: Master Lease No. 1278 dated as of March 7, 1996 between Ed Hanslovan Coal Co., Inc. ("Lessee") and Vision Financial Group, Inc. ("Lessor"), to the extent said Master Lease relates to Equipment Schedule No. 1 (the Equipment Schedule and the Master Lease as it relates thereto the "Lease").

Gentlemen:

Lessor proposes to assign, grant a security interest in, and hypothecate to General Electric Capital Corporation ("GE Capital") Lessor's right, title, and interest in and to the Lease. All capitalized terms used herein which are not otherwise defined shall have the respective meanings given to them in the Lease.

This letter constitutes Lessor's notice to Lessee of the assignment of the Lease effective as of April 5, 1996 ("Effective Date"). Beginning with such date, Lessee is hereby directed to send all payments of rentals, additional rent (except as excluded herein), casualty and/or stipulated loss values due and payable under the Lease to GE Capital.

Lessee hereby represents and agrees as follows: (i) the Lease is in full force and effect, and no Event of Default (as defined in the Master Lease) or event which with notice or lapse of time or both would become an Event of Default has occurred and is continuing, (ii) the execution and delivery of the Lease by Lessee and the performance of its obligations thereunder was duly authorized by all necessary corporate action of Lessee, and the Lease constitutes a valid, binding agreement of Lessee, enforceable in accordance with its terms; (iii) the Master Lease Agreement and Equipment Schedule No. 1 together represent the sole agreement between Lessor and Lessee respecting the equipment described in said Schedule (the "Equipment") and the rentals and other payments due for the Equipment under the Lease, and Lessee has entered into no other agreement, whether written or oral, with the Lessor with respect to the Equipment; (iv) Lessee has not made any prepayments of any rentals or other payments due under the Leases; (v) Lessee has not placed or allowed to be placed any lien, claim, or encumbrance on the Equipment; (vi) Lessor has not improperly interfered with Lessee's quiet enjoyment of the Equipment; (vii) Lessee's obligation to make all payments as set forth in the Lease is unconditional and Lessee will make all of said payments, including any termination or casualty payments, in accordance with the instructions herein set forth unless otherwise notified in writing by GE Capital and without any right of setoff, defense or counterclaim, notwithstanding any past, present, or future claim which Lessee has or may have against Lessor, any defect in the Equipment being leased, any damage or loss to all or any portion of the Equipment, or any other cause or reason whatsoever; (viii) the number of rental payments remaining under the Lease and the amount of those payments is set forth on Annex No. 1 hereto; (ix) the provisions of the Lease may not be amended, modified or waived without the prior written consent of GE Capital; (x) all of the Equipment has been delivered and installed and has been found to be acceptable and satisfactory to Lessee; (xi) Lessee's representations and warranties set forth in the Master Lease are true and correct on the date hereof and are hereby reaffirmed for the benefit of GE Capital; (xii) GE Capital shall enjoy all of Lessor's rights and privileges under the Lease; (xiii) the original executed copy of each Schedule which has been delivered to GE Capital by Debtor is the only copy marked "Original" and all other copies of each Schedule have been stamped or marked as duplicates; (xiv) any notice which Lessee is required to give Lessor under the Lease shall be sent to Lessor with a copy to GE Capital at 44 Old Ridgebury Road, Danbury, CT 06810, Attention: Business Center; (xv) Lessee agrees to provide GE Capital with annual audited financial statements within 90 days of the close of each fiscal year and upon GE Capital's request, with quarterly financial statements in a form reasonably acceptable to GE Capital;

_____(Initial)

(xvi) Lessee shall continue to pay directly or reimburse Lessor for all taxes due under the Master Lease; and (xvii) Lessee's obligations under the Lease shall survive termination thereof.

WAIVER OF JURY TRIAL. GE CAPITAL, LESSOR AND LESSEE HEREBY UNCONDITIONALLY WAIVE THEIR RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF, DIRECTLY OR INDIRECTLY, THIS AGREEMENT, ANY OF THE LOAN DOCUMENTS, ANY DEALINGS BETWEEN GE CAPITAL, LESSOR AND LESSEE RELATING TO THE SUBJECT MATTER HEREOF OR THEREOF, AND/OR THE RELATIONSHIP THAT IS BEING ESTABLISHED BETWEEN GE CAPITAL, LESSOR AND LESSEE. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT (INCLUDING, WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS). THIS WAIVER IS IRREVOCABLE MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THE WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT OR THE LEASE DOCUMENTS. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

This acknowledgment is executed for the purpose of inducing GE Capital to finance the Lease. The parties hereto agree that this acknowledgment may be executed in three counterparts, each of which shall be deemed an original for all purposes, but all of which together shall constitute one and the same instrument. Please promptly return two fully executed counterparts of this acknowledgment to Lessor.

WITNESS the due execution hereof as of the 5 day of April, 1996.

ACKNOWLEDGED AND AGREED:

Ed Hanslovan Coal Co., Inc.

By: _____

Title: _____

Vision Financial Group, Inc.

By: _____

Title: _____

GENERAL ELECTRIC CAPITAL CORPORATION

By: _____

Title: Territory Credit Manager

ANNEX NO. 1

Fifty Two (52) monthly rentals in the amount of Thirty Five Thousand Two Hundred Sixty One and 00/100 Dollars ($35,261.00), commencing with the month of June 1, 1996 and ending September 1, 2000.

_____(Initial)

General Electric Capital Corporation
44 Old Ridgebury Road
Danbury, CT 06810

RE: Master Lease No. 1278 dated as of March 7, 1996 between Ed Hanslovan Coal Co., Inc. ("Lessee") and Vision Financial Group, Inc. ("Lessor"), to the extent said Master Lease relates to Equipment Schedule No. 1 (the Equipment Schedule and the Master Lease as it relates thereto the "Lease").

Gentlemen:

Lessor proposes to assign, grant a security interest in, and hypothecate to General Electric Capital Corporation ("GE Capital") Lessor's right, title, and interest in and to the Lease. All capitalized terms used herein which are not otherwise defined shall have the respective meanings given to them in the Lease.

This letter constitutes Lessor's notice to Lessee of the assignment of the Lease effective as of April 5, 1996 ("Effective Date"). Beginning with such date, Lessee is hereby directed to send all payments of rentals, additional rent (except as excluded herein), casualty and/or stipulated loss values due and payable under the Lease to GE Capital.

Lessee hereby represents and agrees as follows: (i) the Lease is in full force and effect, and no Event of Default (as defined in the Master Lease) or event which with notice or lapse of time or both would become an Event of Default has occurred and is continuing, (ii) the execution and delivery of the Lease by Lessee and the performance of its obligations thereunder was duly authorized by all necessary corporate action of Lessee, and the Lease constitutes a valid, binding agreement of Lessee, enforceable in accordance with its terms; (iii) the Master Lease Agreement and Equipment Schedule No. 1 together represent the sole agreement between Lessor and Lessee respecting the equipment described in said Schedule (the "Equipment") and the rentals and other payments due for the Equipment under the Lease, and Lessee has entered into no other agreement, whether written or oral, with the Lessor with respect to the Equipment; (iv) Lessee has not made any prepayments of any rentals or other payments due under the Leases; (v) Lessee has not placed or allowed to be placed any lien, claim, or encumbrance on the Equipment; (vi) Lessor has not improperly interfered with Lessee's quiet enjoyment of the Equipment; (vii) Lessee's obligation to make all payments as set forth in the Lease is unconditional and Lessee will make all of said payments, including any termination or casualty payments, in accordance with the instructions herein set forth unless otherwise notified in writing by GE Capital and without any right of setoff, defense or counterclaim, notwithstanding any past, present, or future claim which Lessee has or may have against Lessor, any defect in the Equipment being leased, any damage or loss to all or any portion of the Equipment, or any other cause or reason whatsoever; (viii) the number of rental payments remaining under the Lease and the amount of those payments is set forth on Annex No. 1 hereto; (ix) the provisions of the Lease may not be amended, modified or waived without the prior written consent of GE Capital; (x) all of the Equipment has been delivered and installed and has been found to be acceptable and satisfactory to Lessee; (xi) Lessee's representations and warranties set forth in the Master Lease are true and correct on the date hereof and are hereby reaffirmed for the benefit of GE Capital; (xii) GE Capital shall enjoy all of Lessor's rights and privileges under the Lease; (xiii) the original executed copy of each Schedule which has been delivered to GE Capital by Debtor is the only copy marked "Original" and all other copies of each Schedule have been stamped or marked as duplicates; (xiv) any notice which Lessee is required to give Lessor under the Lease shall be sent to Lessor with a copy to GE Capital at 44 Old Ridgebury Road, Danbury, CT 06810, Attention: Business Center; (xv) Lessee agrees to provide GE Capital with annual audited financial statements within 90 days of the close of each fiscal year and upon GE Capital's request, with quarterly financial statements in a form reasonably acceptable to GE Capital;

_____ (Initial)

(xvi) Lessee shall continue to pay directly or reimburse Lessor for all taxes due under the Master Lease; and (xvii) Lessee's obligations under the Lease shall survive termination thereof.

WAIVER OF JURY TRIAL. GE CAPITAL, LESSOR AND LESSEE HEREBY UNCONDITIONALLY WAIVE THEIR RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF, DIRECTLY OR INDIRECTLY, THIS AGREEMENT, ANY OF THE LOAN DOCUMENTS, ANY DEALINGS BETWEEN GE CAPITAL, LESSOR AND LESSEE RELATING TO THE SUBJECT MATTER HEREOF OR THEREOF, AND/OR THE RELATIONSHIP THAT IS BEING ESTABLISHED BETWEEN GE CAPITAL, LESSOR AND LESSEE. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT (INCLUDING, WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS). THIS WAIVER IS IRREVOCABLE MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THE WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT OR THE LEASE DOCUMENTS. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

This acknowledgment is executed for the purpose of inducing GE Capital to finance the Lease. The parties hereto agree that this acknowledgment may be executed in three counterparts, each of which shall be deemed an original for all purposes, but all of which together shall constitute one and the same instrument. Please promptly return two fully executed counterparts of this acknowledgment to Lessor.

WITNESS the due execution hereof as of the 5 day of April, 1996.

ACKNOWLEDGED AND AGREED:

Ed Hanslovan Coal Co., Inc.

By: _____

Title: _____

Vision Financial Group, Inc.

By: _____

Title: _____

GENERAL ELECTRIC CAPITAL CORPORATION

By: _____

Title: _____

ANNEX NO. 1

Fifty Two (52) monthly rentals in the amount of Thirty Five Thousand Two Hundred Sixty One and 00/100 Dollars ($35,261.00), commencing with the month of June 1, 1996 and ending September 1, 2000.

_____ (Initial)

Uniform Commercial Code Form UCC-1
IMPORTANT - Please read instructions on reverse. Type or print in block 4 before completing

Debtor name (last name first if individual) and mailing address:

Ed Hanslovan Coal Co., Inc.
Route 2
Morrisdale, PA 16858

1

Debtor name (last name first if individual) and mailing address:

1a

Debtor name (last name first if individual) and mailing address:

1b

Secured Party(ies) name(s) (last name first if individual) and address for security interest information:

Vision Financial Group, Inc.
1100 Liberty Avenue
Pittsburgh, PA 15222

2

Assignee(s) of Secured Party name(s) (last name first if individual) and address for security interest information:

General Electric Capital Corporation
11590 Century Blvd., Suite 111
Cincinnati, OH 45246

2a

Special Types of Parties (check if applicable):

☐ The terms "Debtor" and "Secured Party" mean "Lessee" and "Lessor," respectively.

☐ The terms "Debtor" and "Secured Party" mean "Consignee" and "Consignor," respectively.

☐ Debtor is a Transmitting Utility.

3

SECURED PARTY SIGNATURE(S)

This statement is filed with only the Secured Party's signature to perfect a security interest in collateral (check applicable box(es))-

a. ☐ acquired after a change of name, identity or corporate structure of the Debtor.

b. ☐ as to which the filing has lapsed.

c. already subject to a security interest in another county in Pennsylvania-
☐when the collateral was moved to this county.
☐when the Debtor's residence or place of business was moved to this county.

d. already subject to a security interest in another jurisdiction-
☐when the collateral was moved to Pennsylvania.
☐when the Debtor's location was moved to Pennsylvania.

e. ☐ which is proceeds of the collateral described in block 9, in which a security interest was previously perfected (also describe proceeds in block 9, if purchased with cash proceeds and not adequately described on the original financing statement).

Secured Party Signature(s)
(required only if box(es) is checked above):

4

Filing No. (stamped by filing officer): File # P-483599

Date, Time, Filing Office (stamped by filing officer):
Date April 15, 1996
Time 10:50am
Clearfield County Prothonotary Office

5

This **Financing Statement** is presented for filing pursuant to the Uniform Commercial Code, and is to be filed with the (check applicable box):

☐ Secretary of the Commonwealth.
☒ Prothonotary of Clearfield County.
☐ real estate records of _____ County.

6

Number of Additional Sheets (if any): 7

Optional Special Identification (Max. 10 characters): 8

COLLATERAL

Identify collateral by item and/or type:

See attached Schedule A

☐ (check only if desired) Products of the collateral are also covered. 9

Identify related real estate, if applicable: The collateral is, or includes (check appropriate box(es))-

a. ☐ crops growing or to be grown on -
b. ☐ goods which are or are to become fixtures on -
c. ☐ minerals or the like (including oil and gas) as extracted on -
d. ☐ accounts resulting from the sale of minerals or the like (including oil and gas) at the wellhead or minehead on -

the following real estate:

Street Address:

Described at: Book _____ of (check one) ☐ Deeds ☐ Mortgages, at Page(s) _____

for _____ County. Uniform Parcel Identifier _____

☐ Described on Additional Sheet.

Name of record owner (required only if no Debtor has an interest of record):

10

DEBTOR SIGNATURE(S)

Debtor Signature(s):

Ed Hanslovan Coal Co., Inc.

1 Edward J. Hanslovan Pres

1a Paul Hanslovan Sec Treas

1b

11

RETURN RECEIPT TO:

General Electric Capital Corporation
11590 Century Blvd., Suite 111
Cincinnati, OH 45246

12

STANDARD FORM - FORM UCC-1 (7-89)
Approved by Secretary of Commonwealth of Pennsylvania

FILING OFFICE ACKNOWLEDGEMENT - County only.
NOTE - Do not send this page to the Department of State.

REORDER FROM
Registre, Inc.
514 PIERCE ST.
P.O. BOX 218
ANOKA, MN. 55303
(612) 421-1713

VISION
Financial Group, Inc.

The Pennsylvanian • 1100 Liberty Avenue • Pittsburgh, PA 15222
(412) 261-6465 • Fax (412) 261-9404

Friday, April 5, 1996

Via Fax and Regular Mail

Mr. Darryl Marcum
GE Capital
11590 Century Boulevard
Suite 111
Cincinnati, OH 45246

Subject: Henslowe Coal

Dear Darryl:

We are please to enclose properly executed documents for our mutual client as follows:

- master lease
- schedule
- acceptance certificate
- uucc's
- schedule "A"
- additional security
- lease certification
- personal guaranty
- lessee and lessor incumbency certificate
- notice of assignment, and
- assignment of lease -VFG to GE, 52 rents commencing 6/1/96 @ $35,261 for $1,469,093.77.

In that we are scheduled to fund on 4/10/96, I have provided wiring instructions to Rudd Equipment below:

VFG will wire to you $160,906.23 on 4/10/96, unless you want us to wire the vendor our portion. Our wire will be requested on 4/9/96 to insure you receive same by 10 a.m. on 4/10/96. We have all had plenty of time to make sure we perform. If there is any additional data that is needed, please call Dana Minster, Lori Brill, or myself upon receipt of this Fax.

Sincerely,

Frederick S. Summers Jr.

Fred Summers

MODIFICATION AGREEMENT
GE Capital Account No.
6048055-003

THIS MODIFICATION AGREEMENT ("Modification Agreement") is made and entered into as of this 11th day of January, 2000, by and between GENERAL ELECTRIC CAPITAL CORPORATION ("GE Capital "), a New York corporation with a place of business at 44 Old Ridgebury Road, Danbury, CT and Ed Hanslovan Coal Company, Inc. ("Customer") a Pennsylvania Corporation, with a place of business at Route 2 Box 230, Morrisdale, PA 16858.

RECITALS

WHEREAS on or about April 5, 1996, GE Capital loaned Debtor the Principal sum of One Million Four Hundred Eighty Nine Thousand Ninety Three and 77/100 Dollars ($1,489,093.77) (the "Principal Amount")

WHEREAS Debtor has requested that GE Capital modify its obligations under the Note;

WHEREAS GE Capital is willing to modify customer's obligations as requested subject to the terms and conditions set forth herein.

NOW THEREFORE, in consideration of these premises and the covenants contained herein and for other good and valuable consideration, the receipt and adequacy of which the parties hereby acknowledge, the parties hereby agree as follows:

I. ACKNOWLEDGMENTS, REPRESENTATIONS AND COVENANTS: Debtor does hereby represent, acknowledge, warrant and covenant to GE Capital that:

1) The recitals set forth above are true and accurate;

2) The Note and Security Agreement are duly executed, binding obligations of Debtor and have not been terminated and the copies of same attached hereto as Exhibits A and B, respectively, and made a part hereof are true, complete and accurate copies of same;

3) Debtor has adequate power and capacity to enter into this Modification Agreement;

4) The entry into and performance by Debtor of his obligations under this Promissory Note do not (i) violate any judgment, order law or regulation applicable to Debtor; or (ii) result in any breach of, constitute a default under or result in the creation of any lien, charge, security interest or other encumbrance upon any unit of Equipment pursuant to any indenture, security agreement, deed of trust, bank loan or credit agreement or other instrument (other than the Security Agreement) to which Debtor is a party;

5) There are no suits or proceedings pending or threatened in court or before any regulatory commission, board or other administrative governmental agency against or affecting Debtor, which will have a material adverse effect on the ability of Debtor to fulfill its obligations under this Modification Agreement, the Note or Security Agreement;

6) The financial statements of Debtor, heretofore delivered to GE Capital accurately present the financial position of Debtor, as of the date of delivery, and there has been no material adverse change in the financial condition of Debtor since the date of such financial statements;

7) Debtor agrees that, notwithstanding any provision to the contrary herein, it will continue to fulfill any and all of its duties and obligations under the Note and Security Agreement, except as those duties and obligations are modified by this Modification Agreement;

8) As of the date hereof, there are Twenty One (21) installments of principle and interest of Thirty Five Thousand Two Hundred Sixty One and /100 Dollars ($35,261.00), followed by One (1) payment including the balance of all remaining principal and accrued and unpaid interest; next due on December 1, 1999 which remain to be paid thereon.

II. MODIFICATION:

1) The payment schedule of the Note set forth above beginning as of the date hereof is hereby modified as follows:

(a) Twenty One (21) installments of principle and interest of Thirty Five Thousand Two Hundred Sixty One and /100 Dollars ($35,261.00), next due on February 1, 2000 which remain to be paid thereon

Followed by One (1) final payment which is to include all remaining principal and interest outstanding to be paid thereon.

2) The Security Agreement is hereby modified, as necessary, to incorporate the modifications in the Note set forth herein.

III. REMAINING TERMS TO CONTINUE IN EFFECT

1) Except as expressly modified herein, conditions and terms of the Note, and Security Agreement shall continue in full force and effect in accordance with their original terms and conditions.

2) All Exhibits referenced herein and attached hereto are incorporated herein by reference.

3) If this Modification Agreement is deemed unenforceable in any respect, then and in such case the parties agree that the Note and Security Agreement shall be enforceable in accordance with their original terms and conditions as if this Modification Agreement had never been executed.

4) It is the intention of the parties hereto to comply with all applicable usury laws; accordingly, it is agreed that, notwithstanding any provision to the contrary in this Modification Agreement, the Note or Security Agreement, in no event shall any of the foregoing require the payment or permit the collection of interest in excess of the maximum amount permitted by applicable law. If any such excess interest is contracted for, charged or received thereunder, or in the event that all of the Account Balance shall be prepaid, so that under any of such circumstances the amount of interest contracted for, charged or received under this Modification Agreement, the Note or Security Agreement shall exceed the maximum amount of interest permitted by applicable law, then in such event (a) the provisions of this Section shall govern and control, (b) neither Debtor nor any other person or entity now or thereafter liable for the payments shall be obligated to pay the amount of such interest to the extent that it is in excess of the maximum amount of interest permitted by applicable law, (c) any such excess which may have been collected shall be either applied as a credit against the then unpaid Account Balance or refunded to the party having paid same, at the option of GE Capital , and (d) the effective rate of interest shall be automatically reduced to the maximum lawful contract rate allowed under applicable law as now or hereafter construed by the courts having jurisdiction thereof.

5) Any payment received from Debtor may be applied by GE Capital at any time against any obligation due and owing by Debtor under the Note or Security Agreement, in GE Capital 's sole discretion, notwithstanding any statement appearing on or referred to in any remittance from Debtor or any prior application of such payment. In the event any bankruptcy proceedings are instituted by or against Debtor under any applicable bankruptcy law within 90 days after receipt by GE Capital of any such payment, such payment shall be deemed applicable to unpaid obligations then due thereunder in the inverse order of maturity.

6) Debtor hereby certifies, agrees and acknowledges that the Equipment is installed and fully operational and is now and will continue to be used and in the conduct of Debtor's business.

7) This Agreement shall be binding upon and shall inure to the benefit of all the parties hereto and their respective administrators, successors and permitted assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement and have caused this Agreement to be executed by their respective duly authorized representatives as of the day first above-written.

DEBTOR:

Ed Hanslovan Coal Company, Inc.

By: Mary Hanslovan

Title: Vice Pres

GENERAL ELECTRIC CAPITAL CORPORATION:

By: _____

Title: _____

Exhibit B

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT (the "Mortgage") is made this ____ day of August, 2002, by Edward Hanslovan and Mary Hanslovan (the "Mortgagors"), in favor of General Electric Capital Corporation, whose principal business address is 44 Old Ridgebury Road, Danbury, Connecticut 06801 ("GE Capital" or the "Mortgagee").

W I T N E S S E T H:

WHEREAS, GE Capital has agreed to (i) amend and restructure the outstanding obligations of Ed Hanslovan Coal Company, Inc. ("Debtor") of which the Mortgagors are principals, under, among other things, that certain Master Lease Agreement dated April 5, 1996, that certain Installment Note dated October 10, 1997, and that certain Master Security Agreement, dated October 10, 1997, and (ii) forego immediate enforcement of those certain Individual Guaranties executed by each of the Mortgagors and dated March 7, 1996 (the foregoing instruments shall hereinafter be collectively referred to as the "Secured Obligations"). To secure performance of all obligations of the Mortgagors to the Mortgagee hereunder and under each of the Secured Obligations, the Mortgagors hereby mortgage to the Mortgagee:

ALL THAT CERTAIN plot, piece or parcel of land, with the buildings and improvements thereon erected, situated, lying and being known as _____, more particularly described in Exhibit "1" attached hereto and incorporated by reference;

TOGETHER with all and singular the tenements, hereditaments, and appurtenances thereunto belonging, or in any wise appertaining, and the reversion or reversions, remainder and remainders; and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, in law and in equity, of the Mortgagors, of, in and to the same and every part and parcel thereof, with appurtenances, including all fixtures affixed to the same or intended so to be, and also, all machinery, equipment, improvements and personal property now in or upon or which may hereinafter be installed in or affixed to the same, to the extent the foregoing relate to or are necessary for the complete and comfortable use, enjoyment, maintenance, operation or occupancy thereof, including, but not limited to, furnaces, boilers, oil burners, radiators and piping, heating system, electrical system, panel boards, plumbing and bathroom fixtures, air conditioning, sprinkler systems, wash tubs, sinks, gas and electric fixtures, stoves, ranges, awnings, screens, window shades, refrigerators, kitchen cabinets, plants and shrubbery, as to which this Mortgage constitutes a security agreement (the "Property");

TOGETHER with all the right, title and interest of the Mortgagors in and to all streets, roads and public places, opened or proposed, adjoining the Property, and all easements and rights-of-way, public or private, all sidewalks and alleys, and all strips and gores of land now or hereafter used in connection with the Property;

TOGETHER with the rents, issues and profits arising or issuing from the Property or the improvements thereon as further security for the payment of the Secured Obligations of the Mortgagors, and the Mortgagors grants to the Mortgagee the right to enter upon and to possession of the Property for the purpose of collecting the same and to let the Property or any part thereof, and to apply the rents, issues and profits, after payment of all necessary charges and expenses, on account of the Secured Obligations as hereinafter provided;

TOGETHER with any and all awards, damages, payments, judgments, settlements and other compensation, including without limitation, insurance proceeds, and any and all causes of action, claims therefor and rights thereto, which may result from (i) taking or injury by virtue of the exercise of the power of eminent domain, (ii) a lawsuit or other legal proceeding, or (iii) any damage, injury or destruction in any manner caused to the Property or the improvements thereon, or any part thereof;

TOGETHER with all the estate, right, title, interest, property, possession, claim and demand whatsoever of the Mortgagors, in law as well as in equity, of, in and to the same and every part and parcel thereof with the appurtenances;

TOGETHER with all other assets and personal property of the Mortgagors relating to, or used in the operation of, the Property, including without limitation, all accounts, goods, fixtures, inventory, equipment, chattel paper, documents instruments and general intangibles (as such terms are defined in the Uniform Commercial Code), whether now owned or hereafter acquired;

AND ALSO, all proceeds of the foregoing.

ALL of which property and rights therein described above being hereinafter collectively referred to as the "Premises".

TO HAVE AND TO HOLD, the above granted and described Premises unto the Mortgagee, its successors and assigns, to its and their own proper use, benefit and behoove forever.

This Mortgage further creates a security interest in the fixtures included in the Premises and constitutes a security agreement and financing statement under the Uniform Commercial Code. The Mortgagors shall execute, file and refile such financing statements or other security agreements as the Mortgagee shall require from time to time with respect to such fixtures and other personal property and assets included in the Premises. The Mortgagors hereby authorizes the Mortgagee to file such financing statement or statements and any amendments thereto pursuant to said Uniform Commercial Code, without the signature of the Mortgagors, as the Mortgagee may deem necessary to perfect such interest or right in its favor.

PROVIDED ALWAYS, and these presents are made upon this express condition, that if the Secured Obligations shall be duly paid or performed as and when the same shall

become due and payable or be required to be performed, then these presents and the estate hereby granted shall cease, terminate and be void.

I. REPRESENTATIONS AND WARRANTIES OF THE MORTGAGOR.

The Mortgagors hereby represent and warrant to the Mortgagee as follows:

A. ORGANIZATION, POWER AND QUALIFICATION; AUTHORIZATION OF AGREEMENT

(a) The Mortgagors have all requisite authority to own and operate their properties and assets.

(b) The Mortgagors have full power and authority to execute, deliver and perform any action or step which may be necessary to carry out the terms of this Mortgage and this Mortgage is legal, valid and binding obligations on the Mortgagors enforceable in accordance with its terms, subject to any applicable bankruptcy, insolvency, general equity principles or other similar laws affecting the enforcement of creditors' rights generally.

B. **NO LEGAL BAR**. The execution, delivery and performance of this Mortgage will not (i) violate any provision of any existing law, statute, rule, regulation or ordinance, (ii) conflict with, result in a breach of or constitute a default under (a) the certificate of formation or operating agreement of the Mortgagors, (b) any order, judgment, award or decree of any court, arbitrator, or governmental authority, bureau or agency, or (c) any mortgage, indenture, lease, contract or other agreement or undertaking to which the Mortgagors are a party or by which the Mortgagors or any of its properties or assets may be bound, or (iii) result in the creation or imposition of any mortgage, security interest, restriction, lien or other encumbrance upon or with respect to any property or asset now owned or hereafter acquired by the Mortgagors, other than in favor of the Mortgagee.

C. **CONSENT**. No consent, license, permit, approval or authorization of, exemption by, notice to, report to, or registration, filing or declaration with any person or governmental authority, bureau or agency is required in connection with the execution, delivery, performance or validity of the Mortgage or the transactions contemplated thereby.

D. **COMPLIANCE WITH LAW**. The Mortgagors are not in violation of any applicable law, rule, regulation, statute, ordinance, or any order, judgment, award or decree of any court, arbitrator, or governmental authority, bureau or agency, the violation of which would have a materially adverse effect on the business, assets, liabilities or financial condition of the Mortgagors.

E. **NO DEFAULT**. The Mortgagors are not in default in any material respect in the payment or performance of any of its obligations or in the performance of any mortgage, indenture, lease, contract or other agreement or undertaking to which it is a party or by which it or any of its properties or assets may be bound, and no default or event of default has occurred and is continuing. The Mortgagors are not in default under any order, award or

decree of any court, arbitrator or governmental authority, bureau or agency binding upon or affecting it or by which any of its properties or assets may be bound or affected, and no such order, award or decree, if any, materially adversely affects the ability of the Mortgagors to carry on its business as presently conducted or to perform its obligations hereunder.

F. **NO LITIGATION**. No litigation, investigation or proceeding of or before any court, arbitrator or governmental authority, bureau or agency is currently pending, nor, to the knowledge of the Mortgagors, threatened, against the Mortgagors or any of the Mortgagors' properties and revenues which, if adversely determined, would materially adversely affect the ability of the Mortgagors to carry on its business as presently conducted or to perform its obligations hereunder.

G. **NO BURDENSOME RESTRICTIONS**. The Mortgagors are not a party to nor is bound by any contract or agreement or instrument nor subject to any restriction materially and adversely affecting the business or financial condition of the Mortgagors.

H. **TAX RETURNS AND PAYMENTS; FINANCIAL STATEMENTS.**

1. All federal, state and other tax returns of the Mortgagors required by law to be filed have been duly filed or extensions obtained, and all federal, state and other taxes, assessments and governmental charges or levies upon the Mortgagors or any of its properties, income, profits or assets which are due and payable have been paid, except such tax returns the nonfiling of which, and such taxes the non-payment of which, would not have a material adverse effect upon the business, assets, liabilities or financial condition of the Mortgagors and except for such taxes and assessments which the Mortgagors are disputing in good faith and for which the Mortgagors has established adequate reserves on its books for the payment of such disputed taxes or assessments in accordance with generally accepted accounting principles.

2. All financial statements and financial information provided to the Mortgagee by or on behalf of the Mortgagors fairly present the financial position and results of operations of the Mortgagors on the dates and for the periods then ended and show all direct liabilities and all known contingent liabilities of a material nature.

3. Since the date of the most recent financial statement provided to the Mortgagee by or on behalf of the Mortgagors, no material adverse change has occurred in the business, assets, liabilities, financial condition, results of operations or business prospects of the Mortgagors, and no event has occurred or failed to occur which has had or is likely to have a material adverse effect on the business, assets, liabilities, financial condition, results of operations or business prospects of the Mortgagor.

I. **FINANCIAL CONDITION**.

1. The Mortgagors are now, and after giving effect to the transactions contemplated hereby will be in, a financially solvent condition; the execution and delivery of this Mortgage does not constitute a "fraudulent conveyance" or "fraudulent transfer" within

the meaning of any applicable federal or state statute; and no bankruptcy or insolvency proceedings are presently pending by or against the Mortgagors.

2. No fact is known to the Mortgagors which has had or is likely in the future to have (so far as Mortgagors can reasonably foresee) a materially adverse effect upon the Mortgagor's business, assets, liabilities, condition, financial or otherwise, or results of operations that has not been set forth in the financial statements furnished to the Mortgagee or other reports or other papers or data otherwise disclosed in writing to the Mortgagee.

3. The Mortgagors do not intend to, nor does the Mortgagors believe that it will incur debts beyond its ability to pay such debts as they mature. The cash available to the Mortgagors are anticipated to be sufficient to pay all amounts on or in respect of debt of the Mortgagors when such amounts are required to be paid.

4. The Mortgagors does not believe that final judgments against it in actions for money damages will be rendered at a time when, or in an amount such that, the Mortgagors will be unable to satisfy any such judgments promptly in accordance with their terms (taking into account the maximum reasonable amount of such judgments in any such actions and the earliest reasonable time at which such judgments might be rendered). The cash available to the Mortgagors after taking into account all other anticipated uses of the cash of the Mortgagors are anticipated to be sufficient to pay all such judgments promptly in accordance with their terms.

J. **WARRANTY OF TITLE**. The Mortgagors are lawfully seized of an indefeasible estate in fee simple in the Premises, subject only to those exceptions (the "Permitted Encumbrances") set forth in that certain Title Insurance Commitment issued in connection with this Mortgage, as delivered to the Mortgagee and endorsed on the date hereof, which is incorporated herein by reference, and the Mortgagors will warrant and forever defend the title thereof unto the Mortgagee against all lawful claims whatsoever.

K. **ACCURACY AND COMPLETENESS OF INFORMATION.** All written information, reports and other papers and data furnished to the Mortgagee by the Mortgagors were, at the time the same were so furnished and remain, as of the date hereof, complete and correct in all material respects and did not and do not contain any untrue statement of fact or omit to state any material fact necessary in order to make the statements and information contained therein not misleading.

II. COVENANTS OF THE MORTGAGOR.

The Mortgagors hereby covenant and agree with the Mortgagee, until the Secured Obligations are performed and paid in full, as follows:

A. **PAYMENT OF SUMS SECURED.** The Mortgagors will pay the indebtedness as herein before provided. This Mortgage shall remain in full force and effect until the Secured Obligations and all other obligations under this Mortgage are fully and

indefeasibly paid and the performance obligations of the Mortgagors to the Mortgagee under the Loan Documents and this Mortgage have been satisfied in full.

B. **INSURANCE.**

1. The Mortgagors shall (a) keep in effect or cause to be kept in effect upon the Premises for the benefit of the Mortgagee insurance against loss or damage by fire and all other risks embraced within "all risk" and "extended coverage" including, but not limited to, vandalism and malicious mischief endorsements, in such amount, by such insurers, and containing such provisions as the Mortgagee may reasonably require, but in no event less than the replacement value of all improvements on the Premises, and (b) obtain or cause to be obtained public liability insurance in such minimum amounts and with such insurance companies as are reasonably satisfactory to the Mortgagee, but in no event less than $1,000,000 per occurrence.

2. Any insurance required pursuant to this Mortgage shall be so written or endorsed as to (a) name the Mortgagee as an additional insured, (b) contain the standard (non-contributing) mortgagee endorsement in favor of the Mortgagee as second mortgagee, (c) shall not contain any "co-insurance provisions", (d) shall be obtained from insurers which are reasonably satisfactory to the Mortgagee, and (e) with respect to insurance against loss or damage to property, name the Mortgagee as a "loss payee" and make losses payable to the as Second Mortgagee. The Mortgagors shall pay the premiums on the policies of all insurance required pursuant to this Mortgage as they become payable and shall deliver to the Mortgagee certificates of insurance and evidence of payment of all premiums, and, if requested by the Mortgagee, the original policies of property insurance and, if required, flood insurance, and certificates evidencing public liability insurance. All insurance shall provide that the Mortgagee is the Certificate Holder and the Mortgagors shall provide all such Certificates to the Mortgagee. Notwithstanding the foregoing, a mortgagee with a lien against the Premises senior in priority to this Mortgage ("Senior Mortgagee") shall have superior rights to insurance up to the amount of the Senior Mortgagee's mortgage.

3. All renewal or replacement policies shall be delivered by the Mortgagors, premiums paid, to the Mortgagee at least thirty (30) days before the expiration of the expiring policies. Each insurance policy shall provide that the Mortgagee shall be furnished with not less than thirty (30) days' prior written notice before any termination, cancellation, non-renewal or reduction in scope becomes effective as to the Mortgagee. If the Mortgagee becomes the owner of the Premises or any part thereof by foreclosure or otherwise, such policies shall become the absolute property of the Mortgagee.

C. **DAMAGE, DESTRUCTION AND CONDEMNATION**. If the Premises or any part thereof shall be damaged or either partially or totally destroyed, or if title to or the temporary use of the whole or any part of the Premises shall be taken, condemned or purchased under threat of condemnation by a competent authority for a public use or purpose, the Mortgagee shall be entitled to receive and shall receive any and all insurance proceeds or condemnation awards with respect thereto (hereinafter, the "Proceeds"), subject,

however, to the rights of any Senior Mortgagee. The Mortgagee shall have the right to participate in the defense of any condemnation action and the valuation of the Premises in connection therewith. So long as no Event of Default shall have occurred and be continuing hereunder, the Mortgagee shall remit such Proceeds to the Mortgagors to restore, replace or repair the Premises; provided, however, that if an Event of Default shall have occurred and be continuing hereunder, the Mortgagee shall have the right, in its sole and absolute discretion, to determine whether to apply such Proceeds to prepay the principal, interest and other charges on the Secured Obligations or to remit such Proceeds to the Mortgagors to restore, replace or repair the Premises. In any case in which Proceeds (and such additional funds) are to be applied to restore, replace or repair any part of the Premises, such restoration, replacement or repair shall in any event be subject to the satisfaction of the following conditions:

1. The Mortgagors shall submit or cause to be submitted to the Mortgagee for its approval, an estimate of the cost of restoration, replacement or repair of the Premises, accompanied by an architect's certification as to such costs and final plans and specifications with respect thereto. All buildings and improvements so restored, replaced or repaired shall be of substantially the same character and value as the buildings and improvements prior to such damage or destruction and shall be suitable for the purposes for which they were originally erected. The Mortgagors shall furnish the Mortgagee with evidence reasonably satisfactory to the Mortgagee that all buildings and improvements so restored, replaced and/or repaired and their contemplated use fully comply with all zoning and building laws, ordinances and regulations, and with all other applicable federal, state or local laws and requirements.

2. If at any time the estimated cost of restoration, replacement or repair shall exceed the Proceeds available therefor, the Mortgagors shall escrow additional monies with the Mortgagee in an amount equal to such excess estimated cost.

3. Each disbursement of the Proceeds during the course of restoration, replacement or repair shall be subject to receipt by the Mortgagee of a requisition signed by the Mortgagors stating (a) the requisition number, (b) the name and address of the person or entity to whom payment is to be made, or if the payment is to be made to the Mortgagors for a reimbursable advance, the name and address of the person or entity to whom the advance was made together with proof of payment by the Mortgagors, and (c) that each obligation for which payment is sought is unpaid or unreimbursed and has not been the basis of any previously paid requisition. Each requisition shall be accompanied by (i) an approved certification by a licensed A.I.A. architect reasonably acceptable to the Mortgagee as to the cost of materials furnished and work done and evidence that such work and materials are free and clear of liens, (ii) if requested by the Mortgagee, an updated title insurance endorsement as of the date of each such disbursement insuring the continued validity and priority of this Mortgage and (iii) such other documents, certificates or instruments as the Mortgagee shall reasonably require. No payment made prior to the final completion of work shall exceed 90% of the value of the work performed or materials furnished and incorporated into the Premises from time to time, and at all times the undisbursed balance of said Proceeds

(together with the additional security referred to in the preceding paragraph) shall be at least sufficient to pay for the cost of completion of the work, free and clear of liens. Said Proceeds are to be released not more than once a month, and the disbursement of said Proceeds shall be subject to such other provisions and safeguards as the Mortgagee then requires in connection with construction loans for similar projects. The administration of such provisions shall be at the sole cost and expense of the Mortgagor.

4. Final payment shall be made upon receipt by the Mortgagee of a certification by a licensed A.I.A. architect reasonably acceptable to the Mortgagee as to completion in accordance with the approved plans and specifications and, if requested by the Mortgagee, the issuance to the Mortgagee of a title policy endorsement reasonably satisfactory to the Mortgagee insuring the continued validity and priority of this Mortgage as a mortgage lien.

5. All costs and expenses incurred by the Mortgagee in disbursing said funds shall be paid for by the Mortgagors and may be deducted by the Mortgagee from the funds to be so advanced for such restoration, replacement or repair.

6. Nothing herein shall be construed to require the Mortgagee to advance any sums for any such restoration, replacement or repair beyond the amount of the Proceeds actually received by the Mortgagee and set aside for such purpose less the amount of the Mortgagee's costs and expenses referred to above.

7. The Mortgagors shall promptly notify the Mortgagee of any damage, destruction or institution of any proceedings for the condemnation or taking, by powers of eminent domain or purchase under threat thereof, of the whole or any part of the Premises.

8. Prior to an Event of Default, the Mortgagors shall adjust any insurable loss and settle any condemnation proceedings, provided the Mortgagors shall have obtained the prior written consent of the Mortgagee thereto which shall not be unreasonably withheld or delayed. Following the occurrence of an Event of Default, the Mortgagee shall have the exclusive right to adjust any insurable loss and settle any condemnation proceedings.

9. Any moneys released to the Mortgagors or paid or applied to the cost of restoration, replacement or repair shall in no event be deemed a payment of the Secured Obligations. The Mortgagee shall be under no obligation to question the amount of the Proceeds and may accept the same in the amount in which the same shall be paid.

10. Anything to the contrary herein contained notwithstanding, any Proceeds paid over to the Mortgagee and not used for repair, replacement or restoration shall be applied to pay any sums then due and owing to the Mortgagee with respect to the Secured Obligations, and, subject to the rights of the holders (including the Mortgagee) of any Permitted Encumbrances, any excess shall be paid over to the Mortgagor.

D. **COMPLIANCE WITH LAWS.** The Mortgagors shall comply in all material respects with all applicable federal, state and local laws, rules, regulations, ordinances,

building codes and orders in effect from time to time including, but not limited to, those relating to the environment, the payment of taxes, assessments and other governmental charges, zoning, and the use, occupancy, transfer or encumbrancing of the Premises the failure to comply with which would result in a lien upon the Premises or otherwise impair the value of the Premises. The Mortgagors additionally agrees to pay all costs required to comply with any of the above conditions, and to indemnify and hold the Mortgagee harmless against any loss, liability, cost or expense (including attorneys' fees) arising out of or relating to any proceeding instituted in connection with any alleged or actual violation of any of the foregoing not caused by the Mortgagee.

E. **TAXES AND OTHER CHARGES; MECHANICS' LIENS**. Except as otherwise provided in this Section II(E), the Mortgagors shall pay all taxes, water and sewer rents, fines, impositions and other similar claims, liens and encumbrances assessed, or which may be assessed, against the Premises or any part thereof, without any deduction or abatement, not later than five (5) days before the same shall become due and payable and shall simultaneously with each such payment, furnish to the Mortgagee receipts for the payment thereof in full. The Mortgagors will pay, from time to time when the same shall become due, all lawful claims and demands of mechanics, materialmen, laborers, and others, which, if unpaid, might result in, or permit the creation of, a lien on the Premises or any part thereof, or on the revenues, rents, issues, income and profits arising therefrom, and will do or cause to be done everything necessary so that the lien hereof shall be fully preserved, at the cost of the Mortgagors and without expense to the Mortgagee. If the Mortgagors shall in good faith, and by proper legal action, contest any taxes, assessments, fines, impositions, claims, liens, encumbrances or other charges, or the validity thereof, and provided no Event of Default is then existing and continuing, then the Mortgagors shall not be required to pay the same or to produce such receipts as long as such contest operates to prevent collections, and is maintained and prosecuted with diligence and shall not have been terminated or discontinued adversely to the Mortgagor. In addition to the foregoing, the Mortgagors will pay when due and will not suffer to remain outstanding, any charges for utilities, whether public or private, with respect to the Premises.

F. **FURTHER ASSURANCES; FILING AND RECORDING.**

1. The Mortgagors will, at its sole cost and expense, perform, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, security agreements, assignments, notices of assignment, financing statements, transfers and assurances as the Mortgagee shall from time to time reasonably require, for the better assuring, conveying, assigning, transferring and confirming unto the Mortgagee the property and rights hereby conveyed or assigned or intended now or hereafter so to be, or which the Mortgagors may be or may hereafter become bound to convey or assign to the Mortgagee, for carrying out the intention or facilitating the performance of the terms of this Mortgage or for filing, registering or recording this Mortgage and, on demand, will execute and deliver, and hereby authorizes the Mortgagee and irrevocably appoints the Mortgagee as the agent and attorney-in-fact of the Mortgagors to execute and file in its own name or in the

Mortgagor's name, to the extent it may lawfully do so, all such documents, instruments, certificates and financing statements.

2. The Mortgagors, forthwith upon the execution and delivery of this Mortgage, and thereafter from time to time upon request by the Mortgagee, and as may be required by law, will cause this Mortgage and any security instrument creating a lien or evidencing the lien hereof upon the Premises and the fixtures thereon and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect the lien hereof upon, and the interest of the Mortgagee in, the Premises and the fixtures thereon.

3. The Mortgagors will pay all filing, registration or recording fees, and all expenses incident to the execution and acknowledgment of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Premises and the fixtures thereon, and any instrument of further assurance, and all federal, state, county and municipal stamp taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Premises and the fixtures thereon or any instrument of further assurance.

G. **RIGHT TO REMEDY DEFECTS; INDEMNIFICATION.** If the Mortgagors shall at any time fail to pay any amount payable by it hereunder or fails to comply with any provision of this Mortgage, the Mortgagee may, after reasonable notice to the Mortgagors, pay such amount or comply with such provision and make such expenditures, including reasonable counsel fees, in connection therewith and with enforcing this Mortgage and for repairing, maintaining and preserving the Premises, for establishing, preserving, protecting and restoring the validity and priority of the lien hereof, for obtaining official tax searches of the Premises, for protecting and preserving any use being made of the Premises now or hereafter and for advances to any trustee or receiver of the Premises, as the Mortgagee deems advisable; each amount so paid or expended, with interest at the rate then in effect under the Secured Obligations plus four percent (4%) shall become part of the Secured Obligations and be secured hereby; and the Mortgagors shall pay to the Mortgagee, on demand, the amount of each payment or expenditure, with such aforesaid interest, but no such payment or compliance by the Mortgagee shall constitute a waiver of the Mortgagor's failure so to do or affect any right or remedy of the Mortgagee with respect thereto. The Mortgagors agrees to and does hereby indemnify the Mortgagee, its officers, directors, employees, agents, affiliates and assigns and the Mortgagors shall hold the Mortgagee, its officers, directors, employees, agents, affiliates and assigns harmless from and against any and all losses, claims, damages or liabilities (including all costs, expenses and reasonable counsel fees incurred in investigating or defending such claim) suffered by the Mortgagee, its directors, officers, employees, affiliates and agents and caused by, relating to, arising out of, resulting from or in any way connected with any of the items enumerated in the immediately preceding sentence, except to the extent resulting from the gross negligence or willful misconduct of the Mortgagee or its agents.

H. **PRESERVATION OF THE PREMISES; LIENS AND ENCUMBRANCES**

1. The Mortgagors shall keep the improvements now or hereafter on the Premises in good repair and condition, ordinary wear and tear excepted, and, with reasonable diligence, shall repair, replace or rebuild any material part of the Premises which may be destroyed by any casualty or become damaged, worn or dilapidated. The Mortgagors shall make any repairs needed to immediately preserve the value of the Premises within thirty (30) days after written notice thereof from the Mortgagee; provided, however, that in the event the Mortgagors are diligently undertaking such repairs but same cannot be completed within said 30-day period, the Mortgagee shall extend said 30-day period for as long as the Mortgagors and the Mortgagee shall agree is reasonably necessary in order to complete such repairs; provided further, however, that the Mortgagee shall be under no obligation to extend said period beyond ninety (90) days after the aforementioned written notice.

2. The Mortgagors shall not remove or demolish nor alter the design or structural character of any building now or hereafter erected upon the Premises without the prior written consent of the Mortgagee which consent shall not be unreasonably withheld or delayed. The Mortgagee shall consent to such proposed structural change or alteration upon receipt of (i) a certificate of the Mortgagors stating that no Event of Default then exists and is continuing and (ii) evidence reasonably satisfactory to the Mortgagee to the effect that the proposed structural change or alteration (upon completion) shall not diminish the value of the Premises.

3. The Mortgagors shall not suffer or permit waste of the Premises and shall cause the Premises to comply with all applicable building codes, ordinances, statutes and regulations of all federal, state and municipal governmental authorities and agencies having jurisdiction thereof, including but not limited to, all fire and safety codes.

4. The Mortgagors shall keep the Premises free of all mortgages, liens, charges, encumbrances, attachments, levies, distraints, other judicial process and burdens of every nature, except for Permitted Encumbrances.

I. **NOTIFICATION**. The Mortgagors shall notify the Mortgagee immediately of (a) the occurrence or existence of any Event of Default, (b) the inception of any action, suit, proceeding, inquiry or investigation at law or in equity before any court, public board or body wherein an unfavorable decision, ruling or finding would, to the extent not covered by insurance, have a material adverse effect upon the Premises, and (c) the occurrence of any substantial loss, substantial damage, destruction, condemnation or taking of the whole or any part of the Premises.

J. **RIGHT TO INSPECT PREMISES AND BOOKS AND RECORDS; APPRAISAL**

The Mortgagors shall permit the Mortgagee, by its duly authorized officers and agents during normal business hours and upon reasonable written notice, to enter upon and inspect the Premises and, to the extent and with such frequency as is reasonably required by the Mortgagee, the books and records of the Mortgagor. The Mortgagee shall also have the right, from time to time, upon reasonable notice to the Mortgagors, to conduct or cause to be conducted an appraisal or appraisals of the Premises, the cost of which shall be paid by the Mortgagor.

K. **FINANCIAL STATEMENTS**.

The Mortgagors will furnish the following information to the Mortgagee:

(1) Within 90 days after the end of each fiscal year of the Mortgagors, financial statements on the form approved by Mortgagee and true, correct and complete copies of the Mortgagors federal tax returns as filed;

(2) Within 30 days after the end of each fiscal year of the Mortgagors, an operating statement with respect to the Premises, on the form approved by the Mortgagee;

(3) From time to time and promptly upon each request, such other reports and information regarding the business, assets, liabilities, financial condition, results of operation or business prospects of the Mortgagors as the Mortgagee may reasonably requests;

(4) Prompt notice of any material adverse change with respect to the business, assets, liabilities, financial condition or results of operation of the Mortgagor.

In connection with the delivery of the tax returns which is referred to in clause 1 above, the Mortgagors shall also obtain and deliver to the Mortgagee an acknowledgment of reliance, on the form approved by the Mortgagee from the independence certified public accountant, if any, which prepares such tax returns.

L. **FURTHER INDEBTEDNESS**.

1. The Mortgagors shall not create, assume, incur, guarantee or in any manner become liable, contingently or otherwise, in respect of any indebtedness for money borrowed.

2. The Mortgagors shall not sell, transfer, assign, lease or otherwise dispose of (whether in one transaction or a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired).

3. The Mortgagors shall not guarantee, endorse, become surety for, or otherwise in any way become or be responsible for, the obligations of any other person whether by agreement to purchase the indebtedness of any other person, or agreement for the furnishing of funds, directly or indirectly, for the purpose of payment of indebtedness of any

other person, other than endorsements of negotiable instruments for deposit or collection in the ordinary course of its business.

M. **LEASES**.

1. The Mortgagors shall not lease or sublease all or any portion of the Premises or consent to the leasing, subleasing or assignment of any lease by any tenant of all or any portion of the Premises, or consent to the amendment, modification or termination of any lease with respect to the Premises, except for increases in rent, without the prior review and express prior written consent, both as to the form and substance thereof, of the Mortgagee, which consent shall not be unreasonably withheld or delayed.

2. All present and future lease of the Premises, or any part thereof, shall be subordinate in all respects to the lien of this Mortgage.

3. On or before January 31 of each year, the Mortgagors shall provide to the Mortgagee a current, certified rent roll with respect to all tenants and other occupants of the Premises. In addition, the Mortgagors shall provide to the Mortgagee, promptly upon execution thereof, certified copies of all leases, and all amendments, modifications and supplements to existing leases, entered into with respect to the Premises from and after the date hereof.

N. **NO DEDUCTION**. The Mortgagors shall claim no deduction upon the assessed value of the Premises on account of the monies owing to Mortgagee.

III. **INDEMNIFICATION**

1. The Mortgagors hereby agrees to indemnify the Mortgagee, its directors, officers, employees, affiliates and agents from and against any and all liabilities, suits, obligations, fines, damages, penalties, claims, losses, costs, charges and expenses (including, without limitation, reasonable architect's, engineer's, accountant's, consultant's and attorneys' fees and disbursements) (collectively, the "Losses") which may be imposed upon, incurred or asserted against the Mortgagee, its directors, officers, employees, affiliates and agents by reason of: (a) any construction relating to the Premises; (b) any capital improvements, other work or thing done in, on or about the Premises; (c) any use, non-use, misuse, possession, occupation, alteration, repair, condition, operation, maintenance or management of the Premises or any street, drive, sidewalk, curb, passageway or space comprising a part thereof or adjacent thereto; (d) any negligence or willful act or omission on the part of the Mortgagors, any lessee or any other occupant of the Premises or any agent, contractor, servant, employee, licensee or invitee or any of them; (e) the claims of any lessee or any party acting through or under any such lessee or otherwise arising under or as a consequence of any lessee; (f) any accident, injury (including death) or damage to any person or property occurring in, on or about any sidewalks, drives, curbs, passageways, streets, spaces or alleys adjacent to or on the Premises; (g) any Event of Default; (h) any lien or claim which may be alleged to have arisen on or against the Premises under any law or any liability asserted against the Mortgagee with respect thereto; (i) any tax or other imposition,

including, but not limited to, any imposition attributable to the execution, delivery, filing or recording of this Mortgage or any other documents executed by the Mortgagors in connection herewith; (j) any contest permitted pursuant to the provisions of this Mortgage or the other Loan Documents; and (k) any and all violations of law, including, without limitation, any and all federal, state and local laws, rules and regulations relating to the environment, existing at the Premises. The foregoing indemnity shall not apply to Losses resulting or arising from the gross negligence or willful misconduct of the Mortgagee.

2. The obligations of the Mortgagors under this Article IV shall not in any way be affected or limited by the absence of any insurance, by the amount of any insurance policy or by the failure or refusal of any insurance carrier to perform any obligation on its part under any insurance policies. If any claim, action or proceeding is made or brought against the Mortgagee or any of its directors, officers, employees, affiliates and agents, by reason of any event as to which the Mortgagors are obligated to indemnify the Mortgagee or any of its directors, officers, employees, affiliates and agents, then, upon demand by the Mortgagee, the Mortgagors, at its sole cost and expense, shall resist or defend such claim, action or proceeding in the Mortgagee's, or any of its directors, officers, employees, affiliates and agents, name, if necessary, by the attorneys for the Mortgagor's insurance company or by such attorneys as the Mortgagee shall approve in writing, which approval shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, the Mortgagee or any of its directors, officers, affiliates, employees and agents may engage its own attorneys in its reasonable discretion to defend it or to assist in its defense and the Mortgagors shall pay the reasonable fees and disbursements of such attorneys.

IV. EVENTS OF DEFAULT.

The following shall constitute events of default under this Mortgage (each, an "Event of Default"):

A. If any Event of Default or default shall occur under the terms of any of the Secured Obligations.

B. If the Mortgagors shall default in the performance or observance of any covenant, agreement or condition contained in this Mortgage and such default shall continue for fifteen (15) days after notice thereof from the Mortgagee.

C. If any representation or warranty made by the Mortgagors in this Mortgage or in any other Loan Document shall prove to have been false, incorrect or misleading in any material respect on the date as of which made.

D. If the Premises shall be sold, transferred, assigned or otherwise conveyed, including without limitation, the entering into by the Mortgagors of a long-term lease of the Premises, or if title to the Premises or any part thereof shall be transferred or conveyed to any person, firm, corporation, trust, association or other entity, including without limitation, the passing of title to, or possession of the Premises by, a receiver, trustee or assignee for the benefit of creditors.

E. If any default shall occur under the terms of any of the Permitted Encumbrances.

F. If a default or event of default occurs under a mortgage that is prior or subordinate to the lien of this Mortgage, including without limitation, if any mortgagee claims a right to possession or commences a foreclosure action.

G. (i) The Mortgagors shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian or other similar official for all or any substantial part of its assets, or (ii) the Mortgagors shall make a general assignment for the benefit of creditors; or (iii) the Mortgagors shall commence, or there shall be commenced against the Mortgagors, any case, proceeding or other action of a nature referred to in clause (i) above which (A) results in the entry of an order for relief of any such adjudication or appointment or (B) remains undismissed, undischarged or unbonded for a period of sixty (60) days; or (iv) there shall be commenced against the Mortgagors any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets, which results in the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within sixty (60) days from the entry thereof; or (v) the Mortgagors shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clauses (i), (ii), (iii) or (iv) above; or (v) the Mortgagors shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due.

H. The Mortgagors shall (i) default in any payment with respect to any indebtedness for money borrowed, whether from the Mortgagee or any other lender, beyond the period of grace, if any, provided in the instrument or agreement under which such indebtedness was created; or (ii) default in the observance or performance of any other agreement or condition relating to any such indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur, the effect of which default or other event is to cause, or to permit the holder of such indebtedness (or a trustee or agent on behalf of such holder) to cause, with the giving of notice if required, such indebtedness to become due prior to its stated maturity. In addition, the Mortgagors acknowledges and agrees that any Event of Default hereunder or under any other Loan Document shall be an event of default under and with respect to all other indebtedness, whether actual or contingent, of the Mortgagors to the Mortgagee.

I. A final judgment shall be entered against the Mortgagors by any court for the payment of money which, together with all other outstanding judgments against the Mortgagors, exceeds fifty thousand dollars ($50,000) in the aggregate, which judgment is not fully covered by insurance, or a warrant of attachment or execution or similar process shall

be issued or levied against property of the Mortgagors which, together with such other property subject to such process, exceeds in value fifty thousand dollars ($50,000) in the aggregate and, if within sixty (60) days (ten (10) days if such aggregate amount exceeds one hundred thousand dollars ($100,000)) after the entry, issue or levy thereof, such judgment, warrant or process shall not have been discharged or stayed pending appeal, or, if within sixty (60) days (ten (10) days if such aggregate amount exceeds one hundred thousand dollars ($100,000)) after the expiration of any such stay, such judgment, warrant or process shall not have been discharged.

J. The Mortgagors shall enter into any junior financing of the Premises without the prior written consent of the Mortgagee.

V. **REMEDIES**.

In case one or more Events of Default shall have occurred, the Mortgagee shall have the following rights and remedies:

A. The Mortgagee may declare all amounts outstanding (with accrued interest thereon) and all other amounts owing to it under the Secured Obligations to be immediately due and payable, whereupon the same shall become due and payable forthwith without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Mortgagor.

B. To take any action at law or in equity to collect the payments due under the Secured Obligations secured hereby or to enforce the performance and observance of the obligations, agreements and covenants of the Mortgagors contained in this Mortgage and the other Loan Documents.

C. Enter into possession of the Premises and employ watchmen to protect the Premises from injury.

D. To institute an action of mortgage foreclosure, or take other action as the law may allow, at law or in equity, for the enforcement of this Mortgage, and proceed therein to final judgment and execution for the entire unpaid balance of the Secured Obligations, including costs of suit, interest and reasonable attorneys' fees. In case of any sale of the Premises by virtue of judicial proceedings, the Premises may be sold in one parcel and as an entirety or in such parcels, manner or order as the Mortgagee in its sole discretion may elect. The failure to make any tenants parties defendant to a foreclosure proceeding and to foreclose their rights will not be asserted by the Mortgagors as a defense in any proceeding instituted by the Mortgagee to collect the Secured Obligations secured hereby or any deficiency remaining unpaid after the foreclosure sale of the Premises. Notwithstanding anything herein to the contrary, the Mortgagors shall continue to be responsible for the payment of taxes, insurance and all other amounts payable with respect to the Premises until title to the Premises shall be conveyed at a sheriff's sale or other similar proceeding.

E. If the Event of Default relates to the payment of any tax, assessment, water or sewer rent or governmental charge, or the payment of a premium for insurance, or the obligation to keep the Premises in satisfactory repair and condition, or to otherwise preserve the security of this Mortgage, then the Mortgagee, in addition to or in lieu of exercising any other rights which it may have hereunder or under any other document executed in connection with any Secured Obligations secured hereby, may pay the tax, assessment, water or sewer rent, governmental charge, insurance premium, or the cost of placing the Premises in satisfactory repair and condition, or the cost of otherwise preserving the security of this Mortgage, and the amount so paid shall be added to the moneys owing on the Secured Obligations and shall be secured hereby and shall be due and payable on demand with interest equal to the prevailing interest rate under the Secured Obligations plus four percent (4%).

F. Upon the occurrence of any Event of Default, the Mortgagee is hereby empowered and appointed attorney-in-fact of the Mortgagors to enter upon and take possession of the Premises and rent the same, either in its name or in the name of the owner of such property, and to demand, collect and receive from the tenants, lessees or other occupants then in possession of the Premises or any part thereof, the rents, issues and profits as they become due as well as all past due rents, income or profits which have not been collected by the Mortgagors, to endorse the name of the Mortgagors or any subsequent owner of the Premises on any checks, notes or other instruments for the payment of money, to give any and all acquaintances or any other instrument in relation thereto in the name of the Mortgagors, and to institute, prosecute, settle or compromise any summary or legal proceedings in the name of the Mortgagors or in the name of the Mortgagee for the recovery of such rents, income or profits, or for the abatement of any nuisance thereon, and to defend, at the Mortgagee's option and sole discretion, any legal proceedings brought against the Mortgagors arising out of the operation of the Premises. All rents, issues and profits collected or received by the Mortgagors after an Event of Default shall be accepted and held for the Mortgagee in trust and shall not be commingled with the funds and property of the Mortgagors, but shall be promptly paid over to the Mortgagee; and the Mortgagors agrees to pay the Mortgagee, if demanded by it, a reasonable rental for the portion of the Premises occupied by the Mortgagors, monthly in advance as a tenant from month to month, and in default of any such payment the Mortgagors may be dispossessed by summary proceedings, such tenancy to expire upon delivery of deed in foreclosure; and the Mortgagee shall apply the rents, issues and profits, after the payment of the necessary charges and expenses, including management fees and commissions, on account of the Secured Obligations hereby secured, being accountable only for rents, issues and profits as are collected by it while in possession.

G. Upon the filing of a complaint to collect the amount due on any Secured Obligation, the Mortgagee shall be entitled to the appointment of a receiver of the rents, issues and profits of the Premises without the necessity of proving either inadequacy of the security or insolvency of the Mortgagors or any person who may be legally or equitably liable to pay moneys secured hereby, and the Mortgagors and each such person waive such proof and consent to the appointment of a receiver.

H. To exercise any and all rights and remedies conferred upon secured parties by the Uniform Commercial Code and other applicable laws.

In addition to the above remedies, if the Mortgagors commits a breach or threatens to commit a breach of this Mortgage, the Mortgagee shall have the right and remedy, without posting bond or other security, to have the provisions of this Mortgage specifically enforced by any court having equity jurisdiction, it being acknowledged and agreed that any such breach or threatened breach will cause immediate and irreparable injury to the Mortgagee and that the Mortgagee's rights in and to the Premises will not provide an adequate remedy therefor.

All proceeds received from the sale or other disposition of the whole or any part of the Premises shall be applied as follows: (i) first, to the payment of all fees, costs and expenses incurred by the Mortgagee in connection with such sale or disposition; (ii) second, to the payment in full of the Secured Obligations; and (iii) third, the balance, if any, of such proceeds remaining after payment in full of the foregoing, to the Mortgagors or as a court of competent jurisdiction may otherwise direct.

Without limiting the foregoing, in exercising its remedies upon the occurrence of an Event of Default, the Mortgagee (i) shall not be responsible nor liable for any shortage, discrepancy, damage, loss or destruction of any part of the Premises regardless of the cause thereof unless the same shall happen through its gross negligence or willful misconduct; (ii) shall be entitled to the appointment (without notice and without proof of diminution in value of the Premises) of a receiver to take possession of all or any portion of the Premises and to exercise such powers as the court shall confer upon the receiver; and (iii) generally may perform all acts necessary or proper to carry out the intention of this Mortgage, as fully and completely as though the Mortgagee were the absolute owner of the Premises for all purposes, and the Mortgagors hereby ratifies and confirms all that the Mortgagee shall do by virtue of this grant of power.

The rights and remedies of the Mortgagee hereunder shall be in addition to every other right and remedy now and hereafter provided by law; the rights and remedies of the Mortgagee shall be cumulative and not exclusive one of the other; the Mortgagee may exercise the same at such times, in such order, to such extent, and as often as Mortgagee deems advisable, and without regard to whether the exercise of one precedes, concurs with, or succeeds the exercise of another; no delay or omission by the Mortgagee in exercising a right or remedy shall exhaust or impair the same, or constitute a waiver of, or acquiescence in, the Event of Default; and no waiver of an Event of Default by the Mortgagee shall extend to or affect any other Event of Default or impair any right or remedy with respect thereto.

VI. **MISCELLANEOUS**.

A. **NOTICES**. All notices and other communications given to or made upon any party hereto in connection with this Mortgage shall, except as otherwise expressly herein provided, be in writing and hand delivered or sent by first class United States mail, postage

prepaid, return receipt requested, or by reputable overnight courier providing a receipt against delivery, to the respective parties, as follows:

Mortgagors: Mary Hanslovan
Edward Hanslovan
address

-with a copy to-
Carl Balan, Esq.
address

Mortgagee: General Electric Capital Corporation
Old Ridgebury Road
Danbury, Connecticut 06810
Att: Mark Skura

-with a copy to-

Oppenheimer Wolff & Donnelly LLP
The Chrysler East Building – Suite 1900
New York, New York 10017-4011
Att: Elena Lazarou, Esq.

or to such changed address as may be fixed by notice. All such notices and other communications shall, except as otherwise expressly herein provided, be effective when received by the party to whom properly addressed, the written receipt by any employee of any such party constituting sufficient evidence of such receipt.

B. **INDULGENCES; EXTENSIONS**. The Mortgagee, with respect to the Secured Obligations secured hereby, the Premises and the Mortgagor's obligations hereunder, may waive compliance with any of the provisions hereof, and may release all or any part of the Premises from any lien hereof, without affecting the priority or validity of the lien hereof upon the remainder of the Premises.

C. **INVALID PROVISIONS TO AFFECT NO OTHERS**. In case any one or more of the covenants, agreements, terms or provisions contained in this Mortgage shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms or provisions contained herein shall be in no way affected, prejudiced or disturbed thereby.

D. **SUCCESSORS AND ASSIGNS; PLURALS**. All of the grants, covenants, terms, provisions and conditions of this Mortgage shall run with the land and bind the Mortgagors, its legal representatives, heirs, successors and assigns, and shall inure to the benefit of the Mortgagee, the successors and assigns of the Mortgagee and all subsequent

holders of this Mortgage. As used herein the singular shall include the plural and vice versa as the context requires.

E. **CAPTIONS**. The captions herein are inserted only for convenience of reference and in no way define, limit or describe the scope or intent of this Mortgage or any particular paragraph or section hereof, nor the proper construction hereof.

F. **GOVERNING LAW**. This Mortgage is to be construed according to the laws of the State of Ohio.

H. **COUNTERPARTS. THIS MORTGAGE CANNOT BE CHANGED ORALLY**

I. WAIVER OF JURY TRIAL. THE MORTGAGORS HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN CONNECTION WITH ANY AND ALL LITIGATION INVOLVING THE SUBJECT MATTER OF THIS MORTGAGE.

J. RECEIPT OF MORTGAGE. THE MORTGAGORS HEREBY ACKNOWLEDGES RECEIPT OF A TRUE COPY OF THIS MORTGAGE, WITHOUT CHARGE.

IN WITNESS WHEREOF, the Mortgagors have caused this Mortgage to be executed and delivered as of the day and year first above written.

WITNESS:

_____

Mary Hanslovan

_____

Sworn to before me this
___st day of August, 2002.

_____
Notary Public

WITNESS:

_____

Edward Hanslovan

By:_____

Sworn to before me this
___st day of August, 2002.

_____
Notary Public

MORTGAGE AND SECURITY AGREEMENT

Dated: August __, 2002

From

Edward Hanslovan
and
Mary Hanslovan
address

To

General Electric Capital Corporation
44 Old Ridgebury Road
Danbury, Connecticut 06801

LOCATION OF PREMISES:

Street Address:

Town:
County: _____
State: Pennsylvania
Section: _____
Block: _____
Lot: _____

After recording, please return to:

OPPENHEIMER WOLFF & DONNELLY LLP
The Chrysler East Building
666 Third Avenue, Suite 1900
New York, New York 10017-4011
Attn: Elena Lazarou, Esq.

Exhibit C

HANSLOVAN COAL COMPANY MINERAL RESERVES AND SPECIFICATIONS

Location	Job Name	Mineable Acres	Mineral	Approx. Vein Height (in)	Approx. Vein Depth (ft)	Type of Vein	Approx. Amount (Tons)	Est. BTUs	Est. Sulfur (%)	Est. Ash (%)	Permit
Clover Run		480	Coal	50	90-95	U. Freeport	3,480,000	13.6-14.0k	1.20-1.80	8	Yes
			Limestone	264	95-100		38,776,320				
			Coal	35	110-115	L. Freeport	2,436,000	13.6-14.0k	1.20-1.80	8	
	Tower North	255	Coal	50	90-95	U. Freeport	1,848,750	13.6-14.0k	1.20-1.80	8	Yes
			Limestone	264	95-100		20,599,920				
			Coal	35	110-115	L. Freeport	1,294,125	13.6-14.0k	1.20-1.80	8	
Brockway	Buchanon	169	Coal	32	80-90	U. Freeport	784,160	13.6-14.0k	1.10-1.25	9-10	Yes
			Coal	40	130-140	L. Freeport	980,200	13.6-14.0k	1.10-1.25	9-10	
			Coal	192	350-400	Clarion	4,704,960	?	Low sulfur	?	No
	Sedlock	109	Coal	32	80-90	U. Freeport	505,760	13.6-14.0k	1.10-1.25	9-10	No
			Coal	40	130-140	L. Freeport	632,200	13.6-14.0k	1.10-1.25	9-10	
			Coal	192	350-400	Clarion	3,034,560	?	Low sulfur	?	No
	Kearney	100	Coal	32	80-90	U. Freeport	464,000	13.6-14.0k	1.10-1.25	9-10	No
			Coal	40	130-140	L. Freeport	580,000	13.6-14.0k	1.10-1.25	9-10	
			Coal	192	350-400	Clarion	2,784,000	?	Low sulfur	?	No
	Calhoun	153	Coal	192	350-400	Clarion	4,259,520	?	Low sulfur	?	No
	Deemer	97	Coal	192	350-400	Clarion	2,700,480	?	Low sulfur	?	No
	Gustafson	111	Coal	192	350-400	Clarion	3,090,240	?	Low sulfur	?	No
	James Patton	106	Coal	32	80-90	U. Freeport	491,840				
			Coal	192	350-400	Clarion	2,951,040	?	Low sulfur	?	No
	Ray Patton	81	Coal	192	350-400	Clarion	2,255,040	?	Low sulfur	?	No

	Smith	102	Coal	192	350-400	Clarion	2,839,680	?	Low sulfur	?	No
Location	**Job Name**	**Mineable Acres**	**Mineral**	**Approx. Vein Height (in)**	**Approx. Vein Depth (ft)**	**Type of Vein**	**Approx. Amount (Tons)**	**Est. BTUs**	**Est. Sulfur (%)**	**Est. Ash (%)**	**Permit**
Turkey Hil	I	370	Coal	20	20	C-prime	1,073,000	12.0-12.2k	0.6-0.8	9	Yes
			Coal	26	60	C	1,394,900	12.4-12.6k	0.6-0.8	10	
			Coal	24	105	B	1,287,600	13.8-14.0k	0.6-0.8	4	
	II	148	Coal	20	20	C-prime	429,200	12.0-12.2k	0.6-0.8	9	Yes
			Coal	26	60	C	557,960	12.4-12.6k	0.6-0.8	10	
			Coal	24	105	B	515,040	13.8-14.0k	0.6-0.8	4	
Morrisdale		100	Coal	36	80-85	B	522,000	13.0-13.5k	1.6-1.8	9	Yes

SUMMARY

Location	**Strip Mine Coal (Tons)**	**Strip Mine Limestone (Tons)**	**Deep Mine Coal (Tons)**
Clover Run	9,058,875	59,376,240	0
Brockway	3,946,320	0	29,111,360
Turkey Hil	5,257,700	0	0
Morrisdale	522,000	0	0
TOTAL	**18,784,895**	**59,376,240**	**29,111,360**

NOTES:

1) A density of 80 pounds per cubic foot = (145 * inch * acre) was used to compute coal reserves

2) A density of 169 pounds per cubic foot = (306 * inch * acre) was used to compute limestone reserves

3) Mineable acres represents the approximate amount of acres at each job location that have not been stripped

Prepared by: Jim Davic (216) 977-1079 (7/8/02)

Exhibit D

ALL-STATE® LEGAL 800-222-0510 ED811 RECYCLED

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT (the "Mortgage") is made this ____ day of August, 2002, by Edward Hanslovan and Mary Hanslovan (the "Mortgagors"), in favor of General Electric Capital Corporation, whose principal business address is 44 Old Ridgebury Road, Danbury, Connecticut 06801 ("GE Capital" or the "Mortgagee").

WITNESSETH:

WHEREAS, GE Capital has agreed to (i) amend and restructure the outstanding obligations of Ed Hanslovan Coal Company, Inc. ("Debtor") of which the Mortgagors are principals, under, among other things, that certain Master Lease Agreement dated April 5, 1996, that certain Installment Note dated October 10, 1997, and that certain Master Security Agreement, dated October 10, 1997, and (ii) forego immediate enforcement of those certain Individual Guaranties executed by each of the Mortgagors and dated March 7, 1996 (the foregoing instruments shall hereinafter be collectively referred to as the "Secured Obligations"). To secure performance of all obligations of the Mortgagors to the Mortgagee hereunder and under each of the Secured Obligations, the Mortgagors hereby mortgage to the Mortgagee:

ALL THAT CERTAIN plot, piece or parcel of land, with the buildings and improvements thereon erected, situated, lying and being known as _____, more particularly described in Exhibit "1" attached hereto and incorporated by reference;

TOGETHER with all and singular the tenements, hereditaments, and appurtenances thereunto belonging, or in any wise appertaining, and the reversion or reversions, remainder and remainders; and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, in law and in equity, of the Mortgagors, of, in and to the same and every part and parcel thereof, with appurtenances, including all fixtures affixed to the same or intended so to be, and also, all machinery, equipment, improvements and personal property now in or upon or which may hereinafter be installed in or affixed to the same, to the extent the foregoing relate to or are necessary for the complete and comfortable use, enjoyment, maintenance, operation or occupancy thereof, including, but not limited to, furnaces, boilers, oil burners, radiators and piping, heating system, electrical system, panel boards, plumbing and bathroom fixtures, air conditioning, sprinkler systems, wash tubs, sinks, gas and electric fixtures, stoves, ranges, awnings, screens, window shades, refrigerators, kitchen cabinets, plants and shrubbery, as to which this Mortgage constitutes a security agreement (the "Property");

TOGETHER with all the right, title and interest of the Mortgagors in and to all streets, roads and public places, opened or proposed, adjoining the Property, and all easements and rights-of-way, public or private, all sidewalks and alleys, and all strips and gores of land now or hereafter used in connection with the Property;

TOGETHER with the rents, issues and profits arising or issuing from the Property or the improvements thereon as further security for the payment of the Secured Obligations of the Mortgagors, and the Mortgagors grants to the Mortgagee the right to enter upon and to possession of the Property for the purpose of collecting the same and to let the Property or any part thereof, and to apply the rents, issues and profits, after payment of all necessary charges and expenses, on account of the Secured Obligations as hereinafter provided;

TOGETHER with any and all awards, damages, payments, judgments, settlements and other compensation, including without limitation, insurance proceeds, and any and all causes of action, claims therefor and rights thereto, which may result from (i) taking or injury by virtue of the exercise of the power of eminent domain, (ii) a lawsuit or other legal proceeding, or (iii) any damage, injury or destruction in any manner caused to the Property or the improvements thereon, or any part thereof;

TOGETHER with all the estate, right, title, interest, property, possession, claim and demand whatsoever of the Mortgagors, in law as well as in equity, of, in and to the same and every part and parcel thereof with the appurtenances;

TOGETHER with all other assets and personal property of the Mortgagors relating to, or used in the operation of, the Property, including without limitation, all accounts, goods, fixtures, inventory, equipment, chattel paper, documents instruments and general intangibles (as such terms are defined in the Uniform Commercial Code), whether now owned or hereafter acquired;

AND ALSO, all proceeds of the foregoing.

ALL of which property and rights therein described above being hereinafter collectively referred to as the "Premises".

TO HAVE AND TO HOLD, the above granted and described Premises unto the Mortgagee, its successors and assigns, to its and their own proper use, benefit and behoove forever.

This Mortgage further creates a security interest in the fixtures included in the Premises and constitutes a security agreement and financing statement under the Uniform Commercial Code. The Mortgagors shall execute, file and refile such financing statements or other security agreements as the Mortgagee shall require from time to time with respect to such fixtures and other personal property and assets included in the Premises. The Mortgagors hereby authorizes the Mortgagee to file such financing statement or statements and any amendments thereto pursuant to said Uniform Commercial Code, without the signature of the Mortgagors, as the Mortgagee may deem necessary to perfect such interest or right in its favor.

PROVIDED ALWAYS, and these presents are made upon this express condition, that if the Secured Obligations shall be duly paid or performed as and when the same shall

become due and payable or be required to be performed, then these presents and the estate hereby granted shall cease, terminate and be void.

I. REPRESENTATIONS AND WARRANTIES OF THE MORTGAGOR.

The Mortgagors hereby represent and warrant to the Mortgagee as follows:

A. ORGANIZATION, POWER AND QUALIFICATION; AUTHORIZATION OF AGREEMENT

(a) The Mortgagors have all requisite authority to own and operate their properties and assets.

(b) The Mortgagors have full power and authority to execute, deliver and perform any action or step which may be necessary to carry out the terms of this Mortgage and this Mortgage is legal, valid and binding obligations on the Mortgagors enforceable in accordance with its terms, subject to any applicable bankruptcy, insolvency, general equity principles or other similar laws affecting the enforcement of creditors' rights generally.

B. **NO LEGAL BAR**. The execution, delivery and performance of this Mortgage will not (i) violate any provision of any existing law, statute, rule, regulation or ordinance, (ii) conflict with, result in a breach of or constitute a default under (a) the certificate of formation or operating agreement of the Mortgagors, (b) any order, judgment, award or decree of any court, arbitrator, or governmental authority, bureau or agency, or (c) any mortgage, indenture, lease, contract or other agreement or undertaking to which the Mortgagors are a party or by which the Mortgagors or any of its properties or assets may be bound, or (iii) result in the creation or imposition of any mortgage, security interest, restriction, lien or other encumbrance upon or with respect to any property or asset now owned or hereafter acquired by the Mortgagors, other than in favor of the Mortgagee.

C. **CONSENT**. No consent, license, permit, approval or authorization of, exemption by, notice to, report to, or registration, filing or declaration with any person or governmental authority, bureau or agency is required in connection with the execution, delivery, performance or validity of the Mortgage or the transactions contemplated thereby.

D. **COMPLIANCE WITH LAW**. The Mortgagors are not in violation of any applicable law, rule, regulation, statute, ordinance, or any order, judgment, award or decree of any court, arbitrator, or governmental authority, bureau or agency, the violation of which would have a materially adverse effect on the business, assets, liabilities or financial condition of the Mortgagors.

E. **NO DEFAULT**. The Mortgagors are not in default in any material respect in the payment or performance of any of its obligations or in the performance of any mortgage, indenture, lease, contract or other agreement or undertaking to which it is a party or by which it or any of its properties or assets may be bound, and no default or event of default has occurred and is continuing. The Mortgagors are not in default under any order, award or

decree of any court, arbitrator or governmental authority, bureau or agency binding upon or affecting it or by which any of its properties or assets may be bound or affected, and no such order, award or decree, if any, materially adversely affects the ability of the Mortgagors to carry on its business as presently conducted or to perform its obligations hereunder.

F. **NO LITIGATION**. No litigation, investigation or proceeding of or before any court, arbitrator or governmental authority, bureau or agency is currently pending, nor, to the knowledge of the Mortgagors, threatened, against the Mortgagors or any of the Mortgagors' properties and revenues which, if adversely determined, would materially adversely affect the ability of the Mortgagors to carry on its business as presently conducted or to perform its obligations hereunder.

G. **NO BURDENSOME RESTRICTIONS**. The Mortgagors are not a party to nor is bound by any contract or agreement or instrument nor subject to any restriction materially and adversely affecting the business or financial condition of the Mortgagors.

H. **TAX RETURNS AND PAYMENTS; FINANCIAL STATEMENTS.**

1. All federal, state and other tax returns of the Mortgagors required by law to be filed have been duly filed or extensions obtained, and all federal, state and other taxes, assessments and governmental charges or levies upon the Mortgagors or any of its properties, income, profits or assets which are due and payable have been paid, except such tax returns the nonfiling of which, and such taxes the non-payment of which, would not have a material adverse effect upon the business, assets, liabilities or financial condition of the Mortgagors and except for such taxes and assessments which the Mortgagors are disputing in good faith and for which the Mortgagors has established adequate reserves on its books for the payment of such disputed taxes or assessments in accordance with generally accepted accounting principles.

2. All financial statements and financial information provided to the Mortgagee by or on behalf of the Mortgagors fairly present the financial position and results of operations of the Mortgagors on the dates and for the periods then ended and show all direct liabilities and all known contingent liabilities of a material nature.

3. Since the date of the most recent financial statement provided to the Mortgagee by or on behalf of the Mortgagors, no material adverse change has occurred in the business, assets, liabilities, financial condition, results of operations or business prospects of the Mortgagors, and no event has occurred or failed to occur which has had or is likely to have a material adverse effect on the business, assets, liabilities, financial condition, results of operations or business prospects of the Mortgagor.

I. FINANCIAL CONDITION.

1. The Mortgagors are now, and after giving effect to the transactions contemplated hereby will be in, a financially solvent condition; the execution and delivery of this Mortgage does not constitute a "fraudulent conveyance" or "fraudulent transfer" within

the meaning of any applicable federal or state statute; and no bankruptcy or insolvency proceedings are presently pending by or against the Mortgagors.

2. No fact is known to the Mortgagors which has had or is likely in the future to have (so far as Mortgagors can reasonably foresee) a materially adverse effect upon the Mortgagor's business, assets, liabilities, condition, financial or otherwise, or results of operations that has not been set forth in the financial statements furnished to the Mortgagee or other reports or other papers or data otherwise disclosed in writing to the Mortgagee.

3. The Mortgagors do not intend to, nor does the Mortgagors believe that it will incur debts beyond its ability to pay such debts as they mature. The cash available to the Mortgagors are anticipated to be sufficient to pay all amounts on or in respect of debt of the Mortgagors when such amounts are required to be paid.

4. The Mortgagors does not believe that final judgments against it in actions for money damages will be rendered at a time when, or in an amount such that, the Mortgagors will be unable to satisfy any such judgments promptly in accordance with their terms (taking into account the maximum reasonable amount of such judgments in any such actions and the earliest reasonable time at which such judgments might be rendered). The cash available to the Mortgagors after taking into account all other anticipated uses of the cash of the Mortgagors are anticipated to be sufficient to pay all such judgments promptly in accordance with their terms.

J. **WARRANTY OF TITLE**. The Mortgagors are lawfully seized of an indefeasible estate in fee simple in the Premises, subject only to those exceptions (the "Permitted Encumbrances") set forth in that certain Title Insurance Commitment issued in connection with this Mortgage, as delivered to the Mortgagee and endorsed on the date hereof, which is incorporated herein by reference, and the Mortgagors will warrant and forever defend the title thereof unto the Mortgagee against all lawful claims whatsoever.

K. **ACCURACY AND COMPLETENESS OF INFORMATION.** All written information, reports and other papers and data furnished to the Mortgagee by the Mortgagors were, at the time the same were so furnished and remain, as of the date hereof, complete and correct in all material respects and did not and do not contain any untrue statement of fact or omit to state any material fact necessary in order to make the statements and information contained therein not misleading.

II. COVENANTS OF THE MORTGAGOR.

The Mortgagors hereby covenant and agree with the Mortgagee, until the Secured Obligations are performed and paid in full, as follows:

A. **PAYMENT OF SUMS SECURED.** The Mortgagors will pay the indebtedness as herein before provided. This Mortgage shall remain in full force and effect until the Secured Obligations and all other obligations under this Mortgage are fully and

indefeasibly paid and the performance obligations of the Mortgagors to the Mortgagee under the Loan Documents and this Mortgage have been satisfied in full.

B. **INSURANCE.**

1. The Mortgagors shall (a) keep in effect or cause to be kept in effect upon the Premises for the benefit of the Mortgagee insurance against loss or damage by fire and all other risks embraced within "all risk" and "extended coverage" including, but not limited to, vandalism and malicious mischief endorsements, in such amount, by such insurers, and containing such provisions as the Mortgagee may reasonably require, but in no event less than the replacement value of all improvements on the Premises, and (b) obtain or cause to be obtained public liability insurance in such minimum amounts and with such insurance companies as are reasonably satisfactory to the Mortgagee, but in no event less than $1,000,000 per occurrence.

2. Any insurance required pursuant to this Mortgage shall be so written or endorsed as to (a) name the Mortgagee as an additional insured, (b) contain the standard (non-contributing) mortgagee endorsement in favor of the Mortgagee as second mortgagee, (c) shall not contain any "co-insurance provisions", (d) shall be obtained from insurers which are reasonably satisfactory to the Mortgagee, and (e) with respect to insurance against loss or damage to property, name the Mortgagee as a "loss payee" and make losses payable to the as Second Mortgagee. The Mortgagors shall pay the premiums on the policies of all insurance required pursuant to this Mortgage as they become payable and shall deliver to the Mortgagee certificates of insurance and evidence of payment of all premiums, and, if requested by the Mortgagee, the original policies of property insurance and, if required, flood insurance, and certificates evidencing public liability insurance. All insurance shall provide that the Mortgagee is the Certificate Holder and the Mortgagors shall provide all such Certificates to the Mortgagee. Notwithstanding the foregoing, a mortgagee with a lien against the Premises senior in priority to this Mortgage ("Senior Mortgagee") shall have superior rights to insurance up to the amount of the Senior Mortgagee's mortgage.

3. All renewal or replacement policies shall be delivered by the Mortgagors, premiums paid, to the Mortgagee at least thirty (30) days before the expiration of the expiring policies. Each insurance policy shall provide that the Mortgagee shall be furnished with not less than thirty (30) days' prior written notice before any termination, cancellation, non-renewal or reduction in scope becomes effective as to the Mortgagee. If the Mortgagee becomes the owner of the Premises or any part thereof by foreclosure or otherwise, such policies shall become the absolute property of the Mortgagee.

C. **DAMAGE, DESTRUCTION AND CONDEMNATION**. If the Premises or any part thereof shall be damaged or either partially or totally destroyed, or if title to or the temporary use of the whole or any part of the Premises shall be taken, condemned or purchased under threat of condemnation by a competent authority for a public use or purpose, the Mortgagee shall be entitled to receive and shall receive any and all insurance proceeds or condemnation awards with respect thereto (hereinafter, the "Proceeds"), subject,

however, to the rights of any Senior Mortgagee. The Mortgagee shall have the right to participate in the defense of any condemnation action and the valuation of the Premises in connection therewith. So long as no Event of Default shall have occurred and be continuing hereunder, the Mortgagee shall remit such Proceeds to the Mortgagors to restore, replace or repair the Premises; provided, however, that if an Event of Default shall have occurred and be continuing hereunder, the Mortgagee shall have the right, in its sole and absolute discretion, to determine whether to apply such Proceeds to prepay the principal, interest and other charges on the Secured Obligations or to remit such Proceeds to the Mortgagors to restore, replace or repair the Premises. In any case in which Proceeds (and such additional funds) are to be applied to restore, replace or repair any part of the Premises, such restoration, replacement or repair shall in any event be subject to the satisfaction of the following conditions:

1. The Mortgagors shall submit or cause to be submitted to the Mortgagee for its approval, an estimate of the cost of restoration, replacement or repair of the Premises, accompanied by an architect's certification as to such costs and final plans and specifications with respect thereto. All buildings and improvements so restored, replaced or repaired shall be of substantially the same character and value as the buildings and improvements prior to such damage or destruction and shall be suitable for the purposes for which they were originally erected. The Mortgagors shall furnish the Mortgagee with evidence reasonably satisfactory to the Mortgagee that all buildings and improvements so restored, replaced and/or repaired and their contemplated use fully comply with all zoning and building laws, ordinances and regulations, and with all other applicable federal, state or local laws and requirements.

2. If at any time the estimated cost of restoration, replacement or repair shall exceed the Proceeds available therefor, the Mortgagors shall escrow additional monies with the Mortgagee in an amount equal to such excess estimated cost.

3. Each disbursement of the Proceeds during the course of restoration, replacement or repair shall be subject to receipt by the Mortgagee of a requisition signed by the Mortgagors stating (a) the requisition number, (b) the name and address of the person or entity to whom payment is to be made, or if the payment is to be made to the Mortgagors for a reimbursable advance, the name and address of the person or entity to whom the advance was made together with proof of payment by the Mortgagors, and (c) that each obligation for which payment is sought is unpaid or unreimbursed and has not been the basis of any previously paid requisition. Each requisition shall be accompanied by (i) an approved certification by a licensed A.I.A. architect reasonably acceptable to the Mortgagee as to the cost of materials furnished and work done and evidence that such work and materials are free and clear of liens, (ii) if requested by the Mortgagee, an updated title insurance endorsement as of the date of each such disbursement insuring the continued validity and priority of this Mortgage and (iii) such other documents, certificates or instruments as the Mortgagee shall reasonably require. No payment made prior to the final completion of work shall exceed 90% of the value of the work performed or materials furnished and incorporated into the Premises from time to time, and at all times the undisbursed balance of said Proceeds

(together with the additional security referred to in the preceding paragraph) shall be at least sufficient to pay for the cost of completion of the work, free and clear of liens. Said Proceeds are to be released not more than once a month, and the disbursement of said Proceeds shall be subject to such other provisions and safeguards as the Mortgagee then requires in connection with construction loans for similar projects. The administration of such provisions shall be at the sole cost and expense of the Mortgagor.

4. Final payment shall be made upon receipt by the Mortgagee of a certification by a licensed A.I.A. architect reasonably acceptable to the Mortgagee as to completion in accordance with the approved plans and specifications and, if requested by the Mortgagee, the issuance to the Mortgagee of a title policy endorsement reasonably satisfactory to the Mortgagee insuring the continued validity and priority of this Mortgage as a mortgage lien.

5. All costs and expenses incurred by the Mortgagee in disbursing said funds shall be paid for by the Mortgagors and may be deducted by the Mortgagee from the funds to be so advanced for such restoration, replacement or repair.

6. Nothing herein shall be construed to require the Mortgagee to advance any sums for any such restoration, replacement or repair beyond the amount of the Proceeds actually received by the Mortgagee and set aside for such purpose less the amount of the Mortgagee's costs and expenses referred to above.

7. The Mortgagors shall promptly notify the Mortgagee of any damage, destruction or institution of any proceedings for the condemnation or taking, by powers of eminent domain or purchase under threat thereof, of the whole or any part of the Premises.

8. Prior to an Event of Default, the Mortgagors shall adjust any insurable loss and settle any condemnation proceedings, provided the Mortgagors shall have obtained the prior written consent of the Mortgagee thereto which shall not be unreasonably withheld or delayed. Following the occurrence of an Event of Default, the Mortgagee shall have the exclusive right to adjust any insurable loss and settle any condemnation proceedings.

9. Any moneys released to the Mortgagors or paid or applied to the cost of restoration, replacement or repair shall in no event be deemed a payment of the Secured Obligations. The Mortgagee shall be under no obligation to question the amount of the Proceeds and may accept the same in the amount in which the same shall be paid.

10. Anything to the contrary herein contained notwithstanding, any Proceeds paid over to the Mortgagee and not used for repair, replacement or restoration shall be applied to pay any sums then due and owing to the Mortgagee with respect to the Secured Obligations, and, subject to the rights of the holders (including the Mortgagee) of any Permitted Encumbrances, any excess shall be paid over to the Mortgagor.

D. COMPLIANCE WITH LAWS. The Mortgagors shall comply in all material respects with all applicable federal, state and local laws, rules, regulations, ordinances,

building codes and orders in effect from time to time including, but not limited to, those relating to the environment, the payment of taxes, assessments and other governmental charges, zoning, and the use, occupancy, transfer or encumbrancing of the Premises the failure to comply with which would result in a lien upon the Premises or otherwise impair the value of the Premises. The Mortgagors additionally agrees to pay all costs required to comply with any of the above conditions, and to indemnify and hold the Mortgagee harmless against any loss, liability, cost or expense (including attorneys' fees) arising out of or relating to any proceeding instituted in connection with any alleged or actual violation of any of the foregoing not caused by the Mortgagee.

E. **TAXES AND OTHER CHARGES; MECHANICS' LIENS.** Except as otherwise provided in this Section II(E), the Mortgagors shall pay all taxes, water and sewer rents, fines, impositions and other similar claims, liens and encumbrances assessed, or which may be assessed, against the Premises or any part thereof, without any deduction or abatement, not later than five (5) days before the same shall become due and payable and shall simultaneously with each such payment, furnish to the Mortgagee receipts for the payment thereof in full. The Mortgagors will pay, from time to time when the same shall become due, all lawful claims and demands of mechanics, materialmen, laborers, and others, which, if unpaid, might result in, or permit the creation of, a lien on the Premises or any part thereof, or on the revenues, rents, issues, income and profits arising therefrom, and will do or cause to be done everything necessary so that the lien hereof shall be fully preserved, at the cost of the Mortgagors and without expense to the Mortgagee. If the Mortgagors shall in good faith, and by proper legal action, contest any taxes, assessments, fines, impositions, claims, liens, encumbrances or other charges, or the validity thereof, and provided no Event of Default is then existing and continuing, then the Mortgagors shall not be required to pay the same or to produce such receipts as long as such contest operates to prevent collections, and is maintained and prosecuted with diligence and shall not have been terminated or discontinued adversely to the Mortgagor. In addition to the foregoing, the Mortgagors will pay when due and will not suffer to remain outstanding, any charges for utilities, whether public or private, with respect to the Premises.

F. **FURTHER ASSURANCES; FILING AND RECORDING.**

1. The Mortgagors will, at its sole cost and expense, perform, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, security agreements, assignments, notices of assignment, financing statements, transfers and assurances as the Mortgagee shall from time to time reasonably require, for the better assuring, conveying, assigning, transferring and confirming unto the Mortgagee the property and rights hereby conveyed or assigned or intended now or hereafter so to be, or which the Mortgagors may be or may hereafter become bound to convey or assign to the Mortgagee, for carrying out the intention or facilitating the performance of the terms of this Mortgage or for filing, registering or recording this Mortgage and, on demand, will execute and deliver, and hereby authorizes the Mortgagee and irrevocably appoints the Mortgagee as the agent and attorney-in-fact of the Mortgagors to execute and file in its own name or in the

Mortgagor's name, to the extent it may lawfully do so, all such documents, instruments, certificates and financing statements.

2. The Mortgagors, forthwith upon the execution and delivery of this Mortgage, and thereafter from time to time upon request by the Mortgagee, and as may be required by law, will cause this Mortgage and any security instrument creating a lien or evidencing the lien hereof upon the Premises and the fixtures thereon and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect the lien hereof upon, and the interest of the Mortgagee in, the Premises and the fixtures thereon.

3. The Mortgagors will pay all filing, registration or recording fees, and all expenses incident to the execution and acknowledgment of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Premises and the fixtures thereon, and any instrument of further assurance, and all federal, state, county and municipal stamp taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Premises and the fixtures thereon or any instrument of further assurance.

G. **RIGHT TO REMEDY DEFECTS; INDEMNIFICATION.** If the Mortgagors shall at any time fail to pay any amount payable by it hereunder or fails to comply with any provision of this Mortgage, the Mortgagee may, after reasonable notice to the Mortgagors, pay such amount or comply with such provision and make such expenditures, including reasonable counsel fees, in connection therewith and with enforcing this Mortgage and for repairing, maintaining and preserving the Premises, for establishing, preserving, protecting and restoring the validity and priority of the lien hereof, for obtaining official tax searches of the Premises, for protecting and preserving any use being made of the Premises now or hereafter and for advances to any trustee or receiver of the Premises, as the Mortgagee deems advisable; each amount so paid or expended, with interest at the rate then in effect under the Secured Obligations plus four percent (4%) shall become part of the Secured Obligations and be secured hereby; and the Mortgagors shall pay to the Mortgagee, on demand, the amount of each payment or expenditure, with such aforesaid interest, but no such payment or compliance by the Mortgagee shall constitute a waiver of the Mortgagor's failure so to do or affect any right or remedy of the Mortgagee with respect thereto. The Mortgagors agrees to and does hereby indemnify the Mortgagee, its officers, directors, employees, agents, affiliates and assigns and the Mortgagors shall hold the Mortgagee, its officers, directors, employees, agents, affiliates and assigns harmless from and against any and all losses, claims, damages or liabilities (including all costs, expenses and reasonable counsel fees incurred in investigating or defending such claim) suffered by the Mortgagee, its directors, officers, employees, affiliates and agents and caused by, relating to, arising out of, resulting from or in any way connected with any of the items enumerated in the immediately preceding sentence, except to the extent resulting from the gross negligence or willful misconduct of the Mortgagee or its agents.

H. **PRESERVATION OF THE PREMISES; LIENS AND ENCUMBRANCES**

1. The Mortgagors shall keep the improvements now or hereafter on the Premises in good repair and condition, ordinary wear and tear excepted, and, with reasonable diligence, shall repair, replace or rebuild any material part of the Premises which may be destroyed by any casualty or become damaged, worn or dilapidated. The Mortgagors shall make any repairs needed to immediately preserve the value of the Premises within thirty (30) days after written notice thereof from the Mortgagee; provided, however, that in the event the Mortgagors are diligently undertaking such repairs but same cannot be completed within said 30-day period, the Mortgagee shall extend said 30-day period for as long as the Mortgagors and the Mortgagee shall agree is reasonably necessary in order to complete such repairs; provided further, however, that the Mortgagee shall be under no obligation to extend said period beyond ninety (90) days after the aforementioned written notice.

2. The Mortgagors shall not remove or demolish nor alter the design or structural character of any building now or hereafter erected upon the Premises without the prior written consent of the Mortgagee which consent shall not be unreasonably withheld or delayed. The Mortgagee shall consent to such proposed structural change or alteration upon receipt of (i) a certificate of the Mortgagors stating that no Event of Default then exists and is continuing and (ii) evidence reasonably satisfactory to the Mortgagee to the effect that the proposed structural change or alteration (upon completion) shall not diminish the value of the Premises.

3. The Mortgagors shall not suffer or permit waste of the Premises and shall cause the Premises to comply with all applicable building codes, ordinances, statutes and regulations of all federal, state and municipal governmental authorities and agencies having jurisdiction thereof, including but not limited to, all fire and safety codes.

4. The Mortgagors shall keep the Premises free of all mortgages, liens, charges, encumbrances, attachments, levies, distraints, other judicial process and burdens of every nature, except for Permitted Encumbrances.

I. **NOTIFICATION**. The Mortgagors shall notify the Mortgagee immediately of (a) the occurrence or existence of any Event of Default, (b) the inception of any action, suit, proceeding, inquiry or investigation at law or in equity before any court, public board or body wherein an unfavorable decision, ruling or finding would, to the extent not covered by insurance, have a material adverse effect upon the Premises, and (c) the occurrence of any substantial loss, substantial damage, destruction, condemnation or taking of the whole or any part of the Premises.

J. **RIGHT TO INSPECT PREMISES AND BOOKS AND RECORDS; APPRAISAL**

The Mortgagors shall permit the Mortgagee, by its duly authorized officers and agents during normal business hours and upon reasonable written notice, to enter upon and inspect the Premises and, to the extent and with such frequency as is reasonably required by the Mortgagee, the books and records of the Mortgagor. The Mortgagee shall also have the right, from time to time, upon reasonable notice to the Mortgagors, to conduct or cause to be conducted an appraisal or appraisals of the Premises, the cost of which shall be paid by the Mortgagor.

K. **FINANCIAL STATEMENTS.**

The Mortgagors will furnish the following information to the Mortgagee:

(1) Within 90 days after the end of each fiscal year of the Mortgagors, financial statements on the form approved by Mortgagee and true, correct and complete copies of the Mortgagors federal tax returns as filed;

(2) Within 30 days after the end of each fiscal year of the Mortgagors, an operating statement with respect to the Premises, on the form approved by the Mortgagee;

(3) From time to time and promptly upon each request, such other reports and information regarding the business, assets, liabilities, financial condition, results of operation or business prospects of the Mortgagors as the Mortgagee may reasonably requests;

(4) Prompt notice of any material adverse change with respect to the business, assets, liabilities, financial condition or results of operation of the Mortgagor.

In connection with the delivery of the tax returns which is referred to in clause 1 above, the Mortgagors shall also obtain and deliver to the Mortgagee an acknowledgment of reliance, on the form approved by the Mortgagee from the independence certified public accountant, if any, which prepares such tax returns.

L. **FURTHER INDEBTEDNESS.**

1. The Mortgagors shall not create, assume, incur, guarantee or in any manner become liable, contingently or otherwise, in respect of any indebtedness for money borrowed.

2. The Mortgagors shall not sell, transfer, assign, lease or otherwise dispose of (whether in one transaction or a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired).

3. The Mortgagors shall not guarantee, endorse, become surety for, or otherwise in any way become or be responsible for, the obligations of any other person whether by agreement to purchase the indebtedness of any other person, or agreement for the furnishing of funds, directly or indirectly, for the purpose of payment of indebtedness of any

other person, other than endorsements of negotiable instruments for deposit or collection in the ordinary course of its business.

M. **LEASES.**

1. The Mortgagors shall not lease or sublease all or any portion of the Premises or consent to the leasing, subleasing or assignment of any lease by any tenant of all or any portion of the Premises, or consent to the amendment, modification or termination of any lease with respect to the Premises, except for increases in rent, without the prior review and express prior written consent, both as to the form and substance thereof, of the Mortgagee, which consent shall not be unreasonably withheld or delayed.

2. All present and future lease of the Premises, or any part thereof, shall be subordinate in all respects to the lien of this Mortgage.

3. On or before January 31 of each year, the Mortgagors shall provide to the Mortgagee a current, certified rent roll with respect to all tenants and other occupants of the Premises. In addition, the Mortgagors shall provide to the Mortgagee, promptly upon execution thereof, certified copies of all leases, and all amendments, modifications and supplements to existing leases, entered into with respect to the Premises from and after the date hereof.

N. **NO DEDUCTION**. The Mortgagors shall claim no deduction upon the assessed value of the Premises on account of the monies owing to Mortgagee.

III. **INDEMNIFICATION**

1. The Mortgagors hereby agrees to indemnify the Mortgagee, its directors, officers, employees, affiliates and agents from and against any and all liabilities, suits, obligations, fines, damages, penalties, claims, losses, costs, charges and expenses (including, without limitation, reasonable architect's, engineer's, accountant's, consultant's and attorneys' fees and disbursements) (collectively, the "Losses") which may be imposed upon, incurred or asserted against the Mortgagee, its directors, officers, employees, affiliates and agents by reason of: (a) any construction relating to the Premises; (b) any capital improvements, other work or thing done in, on or about the Premises; (c) any use, non-use, misuse, possession, occupation, alteration, repair, condition, operation, maintenance or management of the Premises or any street, drive, sidewalk, curb, passageway or space comprising a part thereof or adjacent thereto; (d) any negligence or willful act or omission on the part of the Mortgagors, any lessee or any other occupant of the Premises or any agent, contractor, servant, employee, licensee or invitee or any of them; (e) the claims of any lessee or any party acting through or under any such lessee or otherwise arising under or as a consequence of any lessee; (f) any accident, injury (including death) or damage to any person or property occurring in, on or about any sidewalks, drives, curbs, passageways, streets, spaces or alleys adjacent to or on the Premises; (g) any Event of Default; (h) any lien or claim which may be alleged to have arisen on or against the Premises under any law or any liability asserted against the Mortgagee with respect thereto; (i) any tax or other imposition,

including, but not limited to, any imposition attributable to the execution, delivery, filing or recording of this Mortgage or any other documents executed by the Mortgagors in connection herewith; (j) any contest permitted pursuant to the provisions of this Mortgage or the other Loan Documents; and (k) any and all violations of law, including, without limitation, any and all federal, state and local laws, rules and regulations relating to the environment, existing at the Premises. The foregoing indemnity shall not apply to Losses resulting or arising from the gross negligence or willful misconduct of the Mortgagee.

2. The obligations of the Mortgagors under this Article IV shall not in any way be affected or limited by the absence of any insurance, by the amount of any insurance policy or by the failure or refusal of any insurance carrier to perform any obligation on its part under any insurance policies. If any claim, action or proceeding is made or brought against the Mortgagee or any of its directors, officers, employees, affiliates and agents, by reason of any event as to which the Mortgagors are obligated to indemnify the Mortgagee or any of its directors, officers, employees, affiliates and agents, then, upon demand by the Mortgagee, the Mortgagors, at its sole cost and expense, shall resist or defend such claim, action or proceeding in the Mortgagee's, or any of its directors, officers, employees, affiliates and agents, name, if necessary, by the attorneys for the Mortgagor's insurance company or by such attorneys as the Mortgagee shall approve in writing, which approval shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, the Mortgagee or any of its directors, officers, affiliates, employees and agents may engage its own attorneys in its reasonable discretion to defend it or to assist in its defense and the Mortgagors shall pay the reasonable fees and disbursements of such attorneys.

IV. EVENTS OF DEFAULT.

The following shall constitute events of default under this Mortgage (each, an "Event of Default"):

A. If any Event of Default or default shall occur under the terms of any of the Secured Obligations.

B. If the Mortgagors shall default in the performance or observance of any covenant, agreement or condition contained in this Mortgage and such default shall continue for fifteen (15) days after notice thereof from the Mortgagee.

C. If any representation or warranty made by the Mortgagors in this Mortgage or in any other Loan Document shall prove to have been false, incorrect or misleading in any material respect on the date as of which made.

D. If the Premises shall be sold, transferred, assigned or otherwise conveyed, including without limitation, the entering into by the Mortgagors of a long-term lease of the Premises, or if title to the Premises or any part thereof shall be transferred or conveyed to any person, firm, corporation, trust, association or other entity, including without limitation, the passing of title to, or possession of the Premises by, a receiver, trustee or assignee for the benefit of creditors.

E. If any default shall occur under the terms of any of the Permitted Encumbrances.

F. If a default or event of default occurs under a mortgage that is prior or subordinate to the lien of this Mortgage, including without limitation, if any mortgagee claims a right to possession or commences a foreclosure action.

G. (i) The Mortgagors shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian or other similar official for all or any substantial part of its assets, or (ii) the Mortgagors shall make a general assignment for the benefit of creditors; or (iii) the Mortgagors shall commence, or there shall be commenced against the Mortgagors, any case, proceeding or other action of a nature referred to in clause (i) above which (A) results in the entry of an order for relief of any such adjudication or appointment or (B) remains undismissed, undischarged or unbonded for a period of sixty (60) days; or (iv) there shall be commenced against the Mortgagors any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets, which results in the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within sixty (60) days from the entry thereof; or (v) the Mortgagors shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clauses (i), (ii), (iii) or (iv) above; or (v) the Mortgagors shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due.

H. The Mortgagors shall (i) default in any payment with respect to any indebtedness for money borrowed, whether from the Mortgagee or any other lender, beyond the period of grace, if any, provided in the instrument or agreement under which such indebtedness was created; or (ii) default in the observance or performance of any other agreement or condition relating to any such indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur, the effect of which default or other event is to cause, or to permit the holder of such indebtedness (or a trustee or agent on behalf of such holder) to cause, with the giving of notice if required, such indebtedness to become due prior to its stated maturity. In addition, the Mortgagors acknowledges and agrees that any Event of Default hereunder or under any other Loan Document shall be an event of default under and with respect to all other indebtedness, whether actual or contingent, of the Mortgagors to the Mortgagee.

I. A final judgment shall be entered against the Mortgagors by any court for the payment of money which, together with all other outstanding judgments against the Mortgagors, exceeds fifty thousand dollars ($50,000) in the aggregate, which judgment is not fully covered by insurance, or a warrant of attachment or execution or similar process shall

be issued or levied against property of the Mortgagors which, together with such other property subject to such process, exceeds in value fifty thousand dollars ($50,000) in the aggregate and, if within sixty (60) days (ten (10) days if such aggregate amount exceeds one hundred thousand dollars ($100,000)) after the entry, issue or levy thereof, such judgment, warrant or process shall not have been discharged or stayed pending appeal, or, if within sixty (60) days (ten (10) days if such aggregate amount exceeds one hundred thousand dollars ($100,000)) after the expiration of any such stay, such judgment, warrant or process shall not have been discharged.

J. The Mortgagors shall enter into any junior financing of the Premises without the prior written consent of the Mortgagee.

V. **REMEDIES**.

In case one or more Events of Default shall have occurred, the Mortgagee shall have the following rights and remedies:

A. The Mortgagee may declare all amounts outstanding (with accrued interest thereon) and all other amounts owing to it under the Secured Obligations to be immediately due and payable, whereupon the same shall become due and payable forthwith without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Mortgagor.

B. To take any action at law or in equity to collect the payments due under the Secured Obligations secured hereby or to enforce the performance and observance of the obligations, agreements and covenants of the Mortgagors contained in this Mortgage and the other Loan Documents.

C. Enter into possession of the Premises and employ watchmen to protect the Premises from injury.

D. To institute an action of mortgage foreclosure, or take other action as the law may allow, at law or in equity, for the enforcement of this Mortgage, and proceed therein to final judgment and execution for the entire unpaid balance of the Secured Obligations, including costs of suit, interest and reasonable attorneys' fees. In case of any sale of the Premises by virtue of judicial proceedings, the Premises may be sold in one parcel and as an entirety or in such parcels, manner or order as the Mortgagee in its sole discretion may elect. The failure to make any tenants parties defendant to a foreclosure proceeding and to foreclose their rights will not be asserted by the Mortgagors as a defense in any proceeding instituted by the Mortgagee to collect the Secured Obligations secured hereby or any deficiency remaining unpaid after the foreclosure sale of the Premises. Notwithstanding anything herein to the contrary, the Mortgagors shall continue to be responsible for the payment of taxes, insurance and all other amounts payable with respect to the Premises until title to the Premises shall be conveyed at a sheriff's sale or other similar proceeding.

E. If the Event of Default relates to the payment of any tax, assessment, water or sewer rent or governmental charge, or the payment of a premium for insurance, or the obligation to keep the Premises in satisfactory repair and condition, or to otherwise preserve the security of this Mortgage, then the Mortgagee, in addition to or in lieu of exercising any other rights which it may have hereunder or under any other document executed in connection with any Secured Obligations secured hereby, may pay the tax, assessment, water or sewer rent, governmental charge, insurance premium, or the cost of placing the Premises in satisfactory repair and condition, or the cost of otherwise preserving the security of this Mortgage, and the amount so paid shall be added to the moneys owing on the Secured Obligations and shall be secured hereby and shall be due and payable on demand with interest equal to the prevailing interest rate under the Secured Obligations plus four percent (4%).

F. Upon the occurrence of any Event of Default, the Mortgagee is hereby empowered and appointed attorney-in-fact of the Mortgagors to enter upon and take possession of the Premises and rent the same, either in its name or in the name of the owner of such property, and to demand, collect and receive from the tenants, lessees or other occupants then in possession of the Premises or any part thereof, the rents, issues and profits as they become due as well as all past due rents, income or profits which have not been collected by the Mortgagors, to endorse the name of the Mortgagors or any subsequent owner of the Premises on any checks, notes or other instruments for the payment of money, to give any and all acquaintances or any other instrument in relation thereto in the name of the Mortgagors, and to institute, prosecute, settle or compromise any summary or legal proceedings in the name of the Mortgagors or in the name of the Mortgagee for the recovery of such rents, income or profits, or for the abatement of any nuisance thereon, and to defend, at the Mortgagee's option and sole discretion, any legal proceedings brought against the Mortgagors arising out of the operation of the Premises. All rents, issues and profits collected or received by the Mortgagors after an Event of Default shall be accepted and held for the Mortgagee in trust and shall not be commingled with the funds and property of the Mortgagors, but shall be promptly paid over to the Mortgagee; and the Mortgagors agrees to pay the Mortgagee, if demanded by it, a reasonable rental for the portion of the Premises occupied by the Mortgagors, monthly in advance as a tenant from month to month, and in default of any such payment the Mortgagors may be dispossessed by summary proceedings, such tenancy to expire upon delivery of deed in foreclosure; and the Mortgagee shall apply the rents, issues and profits, after the payment of the necessary charges and expenses, including management fees and commissions, on account of the Secured Obligations hereby secured, being accountable only for rents, issues and profits as are collected by it while in possession.

G. Upon the filing of a complaint to collect the amount due on any Secured Obligation, the Mortgagee shall be entitled to the appointment of a receiver of the rents, issues and profits of the Premises without the necessity of proving either inadequacy of the security or insolvency of the Mortgagors or any person who may be legally or equitably liable to pay moneys secured hereby, and the Mortgagors and each such person waive such proof and consent to the appointment of a receiver.

H. To exercise any and all rights and remedies conferred upon secured parties by the Uniform Commercial Code and other applicable laws.

In addition to the above remedies, if the Mortgagors commits a breach or threatens to commit a breach of this Mortgage, the Mortgagee shall have the right and remedy, without posting bond or other security, to have the provisions of this Mortgage specifically enforced by any court having equity jurisdiction, it being acknowledged and agreed that any such breach or threatened breach will cause immediate and irreparable injury to the Mortgagee and that the Mortgagee's rights in and to the Premises will not provide an adequate remedy therefor.

All proceeds received from the sale or other disposition of the whole or any part of the Premises shall be applied as follows: (i) first, to the payment of all fees, costs and expenses incurred by the Mortgagee in connection with such sale or disposition; (ii) second, to the payment in full of the Secured Obligations; and (iii) third, the balance, if any, of such proceeds remaining after payment in full of the foregoing, to the Mortgagors or as a court of competent jurisdiction may otherwise direct.

Without limiting the foregoing, in exercising its remedies upon the occurrence of an Event of Default, the Mortgagee (i) shall not be responsible nor liable for any shortage, discrepancy, damage, loss or destruction of any part of the Premises regardless of the cause thereof unless the same shall happen through its gross negligence or willful misconduct; (ii) shall be entitled to the appointment (without notice and without proof of diminution in value of the Premises) of a receiver to take possession of all or any portion of the Premises and to exercise such powers as the court shall confer upon the receiver; and (iii) generally may perform all acts necessary or proper to carry out the intention of this Mortgage, as fully and completely as though the Mortgagee were the absolute owner of the Premises for all purposes, and the Mortgagors hereby ratifies and confirms all that the Mortgagee shall do by virtue of this grant of power.

The rights and remedies of the Mortgagee hereunder shall be in addition to every other right and remedy now and hereafter provided by law; the rights and remedies of the Mortgagee shall be cumulative and not exclusive one of the other; the Mortgagee may exercise the same at such times, in such order, to such extent, and as often as Mortgagee deems advisable, and without regard to whether the exercise of one precedes, concurs with, or succeeds the exercise of another; no delay or omission by the Mortgagee in exercising a right or remedy shall exhaust or impair the same, or constitute a waiver of, or acquiescence in, the Event of Default; and no waiver of an Event of Default by the Mortgagee shall extend to or affect any other Event of Default or impair any right or remedy with respect thereto.

VI. MISCELLANEOUS.

A. NOTICES. All notices and other communications given to or made upon any party hereto in connection with this Mortgage shall, except as otherwise expressly herein provided, be in writing and hand delivered or sent by first class United States mail, postage

prepaid, return receipt requested, or by reputable overnight courier providing a receipt against delivery, to the respective parties, as follows:

Mortgagors: Mary Hanslovan
Edward Hanslovan
address

-with a copy to-
Carl Balan, Esq.
address

Mortgagee: General Electric Capital Corporation
Old Ridgebury Road
Danbury, Connecticut 06810
Att: Mark Skura

-with a copy to-

Oppenheimer Wolff & Donnelly LLP
The Chrysler East Building – Suite 1900
New York, New York 10017-4011
Att: Elena Lazarou, Esq.

or to such changed address as may be fixed by notice. All such notices and other communications shall, except as otherwise expressly herein provided, be effective when received by the party to whom properly addressed, the written receipt by any employee of any such party constituting sufficient evidence of such receipt.

B. INDULGENCES; EXTENSIONS. The Mortgagee, with respect to the Secured Obligations secured hereby, the Premises and the Mortgagor's obligations hereunder, may waive compliance with any of the provisions hereof, and may release all or any part of the Premises from any lien hereof, without affecting the priority or validity of the lien hereof upon the remainder of the Premises.

C. INVALID PROVISIONS TO AFFECT NO OTHERS. In case any one or more of the covenants, agreements, terms or provisions contained in this Mortgage shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms or provisions contained herein shall be in no way affected, prejudiced or disturbed thereby.

D. SUCCESSORS AND ASSIGNS; PLURALS. All of the grants, covenants, terms, provisions and conditions of this Mortgage shall run with the land and bind the Mortgagors, its legal representatives, heirs, successors and assigns, and shall inure to the benefit of the Mortgagee, the successors and assigns of the Mortgagee and all subsequent

holders of this Mortgage. As used herein the singular shall include the plural and vice versa as the context requires.

E. **CAPTIONS**. The captions herein are inserted only for convenience of reference and in no way define, limit or describe the scope or intent of this Mortgage or any particular paragraph or section hereof, nor the proper construction hereof.

F. **GOVERNING LAW**. This Mortgage is to be construed according to the laws of the State of Ohio.

H. **COUNTERPARTS. THIS MORTGAGE CANNOT BE CHANGED ORALLY**

I. WAIVER OF JURY TRIAL. THE MORTGAGORS HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN CONNECTION WITH ANY AND ALL LITIGATION INVOLVING THE SUBJECT MATTER OF THIS MORTGAGE.

J. RECEIPT OF MORTGAGE. THE MORTGAGORS HEREBY ACKNOWLEDGES RECEIPT OF A TRUE COPY OF THIS MORTGAGE, WITHOUT CHARGE.

IN WITNESS WHEREOF, the Mortgagors have caused this Mortgage to be executed and delivered as of the day and year first above written.

WITNESS:

_____

Mary Hanslovan

_____

Sworn to before me this
___st day of August, 2002.

_____
Notary Public

WITNESS:

_____

Edward Hanslovan

By:_____

Sworn to before me this
___st day of August, 2002.

_____
Notary Public

MORTGAGE AND SECURITY AGREEMENT

Dated: August __, 2002

From

Edward Hanslovan
and
Mary Hanslovan
address

To

General Electric Capital Corporation
44 Old Ridgebury Road
Danbury, Connecticut 06801

LOCATION OF PREMISES:

Street Address:

Town:
County: _____
State: Pennsylvania
Section: _____
Block: _____
Lot: _____

After recording, please return to:

OPPENHEIMER WOLFF & DONNELLY LLP
The Chrysler East Building
666 Third Avenue, Suite 1900
New York, New York 10017-4011
Attn: Elena Lazarou, Esq.

ReedSmith

Elena Lazarou
Direct Phone: 212.549.0288
Email: elazarou@reedsmith.com

599 Lexington Avenue
New York, NY 10022-7650
212.521.5400
Fax 212.521.5450

July 7, 2003

Via Overnight Mail and First Class Mail

Edward Hanslovan, President
Ed Hanslovan Coal Company, Inc.
Route 2, P.O. Box 230
Morrisdale, PA 16858

Re: Modification Agreement, GE Account No. 6048055-003 dated 8/02
Modification Agreement, GE Account No. 6048055-004 dated 8/02
Mortgage and Security Agreements dated 8/02

Dear Mr. Hanslovan:

This office has been retained to represent General Electric Capital Corporation ("GE Capital") with respect to the obligations owing to GE Capital, by Ed Hanslovan Coal Co., Inc. ("Ed Hanslovan") under (1) a Modification Agreement, GE Account No. 6048055-003 dated 8/02 (the "Lease"), (2) a Modification Agreement, GE Account No. 6048055-003 dated 8/02 (the "Note"), and (3) two Mortgage and Security Agreements dated 8/02 (collectively the "Obligations").

Ed Hanslovan has defaulted under the Obligations, having failed, among other things, to make required payments thereunder. As a result of the default, and in accordance with the terms of the Obligations, GE Capital has accelerated the amounts due under the Obligations and declared the entire balance to be immediately due and payable plus accruing interest, costs, expenses, attorney's fees, and all other amounts owing to GE Capital, under the Obligations.

Demand is hereby made that by no later than Thursday, July 10, 2003 Ed Hanslovan contact me to confirm delivery to this office, to the attention of the undersigned, a check for the total accelerated amount due under the Obligations. The check should be made payable to "General Electric Capital Corporation." Please contact the undersigned to obtain the exact amount of the indebtedness, as of the date of payment.

In the event payment in full is not received by July 10, 2003, GE Capital will exercise any and all rights and remedies under the Obligations, related documents and/or applicable law, including, but not limited to, the commencement of an action against Ed Hanslovan, to among other things, recover all amounts due under the Obligations and foreclosure under, among other things the two Mortgage and Security Agreements.

ReedSmith

GE Capital reserves all rights and remedies under the Obligations and applicable law, and any elections or enforcement of its rights under the Obligations herein does not in any way limit any other rights or remedies of GE Capital thereunder or constitute a waiver thereof, all of which rights and remedies are hereby expressly preserved.

Please guide yourself accordingly.

Sincerely,

Elena Lazarou

ReedSmith

Joseph F. Rodkey, Jr. • 412.288.7206 • jrodkey@reedsmith.com

October 31, 2003

Edward Hanslovan, President
Ed Hanslovan Coal Company, Inc.
Route 2, Box 230
Morrisdale, PA 16858

Re: Ed Hanslovan Coal Company, Inc.

Dear Mr. Hanslovan:

This office has been retained to represent General Electric Capital Corporation ("GE Capital") with respect to Ed Hanslovan Coal Company, Inc.'s ("Hanslovan Coal") default under the Modification Agreement, GE Account No. 60048055-003 and Modification Agreement, GE Account No. 6048055-004 dated August 2002 (the "Obligations"), having failed, among other things, to make required payments thereunder. As a result of the default, and in accordance with the terms of the Obligations, GE Capital has accelerated the obligations under the Obligations and declared the entire balance to be immediately due and payable plus accruing interest, costs, expenses, attorney's fees, and all other amounts owing to GE Capital, under the Obligations. As of October 1, 2003, the past due payments, fees and late charges exceed $162,031.82.

Demand is hereby made that by no later than Monday, November 3, 2003, payment be made in full or Hanslovan Coal contact GE Capital to make arrangements for the consensual turnover of the secured equipment to one of GE Capital's agents or representatives.

GE Capital reserves all rights and remedies under the Obligations and applicable law, and any elections or enforcement of its rights under the Obligations herein does not in any way limit any other rights or remedies of GE Capital thereunder or constitute a waiver thereof, all of which rights and remedies are hereby expressly preserved.

Please govern yourself accordingly,

Very truly yours,

REED SMITH LLP

By: Joseph F. Rodkey, Jr.

JFR,Jr./klc

435 Sixth Avenue
Pittsburgh, PA 15219-1886
412.288.3131
Fax 412.288.3063

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PO ZIP Code	Day of Delivery ☐ Next ☐ Second	Flat Rate Envelope ☐	
Date In Mo. Day Year	☐ 12 Noon ☐ 3 PM	Postage $	
Time In ☐ AM ☐ PM	Military ☐ 2nd Day ☐ 3rd Day	Return Receipt Fee	
Weight lbs. ozs.	Int'l Alpha Country Code	COD Fee	Insurance Fee
No Delivery ☐ Weekend ☐ Holiday	Acceptance Clerk Initials	Total Postage & Fees $	

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METHOD OF PAYMENT
Express Mail Corporate Acct. No. 515998.60110.1274

Federal Agency Acct. No. or Postal Service Acct. No.

FROM: (PLEASE PRINT) PHONE (412) 288-7206

Joseph F. Rodkey, Jr., Esq.
Reed Smith LLP
435 Sixth Avenue
Pittsburgh, PA 15219

TO: (PLEASE PRINT) PHONE ( )

Edward Ranslovan, President
Ed Ranslovan Coal Company, Inc.
Route 2, Box 230
Morrisdale, PA 16858

ZIP + 4 1 6 7 5 4 + _ _ _ _

FOR PICKUP OR TRACKING CALL 1-800-222-1811 **www.usps.com** EMS

FILED 1 cc Atty for Shff service
01:24 BOL Atty pd. 85.00
NOV 18 2003

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware Corporation, Plaintiff, v. ED HANSLOVAN COAL COMPANY, INC., Defendant.	)	Civil Action No. 03-1721-CD

FILED

NOV 18 2003

William A. Shaw
Prothonotary/Clerk of Courts

MOTION FOR WRIT OF SEIZURE OF PROPERTY PURSUANT TO PA. R.C.P. 1075.2

AND NOW comes Plaintiff, General Electric Capital Corporation ("G.E. Capital"), by its counsel, Reed Smith LLP moving this court for a Writ of Seizure of Property in the possession, custody or control of Defendant Ed Hanslovan Coal Company, Inc. ("Hanslovan") and in support hereof states as follows:

1. On November 18, 2003, G.E. Capital filed a Verified Complaint For Replevin (the "Verified Complaint") pursuant to Rule 1075.2 of the Pennsylvania Rules of Civil Procedure against Defendant. A true and correct copy of the Verified Complaint is attached hereto as Exhibit A and is by reference incorporated herein as if fully set forth at length.

2. G.E. Capital's right of possession of the Euclid Dump Truck and Equipment (collectively the "Collateral") arises out of Defendant's defaults under the

Modification Agreements-003 and Modification Agreement-004 (as described and defined in the Verified Complaint and collectively referred to herein as the "Modification Agreements").

3. Defendant's defaults under the Modification Agreements and G.E. Capital's right to seize the Collateral are more fully set forth in the Verified Complaint filed in this matter, the allegations of which are incorporated herein as if fully restated at length.

4. As more fully described in the Verified Complaint Defendant has frustrated and hindered G.E. Capital's efforts to recover the Collateral by inter alia: refusing to cooperate with G.E. Capital's agents and/or contractors in their efforts to locate, secure and recover the Collateral at issue.

5. In addition, the continued possession of the Collateral by Defendant's has impaired and will continue to impair the value of the Collateral.

6. Accordingly, in light of the conduct of the Defendant, there is probable cause to believe that before a hearing can be held that the value of the Collateral and Plaintiff's interest therein will be adversely affected by the continued possession and use by Defendant and also that the Defendant or others in possession will conceal, dispose, encumber, waste the property or the revenues therefrom or remove the same from the county.

7. The value of the Collateral currently in the possession, custody or control of Defendant is believed to be approximately $400,000.

8. The present location of the Collateral is believed to be Route 2, Box 230, Morrisdale, Pennsylvania 16858.

9. A proposed Order setting hearing date is attached hereto as Exhibit B.

10. A proposed Order for Writ of Seizure Pursuant To Pa. R.C.P. 1075.2 is attached hereto as Exhibit C.

11. A proposed Writ of Seizure is attached hereto as Exhibit D.

12. Pursuant to Pennsylvania Rules of Civil Procedure 1075.2 and 1075.3(b), G.E. Capital has secured a bond in the amount of $800,000 which is double the value of the Collateral to be replevied as averred in the Verified Complaint. A copy of said bond is attached hereto as Exhibit E.

WHEREFORE, Plaintiff G.E. Capital respectfully requests this Honorable Court to enter the Order For Writ Of Seizure Pursuant To Pa. R.C.P. 1075.2 (attached as Exhibit C) and directing the issuance of a Writ of Seizure for the Collateral described in the attached Verified Complaint and further directing the Clearfield County Sheriff to turn said Collateral over to G.E. Capital and/or the designated agents and/or contractors of G.E. Capital.

Dated: November 18, 2003

Respectfully submitted,

Joseph F. Rodkey, Jr.
Pa. I.D. #66757
Nicholas R. Pagliari
Pa. I. D. # 87877

Reed Smith LLP
Firm No. 234
435 Sixth Avenue
Pittsburgh, PA 15230
(412) 288-7206

Counsel for Plaintiff
General Electric Capital Corporation

Exhibit A

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware Corporation, Plaintiff, v. ED HANSLOVAN COAL COMPANY, INC., Defendant.	Civil Action No. **VERIFIED COMPLAINT FOR REPLEVIN AND OTHER RELIEF**

Filed on behalf of Plaintiff:
General Electric Capital Corporation

Joseph F. Rodkey, Jr.
Pa. I.D. #66757

Nicholas R. Pagliari
Pa. I.D. #87877

Reed Smith LLP
Firm No. 234
435 Sixth Avenue
Pittsburgh, PA 15219
Telephone: (412) 288-7206
Facsimile: (412) 288-3063

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware Corporation,	)	Civil Action No.
Plaintiff,	)	
v.	)	
ED HANSLOVAN COAL COMPANY, INC.,	)	
Defendant.	)	

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action with twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice of any money claimed in the complaint or for any other claims or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Lawyer Referral Service
100 South Street
P.O. Box 186
Harrisburg, Pennsylvania 17108-0186
(800) 692-7375

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware Corporation,	)	
Plaintiff,	)	Civil Action No.
v.	)	
ED HANSLOVAN COAL COMPANY, INC.,	)	
Defendant.	)	

VERIFIED COMPLAINT FOR REPLEVIN AND OTHER RELIEF

AND NOW comes Plaintiff, General Electric Capital Corporation ("G.E. Capital"), by its attorneys, Reed Smith LLP, and complains of Defendant Ed Hanslovan Coal Company, Inc. ("Hanslovan") as follows:

INTRODUCTION

1. As described more fully below, Defendant Hanslovan has to make payments upon, and has therefore breached certain agreements with G.E. Capital herein referred to as Modification Agreement-004 and Modification Agreement-003 (collectively the "Modification Agreements") through which Defendant financed and gave as security certain commercial equipment for use in Defendant's mining operations (the "Collateral"). Modification Agreement-004 and Modification Agreement-003 are attached hereto as Exhibits "1" and "2" respectively. Consequently, G.E. Capital is entitled to immediate possession of the Collateral. Specifically, while Defendant continues to use and derive proceeds from the use of the Collateral, Defendant has, for an extended period of time, failed to make required payments. The past due payments, fees, late charges are substantial and as of October 1, 2003 exceed $162,031.82.

2. By this action, G.E. Capital requests an order for the seizure of the Collateral, including all attachments, fixtures or accessories affixed thereto and/or proceeds derived therefrom against Defendant as provided under the law and the Modification Agreements as set forth below. G.E. Capital also seeks judgment for breach of the Modification Agreements for any deficiency amounts remaining after seizure and sale of the Collateral.

PARTIES

3. Defendant, Hanslovan, is a corporation with a place of business located at Route 2, Box 230, Morrisdale, Clearfield County, Pennsylvania, 16858.

4. Plaintiff, G.E. Capital, is a Delaware corporation with its principle place of business located at 44 Old Ridgebury Road, Danbury, Connecticut.

JURISDICTION AND VENUE

5. This is a civil action for replevin pursuant to the Pennsylvania Rules of Civil Procedure 1071 et seq. and for other relief as identified more fully herein.

6. This Court has jurisdiction over Defendant as the Defendant is a resident of Clearfield County, PA, and/or the collateral is located in Clearfield County, PA.

7. Venue is appropriate in this Court pursuant to Pennsylvania Rule of Civil Procedure 1072 because the Property, which is the subject matter of this suit, is located within Clearfield County, PA.

MODIFICATION AGREEMENT
Account No. 6048055-004

8. In August 2002 Hanslovan entered into Modification Agreement, G.E. Capital Account No. 6048055-004 ("Modification Agreement-004"). A copy of Modification Agreement-004 is attached hereto as Exhibit 1 and is fully incorporated herein by reference.

9. Through Modification Agreement-004 Hanslovan acknowledged default under an Installment Note ("Note") and Master Security Agreement ("Security Agreement") in connection with an October 10, 1997 loan from G.E. Capital to Hanslovan in the amount of $755,280.00.

10. Through Modification Agreement-004 Hanslovan represented, acknowledged, warranted, and covenanted that the Note and Security Agreement were "duly executed, binding obligations of [Hanslovan] and have not been terminated, modified and [that the] copies of the same attached [to Modification Agreement-004] as Exhibit A, respectively and made a part [thereof] [were] true, complete and accurate copies of same." See Exhibit "1" (Modification Agreement-004 at § I (2)).

11. In addition, Hanslovan represented, acknowledged, warranted and covenanted that as of the date of execution of Modification Agreement-004 in August 2002 there was Six Hundred Forty One Thousand Fifty Two Dollars and 00/100 ($641,052.00) due and owing under the Note (the "Account Balance -004"). See Exhibit "1" (Modification Agreement-004 at § I (8)).

12. Through Modification Agreement-004, Hanslovan promised to pay the Account Balance -004 as follows:

(a) One (1) payment of Twelve Thousand Two Hundred Eighty Dollars and 12/100 ($12,280.12) by August 31, 2002;

(b) Three (3) monthly payments of Five Thousand Nine Hundred Fifty Eight Dollars and 96/100 ($5,958.96), each payable on the 15th of the month commencing with the month of September 2002, and ending November 2002;

(c) One (1) payment of Fifteen Thousand Nine Hundred Fifty Eight Dollars and 96/100 ($15,958.96) by December 15, 2002;

(d) One (1) payment of Twenty Five Thousand Nine Hundred Fifty Eight Dollars and 96/100 ($25,958.96) due by January 15, 2003;

(e) Fourteen (14) monthly payments of Forty Thousand Six Hundred Forty One Dollars and 22/100 ($40,641.22), each payable on the

15th of the month commencing with the month of February 2003, and ending March 2003.

13. Pursuant to Article IV of Modification Agreement-004, Hanslovan agreed that:

> Except as expressly modified herein, all conditions and terms of the Note and Security Agreement shall continue in full force and effect in accordance with their original terms and conditions. NO TERMS OR CONDITIONS OF THE NOTE OR SECURITY AGREEMENT HAVE BEEN ALTERED OR ADJUSTED IN ANY WAY EXCEPT FOR THE DUE DATES OF PAYMENT OF THE ACCOUNT BALANCE.

See Exhibit "1" (Modification Agreement-004 § IV (1)).

14. Pursuant to the Note "If any monthly installment or any other obligation of [Hanslovan] to [G.E. Capital] is not paid when due, if any default occurs under any of the Agreements, or if any of the Agreements is terminated, this Note may, at the option of [G.E. Capital], and without notice or demand of any kind, be declared and thereupon shall immediately become due and payable . . . ." See Exhibit "1" (Modification Agreement-004 (Exhibit A (Note)).

15. Pursuant to Modification Agreement-004, interest, late charges and fees on the Account Balance continue to accrue on a daily basis.

16. Pursuant to Section IV (13) of Modification Agreement-004, Hanslovan further agreed:

> "[T]o pay all reasonable attorneys' fees and other costs incurred by G.E. Capital in connection with the enforcement, assertion, defense or preservation of G.E. Capital's rights and remedies under this Modification Agreement. . . . [and] [EHCC further agrees that such fees and costs shall constitute and be added to the Account Balance."

See Exhibit "1" (Modification Agreement-004 § IV (13)).

17. Pursuant to Collateral Schedule No. 1 to the Master Security Agreement, Hanslovan granted G.E. Capital a security interest in and to a 1996 Model R90 Euclid end dump truck bearing serial number 75512 (including all additions, attachments, accessories and

accessions thereto, and any and all substitutions, replacements or exchanges therefor and all insurance and/or other proceeds thereof) (the "Euclid Dump Truck"). See Exhibit "1" (Modification Agreement-004 at Ex. A).

18. G.E. Capital duly perfected its security interest in and to the "Euclid Dump Truck" by filing a UCC Financing Statement. See Exhibit "1" (Modification Agreeement-004 (Ex. A)).

19. Pursuant to the terms of the Master Security Agreement, upon default by Hanslovan of its obligation to pay the Account Balance as promised, G.E. Capital is entitled to, among other things, recover possession of the Collateral securing the Account Balance which in this instance, includes inter alia the Euclid Dump Truck.

20. Hanslovan has defaulted under the terms of Modification Agreement-004 by, inter alia failing to make payments when due.

21. Indeed, despite demand, Hanslovan has failed to make any payment under Modification Agreement-004 since May 29, 2003.

22. On July 7, 2003, G.E. Capital accelerated the Account Balance-004 as it is entitled to do and made demand upon Hanslovan to make payment of the Account Balance. A copy of the demand letter from counsel for G.E. Capital to Hanslovan is attached hereto as Exhibit "3", and is incorporated herein by reference. Furthermore, on October 31, 2003, G.E. Capital again made demand upon Hanslovan to make payment of the Account Balance. A copy of the October 31, 2003 demand letter from counsel for G.E. Capital to Hanslovan is attached hereto as Exhibit "4", and is incorporated herein by reference.

23. Hanslovan, however, has failed to make any payment whatsoever. And, in addition, Hanslovan has failed to cooperate with G.E. Capital in connection with G.E. Capital's rights under the Modification Agreement-004.

24. As of October 1, 2003, the outstanding principal balance owed to G.E. Capital by Hanslovan under Modification Agreement-004 was $608,152.17 which includes principle of $557,173.50, interest of $22,776.08, and late charges of $28,202.59.

25. In addition, Hanslovan is liable to G.E. Capital for G.E. Capital's attorneys' fees and costs of collection pursuant to § IV (13) of Modification Agreement-004.

MODIFICATION AGREEMENT
Account No. 6048055-003

26. In August 2002 Hanslovan entered into Modification Agreement, G.E. Capital Account No. 6048055-003 ("Modification Agreement-003"). A copy of Modification Agreement-003 is attached hereto as Exhibit "2" and is fully incorporated herein by reference.

27. Through Modification Agreement-003 Hanslovan acknowledged default under a Master Lease Agreement dated April 5, 1996 (the "Master Lease") through which Hanslovan acquired various pieces of equipment more specifically defined herein (the "Equipment").

28. Through Modification Agreement-003 Hanslovan represented, acknowledged, warranted, and covenanted that the Master Lease was a "duly executed, binding obligation of [Hanslovan] and has not been terminated and [that] copies of the same attached [to Modification Agreement-003] as Exhibit A, respectively and made a part [thereof] [were] true, complete and accurate copies of same." See Exhibit "2" (Modification Agreement-003 at § I (2)).

29. In addition, Hanslovan represented, acknowledged, warranted and covenanted that as of the date of execution of Modification Agreement-003 in August 2002 that there was Five Hundred Thirteen Thousand One Hundred Ninety Seven Dollars and 32/100 ($513,197.32) due and owing to G.E. Capital pursuant to the Master Lease (the "Account Balance- 003"). See Exhibit "2" (Modification Agreement-003 at § I (8)).

30. Through Modification Agreement-003, Hanslovan promised to pay the Account Balance-003 according to the following lease payment schedule:

(a) One (1) payment of Seven Thousand Seven Hundred Nineteen Dollars and 88/100 ($7,719.88) by August 31, 2002; and

(b) Thirty Six (36) monthly payments of Fourteen Thousand Forty One Dollars and 4/100 ($14,041.04), each payable on the 15th of the month commencing with the month of September 2002, and ending August 2005.

See Exhibit "2" (Modification Agreement-003 at § II (1).

31. Pursuant to Article IV of Modification Agreement-003, Hanslovan agreed that:

> Except as expressly modified herein, all conditions and terms of the [Master] Lease shall continue in full force and effect in accordance with their original terms and conditions. NO TERMS OR CONDITIONS OF THE NOTE OR SECURITY AGREEMENT HAVE BEEN ALTERED OR ADJUSTED IN ANY WAY EXCEPT FOR THE DUE DATES OF PAYMENT OF THE ACCOUNT BALANCE.

See Exhibit "2" (Modification Agreement-003 § IV (1)).

32. Pursuant to the Master Lease a default occurs where, *inter alia*:

(a) [G.E. Capital] fail[s] to receive all or any portion of any installment of Rent or other payment on or before the date such sum becomes due and payable; or

(d) [Hanslovan] becomes insolvent . . . .;

(g) [Hanslovan] defaults under any promissory note, credit agreement, loan agreement, conditional sales contract, guaranty, lease, indenture, bond, debenture or other material obligation whatsoever, and a party thereto or a holder thereof if entitled to accelerate the obligations of [Hanslovan] thereunder . . . .

See Exhibit "2" (Modification Agreement-003 (attached Master Lease at § 4.1)).

33. Pursuant to Modification Agreement-003 and the incorporated Master Lease, interest, late charges and fees on the Account Balance-003 continue to accrue on a daily basis.

34. Pursuant to Section IV (13) of Modification Agreement-003, Hanslovan further agreed:

> [T]o pay all reasonable attorneys' fees and other costs incurred by G.E. Capital in connection with the enforcement, assertion, defense or preservation of G.E. Capital's rights and remedies under this Modification Agreement. . . . [and] [EHCC further agrees that such fees and costs shall constitute and be added to the Account Balance.

See Exhibit "2" (Modification Agreement-003 § IV (13)).

35. Hanslovan took possession of the following Equipment (together with all parts, accessories, substitutions, repairs, improvements and replacements, and any and all rights thereunder and proceeds thereof, including, without limitation, insurance proceeds) pursuant to Equipment Schedule 1 and Schedule A to the Master Lease:

Equipment Schedule No. 1:

EX1800 LD-2 Hitachi Shovel S/N 182-0296

Schedule A:

Equipment Description (including quantity)	Year and Model No.	Serial No.
One (1) Hitachi Hydraulic Track Shovel, 14' rock bucket, automatic lube fire suppression system	EX1800LD-2	182-0296
One (1) Michigan Front End Loader	1983 275C	492B-135

Equipment Description (including quantity)	Year and Model No.	Serial No.
One (1) Michigan Front End Loader	1984 275C	492B337CAC
One (1) Komatsu Crawler Tractor	1984 D455	1606
One (1) Euclid Off Road End Dump	1978 R-50	68 362
One (1) Euclid Off Road End Dump	1980 R-50	69 920
One (1) Euclid Off Road End Dump	1981 R-50	69 994
One (1) Euclid Off Road End Dump	1980 R-50	68 986
One (1) Euclid Off road End Dump	1980 R-50	68 989
One (1) Kolberg Rotary Breaker	2600 series	
One (1) International Truck mounted with Keich Model F2574 Drill model T-650-C	1995	AHTGGGCT5LH 240596 650TWCH0090
One (1) Hough Front End Loader	1978 400	2693
One (1) Hough Front End Loader	1978 400	2617
One (1) Hough Front End Loader	1976 400	2410
One (1) Hough Front End Loader	1975 400	2302
One (1) Hough Front End Loader	400	

Equipment Description (including quantity)	Year and Model No.	Serial No.
One (1) Michigan Front End Loader	1976 275B	425C-517
One (1) Michigan Front End Loader	1976 275B	425C-531
One (1) Komatsu Crawler Tractor	1978 D355	1077
One (1) Komatsu Crawler Tractor	1975 D355	1790
One (1) Komatsu Crawler Tractor	1976 D355	2100
One (1) Komatsu Crawler Tractor	1978 D455	1048
One (1) Komatsu Crawler Tractor	1978 D455	1048
One (1) Kolberg Crush & Conveyor, 90ft. radial stacker	1981	6486163615088
One (1) Kolberg Crush & Conveyor, 150 ft. radial stacker	1988	6486163615088
One (1) Ford Mechanics truck	1985 F600	1FDXR80UXFVA 03713
One (1) Ford Mechanics truck	1995 F600	1FDXF80C4SVA7 7476
One (1) Ford Utility truck	1979 F400	V90LVDC9777
One (1) Davey Drill	1979	1881233
One (1) International Water truck	1975	DC0202A0FD862 580
One (1) Chevrolet Pick-up truck		2G.E.CK14H9E11 77602

Equipment Description (including quantity)	Year and Model No.	Serial No.
One (1) Viking pump		19001
One (1) Army Surplus Fertilizer truck		640942

See Exhibit "2". (Modification Agreement-003).

36. Upon a default G.E. Capital's remedies under the Master Lease are as follows:

(a) If an Event of Default occurs under the Lease, Lessor may give Lessee notice of the Event of Default and upon the giving of such notice or at any time thereafter do any or all of the following (as Lessor in its sole discretion elects): (1) proceed by appropriate court action or actions to enforce performance by Lessee of the applicable covenants and terms of the Lease or to recover damages for the breach thereof; (2) take possession (by summary proceedings or otherwise) of any or all items of Equipment subject to the Lease without prejudice to any other remedy or claim herein referred to; (3) hold, sell, lease, or otherwise dispose of, any or all items of Equipment subject to the Lease, in any manner Lessor (in its sole discretion) elects; (4) receive from Lessee upon demand for any or all Equipment subject to the lease the following amounts which Lessee shall be obligated to pay: (i) any unpaid Rent past due, (ii) as liquidated damages for loss of bargain and not as a penalty, the Rent otherwise due on the Basic Rent Date immediately following the date such demand is made, plus the remaining aggregate Casualty Value for such Equipment under the Lease calculated as of the Basic Rent Date immediately preceding the date such notice is given, (iii) all costs and expenses incurred in searching for, taking, removing, keeping, storing, repairing, and restoring such items of Equipment, (iv) all other amounts then owing by Lessee hereunder, and (v) all costs and expenses, including (without limitation) reasonable legal fees and expenses, incurred by Lessor as a result of an Event of Default, termination of this Lease, or the exercise by lessor of its remedies under this Section 4.2; (5) by notice to Lessee, declare the Lease (for any or all Equipment) terminated without prejudice to Lessor's rights in respect of all obligations set forth in this Section 4.2 and any other obligations under the Lease then accrued and remaining unsatisfied; or (6) avail itself of any other remedy or remedies provided for by any statute or otherwise available by law, in equity or in bankruptcy or insolvency proceedings.

(b) The remedies set forth in Section 4.2(a) are not intended to be exclusive, and each shall be cumulative. The amounts to be paid to Lessor under clause (4) of Section 4.2(a) shall be increased by interest, at the Overdue Rate, to the date of receipt by Lessor of the amount payable under said clause, from the respective due dates of such amounts or (with respect to costs, expenses, and losses for which Lessor is entitled to payment or reimbursement under said clause) from the respective dates incurred by Lessor.

(c) Any amounts received by Lessor as the result of it sale, lease during the original term hereof, or other disposition of the Equipment under subparagraph (3) of Section 4.2(a) shall be paid or applied in the following order: (1) to any remaining obligation of Lessee under subparagraph (4) of Section 4.2(a), (2) to reimburse Lessee for the Casualty Value previously paid as liquidated damages, and (3) to Lessor, any remaining balance.

See Exhibit"2" (Modification Agreement-003).

37. Modification Agreement-003 also incorporates an Additional Security Agreement Lease with respect to the Equipment through which Hanslovan granted G.E. Capital a first priority security interest in and to all of the Equipment, together with all additions, attachments, accessories, improvements, parts, repairs and appurtenances thereto, now or hereafter made or acquired and all substitutions and replacements thereof. See Exhibit 2 (Modification Agreement-003 (Attached Additional Security Agreement – Lease §2)).

38. Like the Master Lease, the Additional Security Agreement – Lease grants to G.E. Capital, among other things, the remedy of immediate repossession upon a default of any of Hanslovan's obligations to G.E. Capital. See Exhibit 2 (Modification Agreement-003 (attached Additional Security Agreement – Lease at § 6.2)).

39. G.E. Capital duly perfected its security interest in and to the Equipment by filing a UCC Financing Statement. See Exhibit "2".

40. Hanslovan has defaulted under the terms of Modification Agreement-003 (and important documents) by, inter alia failing to make payments when due.

41. Indeed, despite demand, Hanslovan has failed to make any payment under Modification Agreement-003 since April 7, 2003.

42. On July 7, 2003, G.E. Capital accelerated the Account Balance as it is entitled to do and made demand upon Hanslovan to make payment of the Account Balance. A copy of the demand letter from counsel for G.E. Capital to Hanslovan is attached hereto as Exhibit "3", and is incorporated herein by reference. Furthermore, on October 31, 2003, G.E. Capital again made demand upon Hanslovan to make payment of the Account Balance. A copy of the October 31, 2003 demand letter from counsel for G.E. Capital to Hanslovan is attached hereto as Exhibit "4", and is incorporated herein by reference.

43. Hanslovan, however, has failed to make any payment whatsoever. And, in addition, Hanslovan has failed to cooperate with G.E. Capital in connection with G.E. Capital's rights under the Modification Agreement-003.

44. As of October 1, 2003, the outstanding principal balance owed to G.E. Capital by Hanslovan under Modification Agreement-003 was $773,043.94 which includes principle of $658,819.35, interest of $36,439.01, and late charges of $77,785.58.

45. In addition, Hanslovan is liable for attorneys' fees and costs of collection pursuant to § IV (13) of Modification Agreement-003.

COUNT I

(Modification Agreement –004)

(Replevin Under Pennsylvania Rule of Civil Procedure 1075.2)

46. G.E. Capital restates and realleges paragraphs 1 through 45 of this Verified Complaint for Replevin as if fully set forth herein.

47. Pursuant to Modification Agreement-004 and its incorporated Master Security Agreement, G.E. Capital has a valid enforceable, perfected security agreement in and to the Euclid Dump Truck.

48. G.E. Capital believes and therefore avers, that the Euclid Dump Truck has an approximate value of $200,000.

49. Hanslovan has materially breached Modification Agreement-004 as is more fully set forth above.

50. Pursuant to Modification Agreement-004 and the agreements incorporated therein, and Pennsylvania law, Hanslovan's continued use and possession of the Euclid Dump Truck by Hanslovan is wrongful.

51. In light of the overdue principal and interest payments and late charges of more than $608,152.17, it is clear that the value of the Euclid Dump Truck, and G.E. Capital's interest therein will be adversely affected by the continued use and possession of the Euclid Dump Truck and proceeds thereof by Hanslovan.

52. Additionally, given the circumstances referred to above, including Hanslovan's refusal to cooperate with G.E. Capital, it is probable that Hanslovan will conceal, dispose, encumber, and/or waste the Euclid Dump Truck or revenues therefrom or remove the Euclid Dump Truck and/or the proceeds thereof from the premises.

53. Pursuant to Pennsylvania Rule of Civil Procedure 1075.2, G.E. Capital is entitled to an order for seizure of the Euclid Dump Truck.

54. G.E. Capital has incurred damages as a result of the wrongful use, maintenance and possession of the Euclid Dump Truck by Hanslovan.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, G.E. Capital, respectfully requests a judgment:

a. Enjoining and restraining Defendant from further use and/ or disposition of the Euclid Dump Truck, as defined in the Verified Complaint;

b. Ordering the Defendant to disclose to Plaintiff the present location of the Euclid Dump Truck;

c. Ordering the seizure of the Euclid Dump Truck currently in the possession of Defendant, pursuant to Pennsylvania Rule of Civil Procedure 1075.2; and

d. Awarding G.E. Capital such further and additional relief as the Court deems appropriate.

COUNT II

(Breach of Modification Agreement-004)
(Deficiency Amount)

55. G.E. Capital restates and realleges paragraphs 1 through 54 of this Verified Complaint for Replevin as if fully set forth herein.

56. As set forth more fully above, Hanslovan has materially breached Modification Agreement-004.

57. As a result of Hanslovan's breaches of Modification Agreement-004, Hanslovan is liable to G.E. Capital in an amount equal to: (a) the unpaid and due and owing Account Balance-004, plus interest, late charges and other costs, fees and expenses authorized under Modification Agreement-004 through the date of judgment plus all attorney fees and other costs of collection, less (b) a credit upon the seizure and sale of the Euclid Dump Truck.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, G.E. Capital, respectfully requests a judgment against Hanslovan and in favor of G.E. Capital in an amount equal to: (a) the unpaid and due and owing Account Balance-004, plus interest, late charges and other costs, fees, and expenses authorized under Modification Agreement–004 through the date of judgment plus all attorney fees and other costs of collection; less (b) a credit upon the seizure and sale of the Euclid Dump Truck.

COUNT III

(Modification Agreement –003)

(Replevin Under Pennsylvania Rule of Civil Procedure 1075.2)

58. G.E. Capital restates and realleges paragraphs 1 through 57 of this Verified Complaint for Replevin as if fully set forth herein.

59. Pursuant to Modification Agreement-003 and its incorporated Master Lease and other incorporated agreements, G.E. Capital has a valid enforceable, perfected security agreement in and to the Equipment.

60. G.E. Capital believes and therefore avers, that the Equipment has an approximate collective value of $200,000.

61. Hanslovan has breached Modification Agreement-003 as is more fully set forth above.

62. Pursuant to Modification Agreement-003 and the agreements incorporated therein, and Pennsylvania law, Hanslovan's continued use and possession of the Equipment by Hanslovan is wrongful.

63. In light of the overdue principal and interest payments and late charges, of more than $773,043.94 it is clear that the value of the Equipment, and G.E. Capital's interest

therein will be adversely affected by the continued use and possession of the Equipment and proceeds thereof by Hanslovan.

64. Additionally, given the circumstances referred to above, including Hanslovan's refusal to cooperate with G.E. Capital, it is probable that Hanslovan will conceal, dispose, encumber, waste the Equipment or revenues therefrom or remove the Equipment and/or the proceeds thereof from the premises.

65. Pursuant to Pennsylvania Rule of Civil Procedure 1075.2, G.E. Capital is entitled to an order for seizure of the Equipment.

66. G.E. Capital has incurred damages as a result of the wrongful use, maintenance and possession of the Equipment by Hanslovan.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, G.E. Capital, respectfully requests a judgment:

a. Enjoining and restraining Defendant from further use and/ or disposition of the Equipment, as defined in the Verified Complaint;

b. Ordering the Defendant to disclose to Plaintiff the present location of the Equipment;

c. Ordering the seizure of the Equipment currently in the possession of Defendant, pursuant to Pennsylvania Rule of Civil Procedure 1075.2; and

d. Awarding G.E. Capital such further and additional relief as the Court deems appropriate.

COUNT IV

(Breach of Modification Agreement-003)
(Deficiency Amount)

67. G.E. Capital restates and realleges paragraphs 1 through 66 of this Verified Complaint for Replevin as if fully set forth herein.

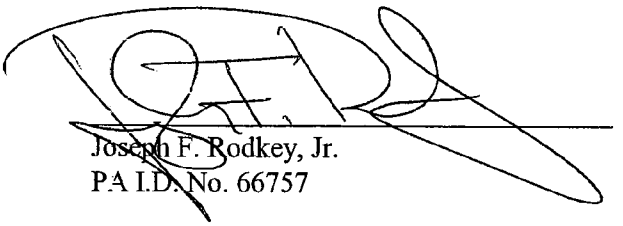
68. As set forth more fully above, Hanslovan has materially breached Modification Agreement-003.

69. As a result of Hanslovan's breaches of Modification Agreement-003, Hanslovan is liable to G.E. Capital in an amount equal to: (a) the unpaid and due and owing Account Balance-003, plus interest, late charges and other costs, fees and expenses authorized under Modification Agreement–003 through the date of judgment plus all attorney fees and other costs of collection, less (b) a credit upon the seizure and sale of the Equipment.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, G.E. Capital, respectfully requests a judgment against Hanslovan and in favor of G.E. Capital in an amount equal to: (a) the unpaid and due and owing Account Balance-003, plus interest, late charges and other costs, fees, and expenses authorized under Modification Agreement–004 through the date of judgment plus all attorney fees and other costs of collection; less (b) a credit upon the seizure and sale of the Equipment.

Dated: November 18, 2003



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Firm No. 234

Counsel for Plaintiff
General Electric Capital Corporation

VERIFICATION

I, Steven Santagato, being the Litigation Specialist for General Electric Capital Corporation responsible for administering the account(s) of Hanslovan Coal Company, Inc., verify that the facts set forth in the foregoing are true and correct to the best of my knowledge, information and belief. I understand that false statements made therein are made subject to the penalties of 18 Pa. Con. Stat. § 4904 relating to unsworn falsifications to authorities.

Steven Santagato

MODIFICATION AGREEMENT
GE Capital Account No. 6048055-004

THIS MODIFICATION AGREEMENT ("Modification Agreement") is made and entered into as of this ___ day of August 2002, by and between GENERAL ELECTRIC CAPITAL CORPORATION ("GE Capital"), a Delaware corporation with a place of business at 44 Old Ridgebury Road, Danbury, Connecticut and ED HANSLOVAN COAL COMPANY, INC. ("Debtor") a corporation with a place of business at Route 2 Box 230, Morrisdale, PA 16858

RECITALS

WHEREAS, on or about October 10, 1997, GE Capital loaned Debtor the Principal sum of Seven Hundred Fifty Five Thousand Two Hundred Eighty Eight and 00/100 Dollars ($755,280.00) as evidenced by an Installment Note ("Note") as modified or amended and Master Security Agreement ("Security Agreement").

WHEREAS, the Debtor is currently in default of the obligations due under the Note;

WHEREAS, the Debtor has requested that GE Capital modify the obligations under the Note; and

WHEREAS, GE Capital is willing to modify Debtor's obligations under the Note as requested subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of these promises and the covenants contained herein and for other good and valuable consideration, the receipt and adequacy of which the parties hereby acknowledge, the parties hereby agree as follows:

I. ACKNOWLEDGMENTS, REPRESENTATION AND COVENANTS: Debtor does hereby represent, acknowledge, warrant and covenant to GE Capital that:

(1) The recitals set forth above are true and accurate;

(2) The Note and Security Agreement are duly executed, binding obligations of Debtor and have not been terminated, modified and the copies of same attached hereto as Exhibit A, respectively, and made a part hereof are true, complete and accurate copies of same;

(3) The Debtor has adequate power and capacity to enter into this Modification Agreement;

(4) The entry into and performance by Debtor of the obligations under this Modification Agreement, the Note and Security Agreement do not (i) violate any judgment, order law or regulation applicable to Debtor; or (ii) result in any breach of, constitute a default under or result in the creation of any lien, charge, security interest or other encumbrance upon any unit of Equipment (as defined in the Security Agreement) pursuant to

any indenture security agreement, deed of trust, bank loan or credit agreement or other instrument to which Debtor is a party;

(5) There are no suits or proceedings pending or threatened in court or before any regulatory commission, board or other administrative governmental agency against or affecting Debtor, which will have a material adverse effect on the ability of Debtor to fulfill its obligations under this Modification Agreement, the Note or Security Agreement;

(6) The financial statements of Debtor, heretofore delivered to GE Capital accurately present the financial position of Debtor, as of the date of delivery, and there has been no material adverse change in the financial condition of Debtor since the date of such financial statements;

(7) Debtor agrees that, notwithstanding any provision to the contrary herein, it will continue to fulfill any and all of its duties and obligations under the Note except as those duties and obligations are modified by this Modification Agreement;

(8) As of the date hereof, there is Six Hundred Forty One Thousand Fifty Two Dollars and 00/100 ($641,052.00) due and owing under the Note, ("the Account Balance")

II. MODIFICATION:

(1) The payment schedule of the Note is hereby modified to reflect payment of the Account Balance as follows:

(a) One (1) payment of Twelve Thousand Two Hundred Eighty Dollars and 12/100 ($12,280.12) by August 31, 2002;

(b) Three (3) monthly payments of Five Thousand Nine Hundred Fifty Eight Dollars and 96/100 ($5,958.96), each payable on the 15th of the month commencing with the month of September 2002, and ending November 2002;

(c) One (1) payment of Fifteen Thousand Nine Hundred Fifty Eight Dollars and 96/100 ($15,958.96) by December 15, 2002;

(d) One (1) payment of Twenty Five Thousand Nine Hundred Fifty Eight Dollars and 96/100 ($25,958.96) due by January 15, 2003;

(e) Fourteen (14) monthly payments of Forty Thousand Six Hundred Forty One Dollars and 22/100 ($40,641.22), each payable on the 15th of the month commencing with the month of February 2003, and ending March 2003.

(2) The Note is hereby modified, as necessary, to incorporate the modifications set forth herein.

III. ADDITIONAL SECURITY: To further secure its obligations to GE Capital under the Note, in additional to that pledged under the Security Agreement, and as additional consideration for entering into this Modification, the Debtor agrees to grant GE Capital:

(1) a security interest in and to the premises located at Morris Township, Clearfield County, by executing a Mortgage and Security Agreement in favor of GE Capital, substantially in the form annexed as Exhibit B hereto within ten (10) days of the date hereof;

(2) a security interest in certain mineral reserves, more fully described in the annexed Exhibit C, by executing a Mortgage and Security Agreement in favor of GE Capital substantially in the form annexed as Exhibit D hereto within ten (10) days of the date hereof;

IV. REMAINING TERMS AND CONDITIONS CONTINUE IN EFFECT

(1) Except as expressly modified herein, all conditions and terms of the Note and Security Agreement shall continue in full force and effect in accordance with their original terms and conditions. NO TERMS OR CONDITIONS OF THE NOTE OR SECURITY AGREEMENT HAVE BEEN ALTERED OR ADJUSTED IN ANY WAY EXCEPT FOR THE DUE DATES OF PAYMENT OF THE ACCOUNT BALANCE.

(2) All Exhibits referenced herein and attached hereto are incorporated herein by reference.

(3) If this Modification Agreement is deemed unenforceable in any respect, then the parties agree that the Note shall be enforceable in accordance with their original terms and conditions as if this Modification Agreement had never been executed.

(4) It is the intention of the parties to comply with all applicable usury laws; accordingly, it is agreed that, notwithstanding any provision to the contrary in this Modification Agreement or the Note, in no event shall any of the foregoing require the payment or permit the collection of interest in excess of the maximum amount permitted by applicable law. If any such excess interest is contracted for, charged or received thereunder, or in the event that all of the Account Balance shall be prepaid, so that under any of such circumstances the amount of interest contracted for, charged or received under this Modification Agreement or the Note results in the Account Balance exceeding the maximum amount of interest permitted by applicable law, then in such event (a) the provisions of this Section shall govern and control, (b) neither Debtor nor any other person or entity now or thereafter liable for the payments shall be obligated to pay the amount of such interest to the extent that it is in excess of the maximum amount of interest permitted by applicable law, (c) any such excess which may have been collected shall be either applied as a credit against the then unpaid Account Balance or refunded to the party having paid same, at the option of GE Capital, and (d) the effective rate of interest shall be automatically reduced to the maximum lawful contract rate allowed under applicable law as now or hereafter construed by the courts having jurisdiction thereof.

(5) Any payment received from Debtor may be applied by GE Capital at any time against any obligation due and owing by Debtor under the Modification Agreement or the Note, in GE Capital's sole discretion, notwithstanding any statement appearing on or referred to in any remittance from customer or any prior application of such payment. In the event any bankruptcy proceedings are instituted by or against Debtor under any applicable bankruptcy law within 90 days after receipt by GE Capital of any such payment, such payment shall be deemed applicable to unpaid obligations then due thereunder in the inverse order of maturity.

(6) Debtor hereby certifies, agrees and acknowledges that the Equipment is installed and fully operational and is now and will continue to be used in the conduct of the Debtor's business.

(7) This Modification Agreement shall be binding upon and shall inure to the benefit of all the parties hereto and their respective administrators, successors and permitted assigns.

(8) No waiver, amendment, release, or modification of this Modification Agreement shall be established by conduct, custom, or course of dealing, but solely by an instrument in writing duly executed by the parties.

(9) Debtor shall take any and all acts and execute any and all documents reasonably requested by GE Capital to effectuate the terms of this Modification Agreement. In the event the Debtor fails to do so, or fails to timely execute any of the documents referenced herein, then this Modification Agreement shall become null and void and of no force or effect, and the parties shall return to the status quo and shall deemed to have waived any rights or defenses with respect to the Note and Security Agreement.

(10) This Modification Agreement shall be governed by and interpreted under the laws of the State of Connecticut.

(11) The invalidity or unenforceability of any one or more phrases, sentences, clauses, or section contained in this Modification Agreement shall not affect the validity or enforceability of the remaining portions of this Modification Agreement, or any part thereof.

(12) Debtor unconditionally waives its rights to a jury trial or any claim or cause of action based upon or arising out of this Modification Agreement, any of the related documents, any dealing between GE Capital and the Debtor relating to the subject matter of this Modification Agreement or any related documents or transactions, and/or the relationship that is being established between GE Capital and the Debtor. The scope of this waiver is intended to be all encompassing of any and all disputes that may be filed in any court. This waiver is irrevocable. This waiver may not be modified either orally or in writing. This waiver also shall apply to any subsequent amendments, renewals, supplements or modifications to this Modification Agreement, any related documents, or to any other documents or agreements relating to this transaction or any related transaction. This Modification Agreement may be filed as a written consent to a trial by the court.

(13) Debtor agrees to pay all reasonable attorneys' fees and other costs incurred by GE Capital in connection with the enforcement, assertion, defense or preservation of GE Capital's rights and remedies under this Modification Agreement, or if prohibited by law, such lesser sum as may be permitted. Debtor further agrees that such fees and costs shall constitute and be added to the Account Balance.

(14) This Modification Agreement may be executed in counterparts and facsimile signatures shall be deemed originals.

IN WITNESS WHEREOF, the parties hereto have executed this Modification Agreement and have caused this Modification Agreement to be executed by their respective duly authorized representatives as of the day first above-written.

DEBTOR:

ED HANSLOVAN COAL COMPANY, INC.

By: Ed. Hanslovan

Title: Pres.

GENERAL ELECTRIC CAPITAL CORPORATION

By: _____

Title: _____

EACH OF THE UNDERSIGNED GUARANTORS HEREBY AGREES AND CONSENTS TO ALL OF THE TERMS, CONDITIONS, AND MODIFICATION SET FORTH HEREIN.

MARY HANSLOVAN

By: Mary Hanslovan

Title: Sec-Treas

EDWARD HANSLOVAN

By: Edward Hanslovan

Title: President

HANSLOVAN TRUCKING COMPANY, INC.

By: Mary Hanslovan

Title: President

EXHIBIT A

INSTALLMENT NOTE

October 10, 1997

$755,280.00

FOR VALUE RECEIVED, Ed Hanslovan Coal Co., Inc. ("Maker") a corporation, located at ROUTE 2 - BOX 230, MORRISDALE, Clearfield County, PA 16858, promises to pay to the order of GENERAL ELECTRIC CAPITAL CORPORATION, a New York corporation, or any subsequent holder hereof (each, a "Payee"), at 44 Old Ridgebury Road, Danbury, CT 06810, the aggregate sum of Seven Hundred Fifty-Five Thousand Two Hundred Eighty and 00/100 Dollars ($755,280.00). This Note shall be due and payable in 60 consecutive equal monthly installments of Twelve Thousand Five Hundred Eighty-Eight and 00/100 Dollars ($12,588.00); each payable on the _____ day of the month commencing with the month of November, 1997, and ending October, 2002. The face amount of this Note, and the amount of each such monthly installment is based on the initial principal advance ("Initial Advance") made by Payee to the Maker contemporaneously herewith, and the amortization of the Initial Advance in monthly installments as set forth above. Each such monthly installment shall be applied first to any late payment fees and costs which are due, next to interest then accrued, and finally to the principal balance of the Initial Advance. An installment shall not be deemed timely paid, regardless of the date of receipt of the check or other instrument paid in connection with such installment, if the same shall not be timely honored.

Any payment received by the holder hereof in connection with the obligations represented by this Note shall be deemed to have been made with the Maker's full knowledge and consent, and by reason of such payment having been made by the Maker or on behalf of the Maker the Maker hereby waives any and all rights whatsoever which the Maker has or may have (1) to recover from the holder hereof any portion of such payment, or (2) to bring action against the holder hereof in connection with such payment.

This Note is payable in lawful money of the United States of America at the office of Payee provided above or at such other place as may be from time to time specified in writing by the holder hereof. This Note is issued pursuant to and is secured by that certain Master Security Agreement dated October 10, 1997, and the various agreements executed in connection therewith (collectively the "Agreements"), each between Payee and the Maker.

In the event any monthly installment is past due by more than ten (10) days, the Maker agrees to pay a late payment charge of five cents ($.05) per dollar on and in addition to the amount of the past-due payment but not to exceed the maximum charges allowable under then applicable law. If any monthly installment or any other obligation of the Maker to Payee is not paid when due, if any default occurs under any of the Agreements, or if any of the Agreements is terminated, this Note may, at the option of the holder, and without notice or demand of any kind, be declared and thereupon shall immediately become due and payable; provided, however, that in such event, the amount then due and owing under this Note for principal and interest shall be the lesser of: (i) the total of the remaining installments due under this Note, plus accrued late charges; or (ii) the total of (a) the Initial Advance, plus (b) the amount of interest which would have accrued to the date of acceleration if the payments provided for in this Note had been applied first to late charges, then to interest accrued at the maximum non-usurious rate of interest, with any balance allocated to principal, minus (c) all payments of principal, interest and late charges heretofore received by Payee under this Note. After maturity of this Note (whether at the stated maturity date or as a result of acceleration), the amount then due and owing for principal and interest shall bear interest at the maximum lawful rate. A default in the payment of any amount due under this Note shall constitute a default under the terms of each of the Agreements.

If the holder of this Note shall employ an attorney to collect any or all of the indebtedness represented by this Note, the Maker shall, immediately and without demand, reimburse the holder for all costs and expenses, including without limitation attorney's fees incurred by such holder in such case.

Demand for payment, protest, notice of dishonor and all other notices or formalities to which the Maker might otherwise be entitled are hereby waived by the Maker and all others who become parties to this Note, whether as makers, endorsers or guarantors. To the extent permitted by the law of the Maker's place of business.

Maker hereby irrevocably authorizes and empowers the Prothonotary or Clerk, or any attorney for any Court of record to appear for Maker in such Courts, at any time, and confess a judgement against Maker, without process, in favor of any holder hereof, without the filing of a declaration of default, with release of errors, without stay of execution, for such amount as may appear from the face hereof to be due hereunder (or, if such attorney so elects, for the amount which may be due hereon as evidenced by an affidavit signed by a representative of holder setting forth the amount then due) together with charges, attorney's fees and costs as herein provided, and Maker hereby waives and releases all benefits and relief from any and all appraisement, stay or exemption laws of any state, now in force or hereafter to be passed. If a copy hereof, verified by an affidavit, shall have been filed in said proceeding, it shall not be necessary to file the original as a warrant of attorney. No single exercise of the foregoing warrant and power to confess judgement shall be deemed to exhaust the power, whether or not such exercise shall be held by any Court to be invalid, voidable, or void, but the power shall continue undiminished and may be exercised from time to time as often as the holder hereof shall elect, until all sums payable or that may become payable hereunder by Maker have been paid in full.

THE MAKER HEREBY UNCONDITIONALLY WAIVES ITS RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF, DIRECTLY OR INDIRECTLY, THIS NOTE, ANY OF THE RELATED DOCUMENTS, ANY DEALINGS BETWEEN MAKER AND PAYEE RELATING TO THE SUBJECT MATTER OF THIS TRANSACTION OR ANY RELATED TRANSACTIONS, AND/OR THE RELATIONSHIP THAT IS BEING ESTABLISHED BETWEEN MAKER AND PAYEE. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT (INCLUDING, WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS.) THIS WAIVER IS IRREVOCABLE MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THE WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS NOTE, ANY RELATED DOCUMENTS, OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THIS TRANSACTION OR ANY RELATED TRANSACTION. IN THE EVENT OF LITIGATION, THIS NOTE MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

Failure by the holder of this Note to exercise any of its remedies shall not constitute a waiver on the part of the holder of the right to exercise any remedies at any other time. The holder of this Note may proceed against any or all of the collateral securing this Note or against any guarantor hereof, or may proceed contemporaneously or in the first instance against the Maker, in such order and at such times following default hereunder as the holder hereof may determine in its sole discretion. The right and remedies of the holder of this Note shall be in addition to and not exclusive of any other rights and remedies to which the holder is entitled whether by operation of law or in equity.

All of the Maker's obligations under this Note are absolute and shall not be subject to any offset or deduction whatsoever. The Maker waives any right it may

have to assert, by way of counterclaim o[illegible]rmative defense in any action to enforce the Maker's o[illegible]ons hereunder, any claim whatsoever against the holder of this Note.

If executed by more than one party, any references herein to the Maker shall be deemed to refer to all thereof, and the obligations of all thereof hereunder shall be joint and several. The provisions of this Note shall be governed by and construed in accordance with the laws of the State of Connecticut. The Maker agrees that all actions or proceedings arising, directly or indirectly, out of this Note may be litigated by Payee's sole discretion and election, in courts in Connecticut, and the Maker hereby subjects itself to the jurisdiction of any local, state or federal court located in Connecticut.

The Maker and Payee intend to comply with all applicable laws governing the maximum rate or amount of interest charged or payable in connection with this Note. In no event shall the Maker be deemed charged or liable for any interest in excess of the maximum lawful contract rate of interest permitted under applicable law, and any payments collected in excess of such maximum shall be credited on the principal balance of this Note (or if this Note has been or would thereby be paid in full, refunded to the Maker). The right to accelerate maturity of this Note does not include the right to accelerate an amount of interest which would cause the Note to be usurious. Payee does not intend to collect any usurious or otherwise unlawful interest in the event of acceleration or otherwise.

Ed Hanslovan Coal Co., Inc.

By: Ed Hanslovan Pres. (L.S.)
(Signature)

Ed Hanslovan Pres.
Print name (and title, if applicable)

251261400
(Federal tax identification number)

[illegible]
(Witness)

David G. Ghicani
(Print name)

(Address)

7000(8/96)

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MASTER SECURITY AGREEMENT

THIS MASTER SECURITY AGREEMENT, made as of October 10, 1997 ("Agreement"), by and between **General Electric Capital Corporation**, a New York corporation with an address at **44 Old Ridgebury Road , Danbury, CT** ("Secured Party"), and **Ed Hanslovan Coal Co., Inc.**, a corporation organized and existing under the laws of the State of Pennsylvania with its chief executive offices located at **ROUTE 2 - BOX 230 , MORRISDALE, PA 16858**("Debtor").

In consideration of the promises herein contained and of certain other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Debtor and Secured Party hereby agree as follows:

1. CREATION OF SECURITY INTEREST.

Debtor hereby gives, grants and assigns to Secured Party, its successors and assigns forever, a security interest in and against any and all property listed on any collateral schedule now or hereafter annexed hereto or made a part hereof ("Collateral Schedule"), and in and against any and all additions, attachments, accessories and accessions thereto, any and all substitutions, replacements or exchanges therefor, and any and all insurance and/or other proceeds thereof (all of the foregoing being hereinafter individually and collectively referred to as the "Collateral"). The foregoing security interest is given to secure the payment and performance of any and all debts, obligations and liabilities of any kind, nature or description whatsoever (whether primary, secondary, direct, contingent, sole, joint or several, or otherwise, and whether due or to become due) of Debtor to Secured Party, now existing or hereafter arising, including but not limited to the payment and performance of certain Promissory Notes and/or Installment Notes from time to time identified on any Collateral Schedule (collectively "Notes" and each a "Note"), and any renewals, extensions and modifications of such debts, obligations and liabilities (all of the foregoing being hereinafter referred to as the "Indebtedness"). Notwithstanding the foregoing, and notwithstanding anything to the contrary contained elsewhere in this Agreement, to the extent that Secured Party asserts a purchase money security interest in any items of Collateral ("PMSI Collateral"): (i) the PMSI Collateral shall secure only that portion of the Indebtedness which has been advanced by Secured Party to enable Debtor to purchase, or acquire rights in or the use of such PMSI Collateral (the "PMSI Indebtedness"), and (ii) no other Collateral shall secure the PMSI Indebtedness.

2. REPRESENTATIONS, WARRANTIES AND COVENANTS OF DEBTOR.

Debtor hereby represents, warrants and covenants as of the date hereof and as of the date of execution of each Collateral Schedule hereto that:

(a) Debtor is, and will remain, duly organized, existing and in good standing under the laws of the State set forth in the first paragraph of this Agreement, has its chief executive offices at the location set forth in such paragraph, and is, and will remain, duly qualified and licensed in every jurisdiction wherever necessary to carry on its business and operations;

(b) Debtor has adequate power and capacity to enter into, and to perform its obligations, under this Agreement, each Note and any other documents evidencing, or given in connection with, any of the Indebtedness (all of the foregoing being hereinafter referred to as the "Debt Documents");

(c) This Agreement and the other Debt Documents have been duly authorized, executed and delivered by Debtor and constitute legal, valid and binding agreements enforceable under all applicable laws in accordance with their terms, except to the extent that the enforcement of remedies may be limited under applicable bankruptcy and insolvency laws;

(d) No approval, consent or withholding of objections is required from any governmental authority or instrumentality with respect to the entry into, or performance by, Debtor of any of the Debt Documents, except such as may have already been obtained;

(e) The entry into, and performance by, Debtor of the Debt Documents will not (i) violate any of the organizational documents of Debtor or any judgment, order, law or regulation applicable to Debtor, or (ii) result in any breach of, constitute a default under, or result in the creation of any lien, claim or encumbrance on any of Debtor's property (except for liens in favor of Secured Party) pursuant to, any indenture mortgage, deed of trust, bank loan, credit agreement, or other agreement or instrument to which Debtor is a party;

(f) There are no suits or proceedings pending or threatened in court or before any commission, board or other administrative agency against or affecting Debtor which could, in the aggregate, have a material adverse effect on Debtor, its business or operations, or its ability to perform its obligations under the Debt Documents;

(g) All financial statements delivered to Secured Party in connection with the Indebtedness have been prepared in accordance with generally accepted accounting principles, and since the date of the most recent financial statement, there has been no material adverse change;

(h) The Collateral is not, and will not be, used by Debtor for personal, family or household purposes;

(i) The Collateral is, and will remain, in good condition and repair and Debtor will not be negligent in the care and use thereof;

(j) Debtor is, and will remain, the sole and lawful owner, and in possession of, the Collateral, and has the sole right and lawful authority to grant the security interest described in this Agreement; and

(k) The Collateral is, and will remain, free and clear of all liens, claims and encumbrances of every kind, nature and description, except for (i) liens in favor of Secured Party, (ii) liens for taxes not yet due or for taxes being contested in good faith and which do not involve, in the reasonable judgment of Secured Party, any risk of the sale, forfeiture or loss of any of the Collateral, and (iii) inchoate materialmen's, mechanic's, repairmen's and similar liens arising by operation of law in the normal course of business for amounts which are not delinquent (all of such permitted liens being hereinafter referred to as "Permitted Liens").

3. COLLATERAL.

(a) Until the declaration of any default hereunder, Debtor shall remain in possession of the Collateral; provided, however, that Secured Party shall have the right to possess (i) any chattel paper or instrument that constitutes a part of the Collateral, and (ii) any other Collateral which because of its nature may require that Secured Party's security interest therein be perfected by possession. Secured Party, its successors and assigns, and their respective agents,

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Debtor shall provide Secured Party with notice of the then current location of the Collateral.

(b) Debtor shall (i) use the Collateral only in its trade or business, (ii) maintain all of the Collateral in good condition and working order, (iii) use and maintain the Collateral only in compliance with all applicable laws, and (iv) keep all of the Collateral free and clear of all liens, claims and encumbrances (except for Permitted Liens).

(c) Debtor shall not, without the prior written consent of Secured Party, (i) part with possession of any of the Collateral (except to Secured Party or for maintenance and repair), (ii) remove any of the Collateral from the continental United States, or (iii) sell, rent, lease, mortgage, grant a security interest in or otherwise transfer or encumber (except for Permitted Liens) any of the Collateral.

(d) Debtor shall pay promptly when due all taxes, license fees, assessments and public and private charges levied or assessed on any of the Collateral, on the use thereof, or on this Agreement or any of the other Debt Documents. At its option, Secured Party may discharge taxes, liens, security interests or other encumbrances at any time levied or placed on the Collateral and may pay for the maintenance, insurance and preservation of the Collateral or to effect compliance with the terms of this Agreement or any of the other Debt Documents. Debtor shall reimburse Secured Party, on demand, for any and all costs and expenses incurred by Secured Party in connection therewith and agrees that such reimbursement obligation shall be secured hereby.

(e) Debtor shall, at all times, keep accurate and complete records of the Collateral, and Secured Party, its successors and assigns, and their respective agents, shall have the right to examine, inspect, and make extracts from all of Debtor's books and records relating to the Collateral at any time during normal business hours.

(f) If agreed by the parties, Secured Party may, but shall in no event be obligated to, accept substitutions and exchanges of property for property, and additions to the property, constituting all or any part of the Collateral. Such substitutions, exchanges and additions shall be accomplished at any time and from time to time, by the substitution of a revised Collateral Schedule for the Collateral Schedule now or hereafter annexed. Any property which may be substituted, exchanged or added as aforesaid shall constitute a portion of the Collateral and shall be subject to the security interest granted herein. Additions to, reductions or exchanges of, or substitutions for, the Collateral, payments on account of any obligation or liability secured hereby, increases in the obligations and liabilities secured hereby, or the creation of additional obligations and liabilities secured hereby, may from time to time be made or occur without affecting the provisions of this Agreement or the provisions of any obligation or liability which this Agreement secures.

(g) Any third person at any time and from time to time holding all or any portion of the Collateral shall be deemed to, and shall, hold the Collateral as the agent of, and as pledge holder for, Secured Party. At any time and from time to time, Secured Party may give notice to any third person holding all or any portion of the Collateral that such third person is holding the Collateral as the agent of, and as pledge holder for, the Secured Party.

4. INSURANCE.

The Collateral shall at all times be held at Debtor's risk, and Debtor shall keep it insured against loss or damage by fire and extended coverage perils, theft, burglary, and for any or all Collateral which are vehicles, for risk of loss by collision, and where requested by Secured Party, against other risks as required thereby, for the full replacement value thereof, with companies, in amounts and under policies acceptable to Secured Party. Debtor shall, if Secured Party so requires, deliver to Secured Party policies or certificates of insurance evidencing such coverage. Each policy shall name Secured Party as loss payee thereunder, shall provide for coverage to Secured Party regardless of the breach by Debtor of any warranty or representation made therein, shall not be subject to co-insurance, and shall provide for thirty (30) days written notice to Secured Party of the cancellation or material modification thereof. Debtor hereby appoints Secured Party as its attorney in fact to make proof of loss, claim for insurance and adjustments with insurers, and to execute or endorse all documents, checks or drafts in connection with payments made as a result of any such insurance policies. Proceeds of insurance shall be applied, at the option of Secured Party, to repair or replace the Collateral or to reduce any of the Indebtedness secured hereby.

5. REPORTS.

(a) Debtor shall promptly notify Secured Party in the event of (i) any change in the name of Debtor, (ii) any relocation of its chief executive offices, (iii) any relocation of any of the Collateral, (iv) any of the Collateral being lost, stolen, missing, destroyed, materially damaged or worn out, or (v) any lien, claim or encumbrance attaching or being made against any of the Collateral other than Permitted Liens.

(b) Debtor agrees to furnish its annual financial statements and such interim statements as Secured Party may require in form satisfactory to Secured Party. Any and all financial statements submitted and to be submitted to Secured Party have and will have been prepared on a basis of generally accepted accounting principles, and are and will be complete and correct and fairly present Debtor's financial condition as at the date thereof. Secured Party may at any reasonable time examine the books and records of Debtor and make copies thereof.

6. FURTHER ASSURANCES.

(a) Debtor shall, upon request of Secured Party, furnish to Secured Party such further information, execute and deliver to Secured Party such documents and instruments (including, without limitation, Uniform Commercial Code financing statements) and do such other acts and things, as Secured Party may at any time reasonably request relating to the perfection or protection of the security interest created by this Agreement or for the purpose of carrying out the intent of this Agreement. Without limiting the foregoing, Debtor shall cooperate and do all acts deemed necessary or advisable by Secured Party to continue in Secured Party a perfected first security interest in the Collateral, and shall obtain and furnish to Secured Party any subordinations, releases, landlord, lessor, or mortgagee waivers, and similar documents as may be from time to time requested by, and which are in form and substance satisfactory to, Secured Party.

(b) Debtor hereby grants to Secured Party the power to sign Debtor's name and generally to act on behalf of Debtor to execute and file applications for title, transfers of title, financing statements, notices of lien and other documents pertaining to any or all of the Collateral. Debtor shall, if any certificate of title be required or permitted by law for any of the Collateral, obtain such certificate showing the lien hereof with respect to the Collateral and promptly deliver same to Secured Party.

(c) Debtor shall indemnify and defend the Secured Party, its successors and assigns, and their respective directors, officers and employees, from and against any and all claims, actions and suits (including, without limitation, related attorneys' fees) of any kind, nature or description whatsoever arising, directly or indirectly, in connection with any of the Collateral.

7. EVENTS OF DEFAULT.

E.S.H.

Debtor shall be in default under this Agreement and each of the other Debt Documents upon the occurrence of any of the following "Event(s) of

_____(INITIAL)

Default":

(a) Debtor fails to pay any installment or other amount due or coming due under any of the Debt Documents within ten (10) days after its due date;

(b) Any attempt by Debtor, without the prior written consent of Secured Party, to sell, rent, lease, mortgage, grant a security interest in, or otherwise transfer or encumber (except for Permitted Liens) any of the Collateral;

(c) Debtor fails to procure, or maintain in effect at all times, any of the insurance on the Collateral in accordance with Section 4 of this Agreement;

(d) Debtor breaches any of its other obligations under any of the Debt Documents and fails to cure the same within thirty (30) days after written notice thereof;

(e) Any warranty, representation or statement made by Debtor in any of the Debt Documents or otherwise in connection with any of the Indebtedness shall be false or misleading in any material respect;

(f) Any of the Collateral being subjected to, or being threatened with, attachment, execution, levy, seizure or confiscation in any legal proceeding or otherwise;

(g) Any default by Debtor under any other agreement between Debtor and Secured Party;

(h) Any dissolution, termination of existence, merger, consolidation, change in controlling ownership, insolvency, or business failure of Debtor or any guarantor or other obligor for any of the Indebtedness (collectively "Guarantor"), or if Debtor or any Guarantor is a natural person, any death or incompetency of Debtor or such Guarantor;

(i) The appointment of a receiver for all or of any part of the property of Debtor or any Guarantor, or any assignment for the benefit of creditors by Debtor or any Guarantor; or

(j) The filing of a petition by Debtor or any Guarantor under any bankruptcy, insolvency or similar law, or the filing of any such petition against Debtor or any Guarantor if the same is not dismissed within thirty (30) days of such filing.

8. REMEDIES ON DEFAULT.

(a) Upon the occurrence of an Event of Default under this Agreement, the Secured Party, at its option, may declare any or all of the Indebtedness, including without limitation the Notes, to be immediately due and payable, without demand or notice to Debtor or any Guarantor. The obligations and liabilities accelerated thereby shall bear interest (both before and after any judgment) until paid in full at the lower of eighteen percent (18%) per annum or the maximum rate not prohibited by applicable law.

(b) Upon such declaration of default, Secured Party shall have all of the rights and remedies of a Secured Party under the Uniform Commercial Code, and under any other applicable law. Without limiting the foregoing, Secured Party shall have the right to (i) notify any account debtor of Debtor or any obligor on any instrument which constitutes part of the Collateral to make payment to the Secured Party, (ii) with or without legal process, enter any premises where the Collateral may be and take possession and/or remove said Collateral from said premises, (iii) sell the Collateral at public or private sale, in whole or in part, and have the right to bid and purchase at said sale, and/or (iv) lease or otherwise dispose of all or part of the Collateral, applying proceeds therefrom to the obligations then in default. If requested by Secured Party, Debtor shall promptly assemble the Collateral and make it available to Secured Party at a place to be designated by Secured Party which is reasonably convenient to both parties. Secured Party may also render any or all of the Collateral unusable at the Debtor's premises and may dispose of such Collateral on such premises without liability for rent or costs. Any notice which Secured Party is required to give to Debtor under the Uniform Commercial Code of the time and place of any public sale or the time after which any private sale or other intended disposition of the Collateral is to be made shall be deemed to constitute reasonable notice if such notice is given to the last known address of Debtor at least five (5) days prior to such action.

(c) Proceeds from any sale or lease or other disposition shall be applied: first, to all costs of repossession, storage, and disposition including without limitation attorneys', appraisers', and auctioneers' fees; second, to discharge the obligations then in default; third, to discharge any other Indebtedness of Debtor to Secured Party, whether as obligor, endorsor, guarantor, surety or indemnitor; fourth, to expenses incurred in paying or settling liens and claims against the Collateral; and lastly, to Debtor, if there exists any surplus. Debtor shall remain fully liable for any deficiency.

(d) In the event this Agreement, any Note or any other Debt Documents are placed in the hands of an attorney for collection of money due or to become due or to obtain performance of any provision hereof, Debtor agrees to pay all reasonable attorneys' fees incurred by Secured Party, and further agrees that payment of such fees is secured hereunder. Debtor and Secured Party agree that such fees to the extent not in excess of twenty percent (20%) of subject amount owing after default (if permitted by law, or such lesser sum as may otherwise be permitted by law) shall be deemed reasonable.

(e) Secured Party's rights and remedies hereunder or otherwise arising are cumulative and may be exercised singularly or concurrently. Neither the failure nor any delay on the part of the Secured Party to exercise any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege. Secured Party shall not be deemed to have waived any of its rights hereunder or under any other agreement, instrument or paper signed by Debtor unless such waiver be in writing and signed by Secured Party. A waiver on any one occasion shall not be construed as a bar to or waiver of any right or remedy on any future occasion.

(f) DEBTOR HEREBY UNCONDITIONALLY WAIVES ITS RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF, DIRECTLY OR INDIRECTLY, THIS AGREEMENT, ANY OF THE OTHER DEBT DOCUMENTS, ANY OF THE INDEBTEDNESS SECURED HEREBY, ANY DEALINGS BETWEEN DEBTOR AND SECURED PARTY RELATING TO THE SUBJECT MATTER OF THIS TRANSACTION OR ANY RELATED TRANSACTIONS, AND/OR THE RELATIONSHIP THAT IS BEING ESTABLISHED BETWEEN DEBTOR AND SECURED PARTY. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT (INCLUDING, WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS). THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THE WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT, ANY OTHER DEBT DOCUMENTS, OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THIS TRANSACTION OR ANY RELATED TRANSACTION. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

E.S.H. (INITIAL)

9. MISCELLANEOUS.

(a) This Agreement, any Note and/or any of the other Debt Documents may be assigned, in whole or in part, by Secured Party without notice to Debtor, and Debtor hereby waives any defense, counterclaim or cross-complaint by Debtor against any assignee, agreeing that Secured Party shall be solely responsible therefor.

(b) All notices to be given in connection with this Agreement shall be in writing, shall be addressed to the parties at their respective addresses set forth hereinabove (unless and until a different address may be specified in a written notice to the other party), and shall be deemed given (i) on the date of receipt if delivered in hand or by facsimile transmission, (ii) on the next business day after being sent by express mail, and (iii) on the fourth business day after being sent by regular, registered or certified mail. As used herein, the term "business day" shall mean and include any day other than Saturdays, Sundays, or other days on which commercial banks in New York, New York are required or authorized to be closed.

(c) Secured Party may correct patent errors herein and fill in all blanks herein or in any Collateral Schedule consistent with the agreement of the parties.

(d) Time is of the essence hereof. This Agreement shall be binding, jointly and severally, upon all parties described as the "Debtor" and their respective heirs, executors, representatives, successors and assigns, and shall inure to the benefit of Secured Party, its successors and assigns.

(e) This Agreement and its Collateral Schedules constitute the entire agreement between the parties with respect to the subject matter hereof and supercede all prior understandings (whether written, verbal or implied) with respect thereto. This Agreement and its Collateral Schedules shall not be changed or terminated orally or by course of conduct, but only by a writing signed by both parties hereto. Section headings contained in this Agreement have been included for convenience only, and shall not affect the construction or interpretation hereof.

(f) This Agreement shall continue in full force and effect until all of the Indebtedness has been indefeasibly paid in full to Secured Party. The surrender, upon payment or otherwise, of any Note or any of the other documents evidencing any of the Indebtedness shall not affect the right of Secured Party to retain the Collateral for such other Indebtedness as may then exist or as it may be reasonably contemplated will exist in the future. This Agreement shall automatically be reinstated in the event that Secured Party is ever required to return or restore the payment of all or any portion of the Indebtedness (all as though such payment had never been made).

IN WITNESS WHEREOF, Debtor and Secured Party, intending to be legally bound hereby, have duly executed this Agreement in one or more counterparts, each of which shall be deemed to be an original, as of the day and year first aforesaid.

SECURED PARTY:

General Electric Capital Corporation

By: Daryl Marcum

Title: Territory Credit Manager

DEBTOR:

Ed Hanslovan Coal Co., Inc.

By: Ed. Hanslovan Sr.

Title: Pres.

7510(8/96)

COLLATERAL SCHEDULE NO. 1

THIS COLLATERAL SCHEDULE NO. 1 is annexed to and made a part of that certain Master Security Agreement dated as of October 10, 1997 between General Electric Capital Corporation as Secured Party and Ed Hanslovan Coal Co., Inc. as Debtor and describes collateral in which Debtor has granted Secured Party a security interest in connection with the Indebtedness (as defined in the Security Agreement) including without limitation that certain Installment Note dated October 10, 1997 in the aggregate sum of $ 755,280.00.

Year/Model	Serial Number	Description
1996 R90	75512	Euclid end dump truck

Equipment immediately listed above is located at: ROUTE 2 - BOX 230, MORRISDALE, PA 16858

SECURED PARTY:

General Electric Capital Corporation

By: Daryl Marcum

Title: Territory Credit Manager

Date: 10/29/97

DEBTOR:

Ed Hanslovan Coal Co., Inc.

By: Ed. Hanslovan Jr.

Title: Pres.

Date: October 10, 1997

MODIFICATION AGREEMENT
GE Capital Account No.
6048055-004

THIS MODIFICATION AGREEMENT ("Modification Agreement") is made and entered into as of this 11th day of January, 2000, by and between GENERAL ELECTRIC CAPITAL CORPORATION ("GE Capital "), a New York corporation with a place of business at 44 Old Ridgebury Road, Danbury, CT and Ed Hanslovan Coal Company, Inc. ("Customer") a Pennsylvania Corporation, with a place of business at Route 2 Box 230, Morrisdale, PA 16858.

RECITALS

WHEREAS on or about October 10, 1997, GE Capital loaned Debtor the Principal sum of Seven Hundred Fifty Five Thousand Two Hundred Eighty Eight and 00/100 Dollars ($755,280.00) (the "Principal Amount") .

WHEREAS Debtor has requested that GE Capital modify its obligations under the Note;

WHEREAS GE Capital is willing to modify customer's obligations as requested subject to the terms and conditions set forth herein.

NOW THEREFORE, in consideration of these premises and the covenants contained herein and for other good and valuable consideration, the receipt and adequacy of which the parties hereby acknowledge, the parties hereby agree as follows:

I. ACKNOWLEDGMENTS, REPRESENTATIONS AND COVENANTS: Debtor does hereby represent, acknowledge, warrant and covenant to GE Capital that:

1) The recitals set forth above are true and accurate;

2) The Note and Security Agreement are duly executed, binding obligations of Debtor and have not been terminated and the copies of same attached hereto as Exhibits A and B, respectively, and made a part hereof are true, complete and accurate copies of same;

3) Debtor has adequate power and capacity to enter into this Modification Agreement;

4) The entry into and performance by Debtor of his obligations under this Promissory Note do not (i) violate any judgment, order law or regulation applicable to Debtor; or (ii) result in any breach of, constitute a default under or result in the creation of any lien, charge, security interest or other encumbrance upon any unit of Equipment pursuant to any indenture, security agreement, deed of trust, bank loan or credit agreement or other instrument (other than the Security Agreement) to which Debtor is a party;

5) There are no suits or proceedings pending or threatened in court or before any regulatory commission, board or other administrative governmental agency against or affecting Debtor, which will have a material adverse effect on the ability of Debtor to fulfill its obligations under this Modification Agreement, the Note or Security Agreement;

6) The financial statements of Debtor, heretofore delivered to GE Capital accurately present the financial position of Debtor, as of the date of delivery, and there has been no material adverse change in the financial condition of Debtor since the date of such financial statements;

7) Debtor agrees that, notwithstanding any provision to the contrary herein, it will continue to fulfill any and all of its duties and obligations under the Note and Security Agreement, except as those duties and obligations are modified by this Modification Agreement;

8) As of the date hereof, there are Forty One (41) installments of principle and interest of Thirteen Thousand Eight Hundred Forty One and 77/100 Dollars ($13,841.77), followed by One (1) payment including the balance of all remaining principal and accrued and unpaid interest; next due on December 1, 1999 which remain to be paid thereon.

II. MODIFICATION:

1) The payment schedule of the Note set forth above beginning as of the date hereof is hereby modified as follows:

(a) Forty (40) installments of principle and interest of Fourteen Thousand Twenty Six and 65/100 Dollars ($14,026.65), followed by One (1) installment of Fourteen Thousand Twenty Nine and 26/100 Dollars ($14,029.26) next due on February 1, 2000 which remain to be paid thereon

Followed by One (1) final payment which is to include all remaining principal and interest outstanding to be paid thereon.

2) The Security Agreement is hereby modified, as necessary, to incorporate the modifications in the Note set forth herein.

III. REMAINING TERMS TO CONTINUE IN EFFECT

1) Except as expressly modified herein, conditions and terms of the Note, and Security Agreement shall continue in full force and effect in accordance with their original terms and conditions.

2) All Exhibits referenced herein and attached hereto are incorporated herein by reference.

3) If this Modification Agreement is deemed unenforceable in any respect, then and in such case the parties agree that the Note and Security Agreement shall be enforceable in accordance with their original terms and conditions as if this Modification Agreement had never been executed.

4) It is the intention of the parties hereto to comply with all applicable usury laws; accordingly, it is agreed that, notwithstanding any provision to the contrary in this Modification Agreement, the Note or Security Agreement, in no event shall any of the foregoing require the payment or permit the collection of interest in excess of the maximum amount permitted by applicable law. If any such excess interest is contracted for, charged or received thereunder, or in the event that all of the Account Balance shall be prepaid, so that under any of such circumstances the amount of interest contracted for, charged or received under this Modification Agreement, the Note or Security Agreement shall exceed the maximum amount of interest permitted by applicable law, then in such event (a) the provisions of this Section shall govern and control, (b) neither Debtor nor any other person or entity now or thereafter liable for the payments shall be obligated to pay the amount of such interest to the extent that it is in excess of the maximum amount of interest permitted by applicable law, (c) any such excess which may have been collected shall be either applied as a credit against the then unpaid Account Balance or refunded to the party having paid same, at the option of GE Capital , and (d) the effective rate of interest shall be automatically reduced to the maximum lawful contract rate allowed under applicable law as now or hereafter construed by the courts having jurisdiction thereof.

5) Any payment received from Debtor may be applied by GE Capital at any time against any obligation due and owing by Debtor under the Note or Security Agreement, in GE Capital 's sole discretion, notwithstanding any statement appearing on or referred to in any remittance from Debtor or any prior application of such payment. In the event any bankruptcy proceedings are instituted by or against Debtor under any applicable bankruptcy law within 90 days after receipt by GE Capital of any such payment, such payment shall be deemed applicable to unpaid obligations then due thereunder in the inverse order of maturity.

6) Debtor hereby certifies, agrees and acknowledges that the Equipment is installed and fully operational and is now and will continue to be used and in the conduct of Debtor's business.

7) This Agreement shall be binding upon and shall inure to the benefit of all the parties hereto and their respective administrators, successors and permitted assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement and have caused this Agreement to be executed by their respective duly authorized representatives as of the day first above-written.

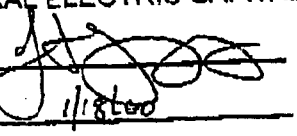
DEBTOR:

Ed Hanslovan Coal Company, Inc.

By: Mary Hanslovan

Title: Sec Treas

GENERAL ELECTRIC CAPITAL CORPORATION:

By: 

Title: 1/18/00

[redacted] (last name first if individual) and mail ress:
Hanslovan Coal Co., Inc.
Route 2 - Box 230
Morrisdale, PA 16858
1

Debtor name (last name first if individual) and mailing address:
1a

Debtor name (last name first if individual) and mailing address:
1b

Secured Party(ies) name(s) (last name first if individual) and address for security interest information:
General Electric Capital Corporation
11590 Century Blvd., Ste. 111
Cincinnati, OH 45246
2

Assignee(s) of Secured Party name(s) (last name first if individual) and address for security interest information:
2a

Special Types of Parties (check if applicable):
☐ The terms "Debtor" and "Secured Party" mean "Lessee" and "Lessor," respectively.
☐ The terms "Debtor" and "Secured Party" mean "Consignee" and "Consignor," respectively.
☐ Debtor is a Transmitting Utility.
3

SECURED PARTY SIGNATURE(S)

This statement is filed with only the Secured Party's signature to perfect a security interest in collateral (check applicable box(es))-

a. ☐ acquired after a change of name, identity or corporate structure of the Debtor.
b. ☐ as to which the filing has lapsed.
c. already subject to a security interest in another county in Pennsylvania-
☐ when the collateral was moved to this county.
☐ when the Debtor's residence or place of business was moved to this county.
d. already subject to a security interest in another jurisdiction-
☐ when the collateral was moved to Pennsylvania.
☐ when the Debtor's location was moved to Pennsylvania.
e. ☐ which is proceeds of the collateral described in block 9, in which a security interest was previously perfected (also describe proceeds in block 9, if purchased with cash proceeds and not adequately described on the original financing statement).

Secured Party Signature(s)
(required only if box(es) is checked above):
4

IMPO reverse | ase read instructions on page 4 before completing

Filing No. (stamped by filing officer):
File # P-49470 Date October 21, 1997

Docket # 16-106-06 Time 2:00 pm
Clearfield County Prothonotary Office
5

This Financing Statement is presented for filing pursuant to the Uniform Commercial Code, and is to be filed with the (check applicable box):
☐ Secretary of the Commonwealth
☒ Prothonotary of Clearfield county, PA County.
☐ real estate records of _____ County.
6
7

Number of Additional Sheets (if any):
8

Optional Special Identification (Max. 10 characters):

COLLATERAL

Identify collateral by item and/or type:
One (1) 1996 Euclid End Dump Truck, Model R90
Serial No. 75512

☐ (check only if desired) Products of the collateral are also covered.
9

Identify related real estate, if applicable: The collateral is, or includes (check appropriate box(es))-
a. ☐ crops growing or to be grown on -
b. ☐ goods which are or are to become fixtures on -
c. ☐ minerals or the like (including oil and gas) as extracted on -
d. ☐ accounts resulting from the sale of minerals or the like (including oil and gas) at the wellhead or minehead on -

the following real estate:
Street Address:
Described at: Book _____ of (check one) ☐ Deeds ☐ Mortgages, at Page(s) _____
for _____ County. Uniform Parcel Identifier _____
☐ Described on Additional Sheet.
Name of record owner (required only if no Debtor has an interest of record):
1

DEBTOR SIGNATURE(S)

Debtor Signature(s):
1 Ed. Hanslovan Sr.
1a
1b

RETURN RECEIPT TO:
General Electric Capital Corporation
11590 Century Blvd., Ste. 111
Cincinnati, OH 45246

STANDARD FORM - FORM UCC-1 (7-89)
Approved by Secretary of Commonwealth of Pennsylvania

FILING OFFICE ACKNOWLEDGEMENT - County only.
NOTE - Do not send this page to the Department of State.

ORDER FROM Registry 314 PIERCE ST. P.O. BOX 211 ANOKA, MN. 55303 (612) 421-1713

SCHEDULE A
TO UCC FINANCING STATEMENT
Naming General Electric Capital Corporation as Secured Party and Ed Hanslovan Coal Co., Inc. as Debtor

Quantity	Year	Manufacturer	Serial Number	Model and Type of Equipment
1	1996	Euclid	75512	R90 end dump truck

and including all additions, attachments, accessories and accessions thereto, and any and all substitutions, replacements or exchanges therefor, and all insurance and/or other proceeds thereof.

EXHIBIT B

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT (the "Mortgage") is made this ____ day of August, 2002, by Edward Hanslovan and Mary Hanslovan (the "Mortgagors"), in favor of General Electric Capital Corporation, whose principal business address is 44 Old Ridgebury Road, Danbury, Connecticut 06801 ("GE Capital" or the "Mortgagee").

W I T N E S S E T H:

WHEREAS, GE Capital has agreed to (i) amend and restructure the outstanding obligations of Ed Hanslovan Coal Company, Inc. ("Debtor") of which the Mortgagors are principals, under, among other things, that certain Master Lease Agreement dated April 5, 1996, that certain Installment Note dated October 10, 1997, and that certain Master Security Agreement, dated October 10, 1997, and (ii) forego immediate enforcement of those certain Individual Guaranties executed by each of the Mortgagors and dated March 7, 1996 (the foregoing instruments shall hereinafter be collectively referred to as the "Secured Obligations"). To secure performance of all obligations of the Mortgagors to the Mortgagee hereunder and under each of the Secured Obligations, the Mortgagors hereby mortgage to the Mortgagee:

ALL THAT CERTAIN plot, piece or parcel of land, with the buildings and improvements thereon erected, situated, lying and being known as _____, more particularly described in Exhibit "1" attached hereto and incorporated by reference;

TOGETHER with all and singular the tenements, hereditaments, and appurtenances thereunto belonging, or in any wise appertaining, and the reversion or reversions, remainder and remainders; and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, in law and in equity, of the Mortgagors, of, in and to the same and every part and parcel thereof, with appurtenances, including all fixtures affixed to the same or intended so to be, and also, all machinery, equipment, improvements and personal property now in or upon or which may hereinafter be installed in or affixed to the same, to the extent the foregoing relate to or are necessary for the complete and comfortable use, enjoyment, maintenance, operation or occupancy thereof, including, but not limited to, furnaces, boilers, oil burners, radiators and piping, heating system, electrical system, panel boards, plumbing and bathroom fixtures, air conditioning, sprinkler systems, wash tubs, sinks, gas and electric fixtures, stoves, ranges, awnings, screens, window shades, refrigerators, kitchen cabinets, plants and shrubbery, as to which this Mortgage constitutes a security agreement (the "Property");

TOGETHER with all the right, title and interest of the Mortgagors in and to all streets, roads and public places, opened or proposed, adjoining the Property, and all easements and rights-of-way, public or private, all sidewalks and alleys, and all strips and gores of land now or hereafter used in connection with the Property;

TOGETHER with the rents, issues and profits arising or issuing from the Property or the improvements thereon as further security for the payment of the Secured Obligations of the Mortgagors, and the Mortgagors grants to the Mortgagee the right to enter upon and to possession of the Property for the purpose of collecting the same and to let the Property or any part thereof, and to apply the rents, issues and profits, after payment of all necessary charges and expenses, on account of the Secured Obligations as hereinafter provided;

TOGETHER with any and all awards, damages, payments, judgments, settlements and other compensation, including without limitation, insurance proceeds, and any and all causes of action, claims therefor and rights thereto, which may result from (i) taking or injury by virtue of the exercise of the power of eminent domain, (ii) a lawsuit or other legal proceeding, or (iii) any damage, injury or destruction in any manner caused to the Property or the improvements thereon, or any part thereof;

TOGETHER with all the estate, right, title, interest, property, possession, claim and demand whatsoever of the Mortgagors, in law as well as in equity, of, in and to the same and every part and parcel thereof with the appurtenances;

TOGETHER with all other assets and personal property of the Mortgagors relating to, or used in the operation of, the Property, including without limitation, all accounts, goods, fixtures, inventory, equipment, chattel paper, documents instruments and general intangibles (as such terms are defined in the Uniform Commercial Code), whether now owned or hereafter acquired;

AND ALSO, all proceeds of the foregoing.

ALL of which property and rights therein described above being hereinafter collectively referred to as the "Premises".

TO HAVE AND TO HOLD, the above granted and described Premises unto the Mortgagee, its successors and assigns, to its and their own proper use, benefit and behoove forever.

This Mortgage further creates a security interest in the fixtures included in the Premises and constitutes a security agreement and financing statement under the Uniform Commercial Code. The Mortgagors shall execute, file and refile such financing statements or other security agreements as the Mortgagee shall require from time to time with respect to such fixtures and other personal property and assets included in the Premises. The Mortgagors hereby authorizes the Mortgagee to file such financing statement or statements and any amendments thereto pursuant to said Uniform Commercial Code, without the signature of the Mortgagors, as the Mortgagee may deem necessary to perfect such interest or right in its favor.

PROVIDED ALWAYS, and these presents are made upon this express condition, that if the Secured Obligations shall be duly paid or performed as and when the same shall

become due and payable or be required to be performed, then these presents and the estate hereby granted shall cease, terminate and be void.

I. REPRESENTATIONS AND WARRANTIES OF THE MORTGAGOR.

The Mortgagors hereby represent and warrant to the Mortgagee as follows:

A. ORGANIZATION, POWER AND QUALIFICATION; AUTHORIZATION OF AGREEMENT

(a) The Mortgagors have all requisite authority to own and operate their properties and assets.

(b) The Mortgagors have full power and authority to execute, deliver and perform any action or step which may be necessary to carry out the terms of this Mortgage and this Mortgage is legal, valid and binding obligations on the Mortgagors enforceable in accordance with its terms, subject to any applicable bankruptcy, insolvency, general equity principles or other similar laws affecting the enforcement of creditors' rights generally.

B. NO LEGAL BAR. The execution, delivery and performance of this Mortgage will not (i) violate any provision of any existing law, statute, rule, regulation or ordinance, (ii) conflict with, result in a breach of or constitute a default under (a) the certificate of formation or operating agreement of the Mortgagors, (b) any order, judgment, award or decree of any court, arbitrator, or governmental authority, bureau or agency, or (c) any mortgage, indenture, lease, contract or other agreement or undertaking to which the Mortgagors are a party or by which the Mortgagors or any of its properties or assets may be bound, or (iii) result in the creation or imposition of any mortgage, security interest, restriction, lien or other encumbrance upon or with respect to any property or asset now owned or hereafter acquired by the Mortgagors, other than in favor of the Mortgagee.

C. CONSENT. No consent, license, permit, approval or authorization of, exemption by, notice to, report to, or registration, filing or declaration with any person or governmental authority, bureau or agency is required in connection with the execution, delivery, performance or validity of the Mortgage or the transactions contemplated thereby.

D. COMPLIANCE WITH LAW. The Mortgagors are not in violation of any applicable law, rule, regulation, statute, ordinance, or any order, judgment, award or decree of any court, arbitrator, or governmental authority, bureau or agency, the violation of which would have a materially adverse effect on the business, assets, liabilities or financial condition of the Mortgagors.

E. NO DEFAULT. The Mortgagors are not in default in any material respect in the payment or performance of any of its obligations or in the performance of any mortgage, indenture, lease, contract or other agreement or undertaking to which it is a party or by which it or any of its properties or assets may be bound, and no default or event of default has occurred and is continuing. The Mortgagors are not in default under any order, award or

decree of any court, arbitrator or governmental authority, bureau or agency binding upon or affecting it or by which any of its properties or assets may be bound or affected, and no such order, award or decree, if any, materially adversely affects the ability of the Mortgagors to carry on its business as presently conducted or to perform its obligations hereunder.

F. **NO LITIGATION**. No litigation, investigation or proceeding of or before any court, arbitrator or governmental authority, bureau or agency is currently pending, nor, to the knowledge of the Mortgagors, threatened, against the Mortgagors or any of the Mortgagors' properties and revenues which, if adversely determined, would materially adversely affect the ability of the Mortgagors to carry on its business as presently conducted or to perform its obligations hereunder.

G. **NO BURDENSOME RESTRICTIONS**. The Mortgagors are not a party to nor is bound by any contract or agreement or instrument nor subject to any restriction materially and adversely affecting the business or financial condition of the Mortgagors.

H. **TAX RETURNS AND PAYMENTS; FINANCIAL STATEMENTS.**

1. All federal, state and other tax returns of the Mortgagors required by law to be filed have been duly filed or extensions obtained, and all federal, state and other taxes, assessments and governmental charges or levies upon the Mortgagors or any of its properties, income, profits or assets which are due and payable have been paid, except such tax returns the nonfiling of which, and such taxes the non-payment of which, would not have a material adverse effect upon the business, assets, liabilities or financial condition of the Mortgagors and except for such taxes and assessments which the Mortgagors are disputing in good faith and for which the Mortgagors has established adequate reserves on its books for the payment of such disputed taxes or assessments in accordance with generally accepted accounting principles.

2. All financial statements and financial information provided to the Mortgagee by or on behalf of the Mortgagors fairly present the financial position and results of operations of the Mortgagors on the dates and for the periods then ended and show all direct liabilities and all known contingent liabilities of a material nature.

3. Since the date of the most recent financial statement provided to the Mortgagee by or on behalf of the Mortgagors, no material adverse change has occurred in the business, assets, liabilities, financial condition, results of operations or business prospects of the Mortgagors, and no event has occurred or failed to occur which has had or is likely to have a material adverse effect on the business, assets, liabilities, financial condition, results of operations or business prospects of the Mortgagor.

I. FINANCIAL CONDITION.

1. The Mortgagors are now, and after giving effect to the transactions contemplated hereby will be in, a financially solvent condition; the execution and delivery of this Mortgage does not constitute a "fraudulent conveyance" or "fraudulent transfer" within

the meaning of any applicable federal or state statute; and no bankruptcy or insolvency proceedings are presently pending by or against the Mortgagors.

2. No fact is known to the Mortgagors which has had or is likely in the future to have (so far as Mortgagors can reasonably foresee) a materially adverse effect upon the Mortgagor's business, assets, liabilities, condition, financial or otherwise, or results of operations that has not been set forth in the financial statements furnished to the Mortgagee or other reports or other papers or data otherwise disclosed in writing to the Mortgagee.

3. The Mortgagors do not intend to, nor does the Mortgagors believe that it will incur debts beyond its ability to pay such debts as they mature. The cash available to the Mortgagors are anticipated to be sufficient to pay all amounts on or in respect of debt of the Mortgagors when such amounts are required to be paid.

4. The Mortgagors does not believe that final judgments against it in actions for money damages will be rendered at a time when, or in an amount such that, the Mortgagors will be unable to satisfy any such judgments promptly in accordance with their terms (taking into account the maximum reasonable amount of such judgments in any such actions and the earliest reasonable time at which such judgments might be rendered). The cash available to the Mortgagors after taking into account all other anticipated uses of the cash of the Mortgagors are anticipated to be sufficient to pay all such judgments promptly in accordance with their terms.

J. **WARRANTY OF TITLE**. The Mortgagors are lawfully seized of an indefeasible estate in fee simple in the Premises, subject only to those exceptions (the "Permitted Encumbrances") set forth in that certain Title Insurance Commitment issued in connection with this Mortgage, as delivered to the Mortgagee and endorsed on the date hereof, which is incorporated herein by reference, and the Mortgagors will warrant and forever defend the title thereof unto the Mortgagee against all lawful claims whatsoever.

K. **ACCURACY AND COMPLETENESS OF INFORMATION.** All written information, reports and other papers and data furnished to the Mortgagee by the Mortgagors were, at the time the same were so furnished and remain, as of the date hereof, complete and correct in all material respects and did not and do not contain any untrue statement of fact or omit to state any material fact necessary in order to make the statements and information contained therein not misleading.

II. COVENANTS OF THE MORTGAGOR.

The Mortgagors hereby covenant and agree with the Mortgagee, until the Secured Obligations are performed and paid in full, as follows:

A. **PAYMENT OF SUMS SECURED.** The Mortgagors will pay the indebtedness as herein before provided. This Mortgage shall remain in full force and effect until the Secured Obligations and all other obligations under this Mortgage are fully and

indefeasibly paid and the performance obligations of the Mortgagors to the Mortgagee under the Loan Documents and this Mortgage have been satisfied in full.

B. **INSURANCE.**

1. The Mortgagors shall (a) keep in effect or cause to be kept in effect upon the Premises for the benefit of the Mortgagee insurance against loss or damage by fire and all other risks embraced within "all risk" and "extended coverage" including, but not limited to, vandalism and malicious mischief endorsements, in such amount, by such insurers, and containing such provisions as the Mortgagee may reasonably require, but in no event less than the replacement value of all improvements on the Premises, and (b) obtain or cause to be obtained public liability insurance in such minimum amounts and with such insurance companies as are reasonably satisfactory to the Mortgagee, but in no event less than $1,000,000 per occurrence.

2. Any insurance required pursuant to this Mortgage shall be so written or endorsed as to (a) name the Mortgagee as an additional insured, (b) contain the standard (non-contributing) mortgagee endorsement in favor of the Mortgagee as second mortgagee, (c) shall not contain any "co-insurance provisions", (d) shall be obtained from insurers which are reasonably satisfactory to the Mortgagee, and (e) with respect to insurance against loss or damage to property, name the Mortgagee as a "loss payee" and make losses payable to the as Second Mortgagee. The Mortgagors shall pay the premiums on the policies of all insurance required pursuant to this Mortgage as they become payable and shall deliver to the Mortgagee certificates of insurance and evidence of payment of all premiums, and, if requested by the Mortgagee, the original policies of property insurance and, if required, flood insurance, and certificates evidencing public liability insurance. All insurance shall provide that the Mortgagee is the Certificate Holder and the Mortgagors shall provide all such Certificates to the Mortgagee. Notwithstanding the foregoing, a mortgagee with a lien against the Premises senior in priority to this Mortgage ("Senior Mortgagee") shall have superior rights to insurance up to the amount of the Senior Mortgagee's mortgage.

3. All renewal or replacement policies shall be delivered by the Mortgagors, premiums paid, to the Mortgagee at least thirty (30) days before the expiration of the expiring policies. Each insurance policy shall provide that the Mortgagee shall be furnished with not less than thirty (30) days' prior written notice before any termination, cancellation, non-renewal or reduction in scope becomes effective as to the Mortgagee. If the Mortgagee becomes the owner of the Premises or any part thereof by foreclosure or otherwise, such policies shall become the absolute property of the Mortgagee.

C. **DAMAGE, DESTRUCTION AND CONDEMNATION**. If the Premises or any part thereof shall be damaged or either partially or totally destroyed, or if title to or the temporary use of the whole or any part of the Premises shall be taken, condemned or purchased under threat of condemnation by a competent authority for a public use or purpose, the Mortgagee shall be entitled to receive and shall receive any and all insurance proceeds or condemnation awards with respect thereto (hereinafter, the "Proceeds"), subject,

however, to the rights of any Senior Mortgagee. The Mortgagee shall have the right to participate in the defense of any condemnation action and the valuation of the Premises in connection therewith. So long as no Event of Default shall have occurred and be continuing hereunder, the Mortgagee shall remit such Proceeds to the Mortgagors to restore, replace or repair the Premises; provided, however, that if an Event of Default shall have occurred and be continuing hereunder, the Mortgagee shall have the right, in its sole and absolute discretion, to determine whether to apply such Proceeds to prepay the principal, interest and other charges on the Secured Obligations or to remit such Proceeds to the Mortgagors to restore, replace or repair the Premises. In any case in which Proceeds (and such additional funds) are to be applied to restore, replace or repair any part of the Premises, such restoration, replacement or repair shall in any event be subject to the satisfaction of the following conditions:

1. The Mortgagors shall submit or cause to be submitted to the Mortgagee for its approval, an estimate of the cost of restoration, replacement or repair of the Premises, accompanied by an architect's certification as to such costs and final plans and specifications with respect thereto. All buildings and improvements so restored, replaced or repaired shall be of substantially the same character and value as the buildings and improvements prior to such damage or destruction and shall be suitable for the purposes for which they were originally erected. The Mortgagors shall furnish the Mortgagee with evidence reasonably satisfactory to the Mortgagee that all buildings and improvements so restored, replaced and/or repaired and their contemplated use fully comply with all zoning and building laws, ordinances and regulations, and with all other applicable federal, state or local laws and requirements.

2. If at any time the estimated cost of restoration, replacement or repair shall exceed the Proceeds available therefor, the Mortgagors shall escrow additional monies with the Mortgagee in an amount equal to such excess estimated cost.

3. Each disbursement of the Proceeds during the course of restoration, replacement or repair shall be subject to receipt by the Mortgagee of a requisition signed by the Mortgagors stating (a) the requisition number, (b) the name and address of the person or entity to whom payment is to be made, or if the payment is to be made to the Mortgagors for a reimbursable advance, the name and address of the person or entity to whom the advance was made together with proof of payment by the Mortgagors, and (c) that each obligation for which payment is sought is unpaid or unreimbursed and has not been the basis of any previously paid requisition. Each requisition shall be accompanied by (i) an approved certification by a licensed A.I.A. architect reasonably acceptable to the Mortgagee as to the cost of materials furnished and work done and evidence that such work and materials are free and clear of liens, (ii) if requested by the Mortgagee, an updated title insurance endorsement as of the date of each such disbursement insuring the continued validity and priority of this Mortgage and (iii) such other documents, certificates or instruments as the Mortgagee shall reasonably require. No payment made prior to the final completion of work shall exceed 90% of the value of the work performed or materials furnished and incorporated into the Premises from time to time, and at all times the undisbursed balance of said Proceeds

(together with the additional security referred to in the preceding paragraph) shall be at least sufficient to pay for the cost of completion of the work, free and clear of liens. Said Proceeds are to be released not more than once a month, and the disbursement of said Proceeds shall be subject to such other provisions and safeguards as the Mortgagee then requires in connection with construction loans for similar projects. The administration of such provisions shall be at the sole cost and expense of the Mortgagor.

4. Final payment shall be made upon receipt by the Mortgagee of a certification by a licensed A.I.A. architect reasonably acceptable to the Mortgagee as to completion in accordance with the approved plans and specifications and, if requested by the Mortgagee, the issuance to the Mortgagee of a title policy endorsement reasonably satisfactory to the Mortgagee insuring the continued validity and priority of this Mortgage as a mortgage lien.

5. All costs and expenses incurred by the Mortgagee in disbursing said funds shall be paid for by the Mortgagors and may be deducted by the Mortgagee from the funds to be so advanced for such restoration, replacement or repair.

6. Nothing herein shall be construed to require the Mortgagee to advance any sums for any such restoration, replacement or repair beyond the amount of the Proceeds actually received by the Mortgagee and set aside for such purpose less the amount of the Mortgagee's costs and expenses referred to above.

7. The Mortgagors shall promptly notify the Mortgagee of any damage, destruction or institution of any proceedings for the condemnation or taking, by powers of eminent domain or purchase under threat thereof, of the whole or any part of the Premises.

8. Prior to an Event of Default, the Mortgagors shall adjust any insurable loss and settle any condemnation proceedings, provided the Mortgagors shall have obtained the prior written consent of the Mortgagee thereto which shall not be unreasonably withheld or delayed. Following the occurrence of an Event of Default, the Mortgagee shall have the exclusive right to adjust any insurable loss and settle any condemnation proceedings.

9. Any moneys released to the Mortgagors or paid or applied to the cost of restoration, replacement or repair shall in no event be deemed a payment of the Secured Obligations. The Mortgagee shall be under no obligation to question the amount of the Proceeds and may accept the same in the amount in which the same shall be paid.

10. Anything to the contrary herein contained notwithstanding, any Proceeds paid over to the Mortgagee and not used for repair, replacement or restoration shall be applied to pay any sums then due and owing to the Mortgagee with respect to the Secured Obligations, and, subject to the rights of the holders (including the Mortgagee) of any Permitted Encumbrances, any excess shall be paid over to the Mortgagor.

D. COMPLIANCE WITH LAWS. The Mortgagors shall comply in all material respects with all applicable federal, state and local laws, rules, regulations, ordinances,

building codes and orders in effect from time to time including, but not limited to, those relating to the environment, the payment of taxes, assessments and other governmental charges, zoning, and the use, occupancy, transfer or encumbrancing of the Premises the failure to comply with which would result in a lien upon the Premises or otherwise impair the value of the Premises. The Mortgagors additionally agrees to pay all costs required to comply with any of the above conditions, and to indemnify and hold the Mortgagee harmless against any loss, liability, cost or expense (including attorneys' fees) arising out of or relating to any proceeding instituted in connection with any alleged or actual violation of any of the foregoing not caused by the Mortgagee.

E. **TAXES AND OTHER CHARGES; MECHANICS' LIENS**. Except as otherwise provided in this Section II(E), the Mortgagors shall pay all taxes, water and sewer rents, fines, impositions and other similar claims, liens and encumbrances assessed, or which may be assessed, against the Premises or any part thereof, without any deduction or abatement, not later than five (5) days before the same shall become due and payable and shall simultaneously with each such payment, furnish to the Mortgagee receipts for the payment thereof in full. The Mortgagors will pay, from time to time when the same shall become due, all lawful claims and demands of mechanics, materialmen, laborers, and others, which, if unpaid, might result in, or permit the creation of, a lien on the Premises or any part thereof, or on the revenues, rents, issues, income and profits arising therefrom, and will do or cause to be done everything necessary so that the lien hereof shall be fully preserved, at the cost of the Mortgagors and without expense to the Mortgagee. If the Mortgagors shall in good faith, and by proper legal action, contest any taxes, assessments, fines, impositions, claims, liens, encumbrances or other charges, or the validity thereof, and provided no Event of Default is then existing and continuing, then the Mortgagors shall not be required to pay the same or to produce such receipts as long as such contest operates to prevent collections, and is maintained and prosecuted with diligence and shall not have been terminated or discontinued adversely to the Mortgagor. In addition to the foregoing, the Mortgagors will pay when due and will not suffer to remain outstanding, any charges for utilities, whether public or private, with respect to the Premises.

F. **FURTHER ASSURANCES; FILING AND RECORDING.**

1. The Mortgagors will, at its sole cost and expense, perform, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, security agreements, assignments, notices of assignment, financing statements, transfers and assurances as the Mortgagee shall from time to time reasonably require, for the better assuring, conveying, assigning, transferring and confirming unto the Mortgagee the property and rights hereby conveyed or assigned or intended now or hereafter so to be, or which the Mortgagors may be or may hereafter become bound to convey or assign to the Mortgagee, for carrying out the intention or facilitating the performance of the terms of this Mortgage or for filing, registering or recording this Mortgage and, on demand, will execute and deliver, and hereby authorizes the Mortgagee and irrevocably appoints the Mortgagee as the agent and attorney-in-fact of the Mortgagors to execute and file in its own name or in the

Mortgagor's name, to the extent it may lawfully do so, all such documents, instruments, certificates and financing statements.

2. The Mortgagors, forthwith upon the execution and delivery of this Mortgage, and thereafter from time to time upon request by the Mortgagee, and as may be required by law, will cause this Mortgage and any security instrument creating a lien or evidencing the lien hereof upon the Premises and the fixtures thereon and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect the lien hereof upon, and the interest of the Mortgagee in, the Premises and the fixtures thereon.

3. The Mortgagors will pay all filing, registration or recording fees, and all expenses incident to the execution and acknowledgment of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Premises and the fixtures thereon, and any instrument of further assurance, and all federal, state, county and municipal stamp taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Premises and the fixtures thereon or any instrument of further assurance.

G. **RIGHT TO REMEDY DEFECTS; INDEMNIFICATION.** If the Mortgagors shall at any time fail to pay any amount payable by it hereunder or fails to comply with any provision of this Mortgage, the Mortgagee may, after reasonable notice to the Mortgagors, pay such amount or comply with such provision and make such expenditures, including reasonable counsel fees, in connection therewith and with enforcing this Mortgage and for repairing, maintaining and preserving the Premises, for establishing, preserving, protecting and restoring the validity and priority of the lien hereof, for obtaining official tax searches of the Premises, for protecting and preserving any use being made of the Premises now or hereafter and for advances to any trustee or receiver of the Premises, as the Mortgagee deems advisable; each amount so paid or expended, with interest at the rate then in effect under the Secured Obligations plus four percent (4%) shall become part of the Secured Obligations and be secured hereby; and the Mortgagors shall pay to the Mortgagee, on demand, the amount of each payment or expenditure, with such aforesaid interest, but no such payment or compliance by the Mortgagee shall constitute a waiver of the Mortgagor's failure so to do or affect any right or remedy of the Mortgagee with respect thereto. The Mortgagors agrees to and does hereby indemnify the Mortgagee, its officers, directors, employees, agents, affiliates and assigns and the Mortgagors shall hold the Mortgagee, its officers, directors, employees, agents, affiliates and assigns harmless from and against any and all losses, claims, damages or liabilities (including all costs, expenses and reasonable counsel fees incurred in investigating or defending such claim) suffered by the Mortgagee, its directors, officers, employees, affiliates and agents and caused by, relating to, arising out of, resulting from or in any way connected with any of the items enumerated in the immediately preceding sentence, except to the extent resulting from the gross negligence or willful misconduct of the Mortgagee or its agents.

H. **PRESERVATION OF THE PREMISES; LIENS AND ENCUMBRANCES**

1. The Mortgagors shall keep the improvements now or hereafter on the Premises in good repair and condition, ordinary wear and tear excepted, and, with reasonable diligence, shall repair, replace or rebuild any material part of the Premises which may be destroyed by any casualty or become damaged, worn or dilapidated. The Mortgagors shall make any repairs needed to immediately preserve the value of the Premises within thirty (30) days after written notice thereof from the Mortgagee; provided, however, that in the event the Mortgagors are diligently undertaking such repairs but same cannot be completed within said 30-day period, the Mortgagee shall extend said 30-day period for as long as the Mortgagors and the Mortgagee shall agree is reasonably necessary in order to complete such repairs; provided further, however, that the Mortgagee shall be under no obligation to extend said period beyond ninety (90) days after the aforementioned written notice.

2. The Mortgagors shall not remove or demolish nor alter the design or structural character of any building now or hereafter erected upon the Premises without the prior written consent of the Mortgagee which consent shall not be unreasonably withheld or delayed. The Mortgagee shall consent to such proposed structural change or alteration upon receipt of (i) a certificate of the Mortgagors stating that no Event of Default then exists and is continuing and (ii) evidence reasonably satisfactory to the Mortgagee to the effect that the proposed structural change or alteration (upon completion) shall not diminish the value of the Premises.

3. The Mortgagors shall not suffer or permit waste of the Premises and shall cause the Premises to comply with all applicable building codes, ordinances, statutes and regulations of all federal, state and municipal governmental authorities and agencies having jurisdiction thereof, including but not limited to, all fire and safety codes.

4. The Mortgagors shall keep the Premises free of all mortgages, liens, charges, encumbrances, attachments, levies, distraints, other judicial process and burdens of every nature, except for Permitted Encumbrances.

I. **NOTIFICATION**. The Mortgagors shall notify the Mortgagee immediately of (a) the occurrence or existence of any Event of Default, (b) the inception of any action, suit, proceeding, inquiry or investigation at law or in equity before any court, public board or body wherein an unfavorable decision, ruling or finding would, to the extent not covered by insurance, have a material adverse effect upon the Premises, and (c) the occurrence of any substantial loss, substantial damage, destruction, condemnation or taking of the whole or any part of the Premises.

J. **RIGHT TO INSPECT PREMISES AND BOOKS AND RECORDS; APPRAISAL**

The Mortgagors shall permit the Mortgagee, by its duly authorized officers and agents during normal business hours and upon reasonable written notice, to enter upon and inspect the Premises and, to the extent and with such frequency as is reasonably required by the Mortgagee, the books and records of the Mortgagor. The Mortgagee shall also have the right, from time to time, upon reasonable notice to the Mortgagors, to conduct or cause to be conducted an appraisal or appraisals of the Premises, the cost of which shall be paid by the Mortgagor.

K. **FINANCIAL STATEMENTS**.

The Mortgagors will furnish the following information to the Mortgagee:

(1) Within 90 days after the end of each fiscal year of the Mortgagors, financial statements on the form approved by Mortgagee and true, correct and complete copies of the Mortgagors federal tax returns as filed;

(2) Within 30 days after the end of each fiscal year of the Mortgagors, an operating statement with respect to the Premises, on the form approved by the Mortgagee;

(3) From time to time and promptly upon each request, such other reports and information regarding the business, assets, liabilities, financial condition, results of operation or business prospects of the Mortgagors as the Mortgagee may reasonably requests;

(4) Prompt notice of any material adverse change with respect to the business, assets, liabilities, financial condition or results of operation of the Mortgagor.

In connection with the delivery of the tax returns which is referred to in clause 1 above, the Mortgagors shall also obtain and deliver to the Mortgagee an acknowledgment of reliance, on the form approved by the Mortgagee from the independence certified public accountant, if any, which prepares such tax returns.

L. **FURTHER INDEBTEDNESS**.

1. The Mortgagors shall not create, assume, incur, guarantee or in any manner become liable, contingently or otherwise, in respect of any indebtedness for money borrowed.

2. The Mortgagors shall not sell, transfer, assign, lease or otherwise dispose of (whether in one transaction or a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired).

3. The Mortgagors shall not guarantee, endorse, become surety for, or otherwise in any way become or be responsible for, the obligations of any other person whether by agreement to purchase the indebtedness of any other person, or agreement for the furnishing of funds, directly or indirectly, for the purpose of payment of indebtedness of any

other person, other than endorsements of negotiable instruments for deposit or collection in the ordinary course of its business.

M. **LEASES**.

1. The Mortgagors shall not lease or sublease all or any portion of the Premises or consent to the leasing, subleasing or assignment of any lease by any tenant of all or any portion of the Premises, or consent to the amendment, modification or termination of any lease with respect to the Premises, except for increases in rent, without the prior review and express prior written consent, both as to the form and substance thereof, of the Mortgagee, which consent shall not be unreasonably withheld or delayed.

2. All present and future lease of the Premises, or any part thereof, shall be subordinate in all respects to the lien of this Mortgage.

3. On or before January 31 of each year, the Mortgagors shall provide to the Mortgagee a current, certified rent roll with respect to all tenants and other occupants of the Premises. In addition, the Mortgagors shall provide to the Mortgagee, promptly upon execution thereof, certified copies of all leases, and all amendments, modifications and supplements to existing leases, entered into with respect to the Premises from and after the date hereof.

N. **NO DEDUCTION**. The Mortgagors shall claim no deduction upon the assessed value of the Premises on account of the monies owing to Mortgagee.

III. **INDEMNIFICATION**

1. The Mortgagors hereby agrees to indemnify the Mortgagee, its directors, officers, employees, affiliates and agents from and against any and all liabilities, suits, obligations, fines, damages, penalties, claims, losses, costs, charges and expenses (including, without limitation, reasonable architect's, engineer's, accountant's, consultant's and attorneys' fees and disbursements) (collectively, the "Losses") which may be imposed upon, incurred or asserted against the Mortgagee, its directors, officers, employees, affiliates and agents by reason of: (a) any construction relating to the Premises; (b) any capital improvements, other work or thing done in, on or about the Premises; (c) any use, non-use, misuse, possession, occupation, alteration, repair, condition, operation, maintenance or management of the Premises or any street, drive, sidewalk, curb, passageway or space comprising a part thereof or adjacent thereto; (d) any negligence or willful act or omission on the part of the Mortgagors, any lessee or any other occupant of the Premises or any agent, contractor, servant, employee, licensee or invitee or any of them; (e) the claims of any lessee or any party acting through or under any such lessee or otherwise arising under or as a consequence of any lessee; (f) any accident, injury (including death) or damage to any person or property occurring in, on or about any sidewalks, drives, curbs, passageways, streets, spaces or alleys adjacent to or on the Premises; (g) any Event of Default; (h) any lien or claim which may be alleged to have arisen on or against the Premises under any law or any liability asserted against the Mortgagee with respect thereto; (i) any tax or other imposition,

including, but not limited to, any imposition attributable to the execution, delivery, filing or recording of this Mortgage or any other documents executed by the Mortgagors in connection herewith; (j) any contest permitted pursuant to the provisions of this Mortgage or the other Loan Documents; and (k) any and all violations of law, including, without limitation, any and all federal, state and local laws, rules and regulations relating to the environment, existing at the Premises. The foregoing indemnity shall not apply to Losses resulting or arising from the gross negligence or willful misconduct of the Mortgagee.

2. The obligations of the Mortgagors under this Article IV shall not in any way be affected or limited by the absence of any insurance, by the amount of any insurance policy or by the failure or refusal of any insurance carrier to perform any obligation on its part under any insurance policies. If any claim, action or proceeding is made or brought against the Mortgagee or any of its directors, officers, employees, affiliates and agents, by reason of any event as to which the Mortgagors are obligated to indemnify the Mortgagee or any of its directors, officers, employees, affiliates and agents, then, upon demand by the Mortgagee, the Mortgagors, at its sole cost and expense, shall resist or defend such claim, action or proceeding in the Mortgagee's, or any of its directors, officers, employees, affiliates and agents, name, if necessary, by the attorneys for the Mortgagor's insurance company or by such attorneys as the Mortgagee shall approve in writing, which approval shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, the Mortgagee or any of its directors, officers, affiliates, employees and agents may engage its own attorneys in its reasonable discretion to defend it or to assist in its defense and the Mortgagors shall pay the reasonable fees and disbursements of such attorneys.

IV. EVENTS OF DEFAULT.

The following shall constitute events of default under this Mortgage (each, an "Event of Default"):

A. If any Event of Default or default shall occur under the terms of any of the Secured Obligations.

B. If the Mortgagors shall default in the performance or observance of any covenant, agreement or condition contained in this Mortgage and such default shall continue for fifteen (15) days after notice thereof from the Mortgagee.

C. If any representation or warranty made by the Mortgagors in this Mortgage or in any other Loan Document shall prove to have been false, incorrect or misleading in any material respect on the date as of which made.

D. If the Premises shall be sold, transferred, assigned or otherwise conveyed, including without limitation, the entering into by the Mortgagors of a long-term lease of the Premises, or if title to the Premises or any part thereof shall be transferred or conveyed to any person, firm, corporation, trust, association or other entity, including without limitation, the passing of title to, or possession of the Premises by, a receiver, trustee or assignee for the benefit of creditors.

E. If any default shall occur under the terms of any of the Permitted Encumbrances.

F. If a default or event of default occurs under a mortgage that is prior or subordinate to the lien of this Mortgage, including without limitation, if any mortgagee claims a right to possession or commences a foreclosure action.

G. (i) The Mortgagors shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian or other similar official for all or any substantial part of its assets, or (ii) the Mortgagors shall make a general assignment for the benefit of creditors; or (iii) the Mortgagors shall commence, or there shall be commenced against the Mortgagors, any case, proceeding or other action of a nature referred to in clause (i) above which (A) results in the entry of an order for relief of any such adjudication or appointment or (B) remains undismissed, undischarged or unbonded for a period of sixty (60) days; or (iv) there shall be commenced against the Mortgagors any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets, which results in the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within sixty (60) days from the entry thereof; or (v) the Mortgagors shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clauses (i), (ii), (iii) or (iv) above; or (v) the Mortgagors shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due.

H. The Mortgagors shall (i) default in any payment with respect to any indebtedness for money borrowed, whether from the Mortgagee or any other lender, beyond the period of grace, if any, provided in the instrument or agreement under which such indebtedness was created; or (ii) default in the observance or performance of any other agreement or condition relating to any such indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur, the effect of which default or other event is to cause, or to permit the holder of such indebtedness (or a trustee or agent on behalf of such holder) to cause, with the giving of notice if required, such indebtedness to become due prior to its stated maturity. In addition, the Mortgagors acknowledges and agrees that any Event of Default hereunder or under any other Loan Document shall be an event of default under and with respect to all other indebtedness, whether actual or contingent, of the Mortgagors to the Mortgagee.

I. A final judgment shall be entered against the Mortgagors by any court for the payment of money which, together with all other outstanding judgments against the Mortgagors, exceeds fifty thousand dollars ($50,000) in the aggregate, which judgment is not fully covered by insurance, or a warrant of attachment or execution or similar process shall

be issued or levied against property of the Mortgagors which, together with such other property subject to such process, exceeds in value fifty thousand dollars ($50,000) in the aggregate and, if within sixty (60) days (ten (10) days if such aggregate amount exceeds one hundred thousand dollars ($100,000)) after the entry, issue or levy thereof, such judgment, warrant or process shall not have been discharged or stayed pending appeal, or, if within sixty (60) days (ten (10) days if such aggregate amount exceeds one hundred thousand dollars ($100,000)) after the expiration of any such stay, such judgment, warrant or process shall not have been discharged.

J. The Mortgagors shall enter into any junior financing of the Premises without the prior written consent of the Mortgagee.

V. **REMEDIES**.

In case one or more Events of Default shall have occurred, the Mortgagee shall have the following rights and remedies:

A. The Mortgagee may declare all amounts outstanding (with accrued interest thereon) and all other amounts owing to it under the Secured Obligations to be immediately due and payable, whereupon the same shall become due and payable forthwith without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Mortgagor.

B. To take any action at law or in equity to collect the payments due under the Secured Obligations secured hereby or to enforce the performance and observance of the obligations, agreements and covenants of the Mortgagors contained in this Mortgage and the other Loan Documents.

C. Enter into possession of the Premises and employ watchmen to protect the Premises from injury.

D. To institute an action of mortgage foreclosure, or take other action as the law may allow, at law or in equity, for the enforcement of this Mortgage, and proceed therein to final judgment and execution for the entire unpaid balance of the Secured Obligations, including costs of suit, interest and reasonable attorneys' fees. In case of any sale of the Premises by virtue of judicial proceedings, the Premises may be sold in one parcel and as an entirety or in such parcels, manner or order as the Mortgagee in its sole discretion may elect. The failure to make any tenants parties defendant to a foreclosure proceeding and to foreclose their rights will not be asserted by the Mortgagors as a defense in any proceeding instituted by the Mortgagee to collect the Secured Obligations secured hereby or any deficiency remaining unpaid after the foreclosure sale of the Premises. Notwithstanding anything herein to the contrary, the Mortgagors shall continue to be responsible for the payment of taxes, insurance and all other amounts payable with respect to the Premises until title to the Premises shall be conveyed at a sheriff's sale or other similar proceeding.

E. If the Event of Default relates to the payment of any tax, assessment, water or sewer rent or governmental charge, or the payment of a premium for insurance, or the obligation to keep the Premises in satisfactory repair and condition, or to otherwise preserve the security of this Mortgage, then the Mortgagee, in addition to or in lieu of exercising any other rights which it may have hereunder or under any other document executed in connection with any Secured Obligations secured hereby, may pay the tax, assessment, water or sewer rent, governmental charge, insurance premium, or the cost of placing the Premises in satisfactory repair and condition, or the cost of otherwise preserving the security of this Mortgage, and the amount so paid shall be added to the moneys owing on the Secured Obligations and shall be secured hereby and shall be due and payable on demand with interest equal to the prevailing interest rate under the Secured Obligations plus four percent (4%).

F. Upon the occurrence of any Event of Default, the Mortgagee is hereby empowered and appointed attorney-in-fact of the Mortgagors to enter upon and take possession of the Premises and rent the same, either in its name or in the name of the owner of such property, and to demand, collect and receive from the tenants, lessees or other occupants then in possession of the Premises or any part thereof, the rents, issues and profits as they become due as well as all past due rents, income or profits which have not been collected by the Mortgagors, to endorse the name of the Mortgagors or any subsequent owner of the Premises on any checks, notes or other instruments for the payment of money, to give any and all acquaintances or any other instrument in relation thereto in the name of the Mortgagors, and to institute, prosecute, settle or compromise any summary or legal proceedings in the name of the Mortgagors or in the name of the Mortgagee for the recovery of such rents, income or profits, or for the abatement of any nuisance thereon, and to defend, at the Mortgagee's option and sole discretion, any legal proceedings brought against the Mortgagors arising out of the operation of the Premises. All rents, issues and profits collected or received by the Mortgagors after an Event of Default shall be accepted and held for the Mortgagee in trust and shall not be commingled with the funds and property of the Mortgagors, but shall be promptly paid over to the Mortgagee; and the Mortgagors agrees to pay the Mortgagee, if demanded by it, a reasonable rental for the portion of the Premises occupied by the Mortgagors, monthly in advance as a tenant from month to month, and in default of any such payment the Mortgagors may be dispossessed by summary proceedings, such tenancy to expire upon delivery of deed in foreclosure; and the Mortgagee shall apply the rents, issues and profits, after the payment of the necessary charges and expenses, including management fees and commissions, on account of the Secured Obligations hereby secured, being accountable only for rents, issues and profits as are collected by it while in possession.

G. Upon the filing of a complaint to collect the amount due on any Secured Obligation, the Mortgagee shall be entitled to the appointment of a receiver of the rents, issues and profits of the Premises without the necessity of proving either inadequacy of the security or insolvency of the Mortgagors or any person who may be legally or equitably liable to pay moneys secured hereby, and the Mortgagors and each such person waive such proof and consent to the appointment of a receiver.

H. To exercise any and all rights and remedies conferred upon secured parties by the Uniform Commercial Code and other applicable laws.

In addition to the above remedies, if the Mortgagors commits a breach or threatens to commit a breach of this Mortgage, the Mortgagee shall have the right and remedy, without posting bond or other security, to have the provisions of this Mortgage specifically enforced by any court having equity jurisdiction, it being acknowledged and agreed that any such breach or threatened breach will cause immediate and irreparable injury to the Mortgagee and that the Mortgagee's rights in and to the Premises will not provide an adequate remedy therefor.

All proceeds received from the sale or other disposition of the whole or any part of the Premises shall be applied as follows: (i) first, to the payment of all fees, costs and expenses incurred by the Mortgagee in connection with such sale or disposition; (ii) second, to the payment in full of the Secured Obligations; and (iii) third, the balance, if any, of such proceeds remaining after payment in full of the foregoing, to the Mortgagors or as a court of competent jurisdiction may otherwise direct.

Without limiting the foregoing, in exercising its remedies upon the occurrence of an Event of Default, the Mortgagee (i) shall not be responsible nor liable for any shortage, discrepancy, damage, loss or destruction of any part of the Premises regardless of the cause thereof unless the same shall happen through its gross negligence or willful misconduct; (ii) shall be entitled to the appointment (without notice and without proof of diminution in value of the Premises) of a receiver to take possession of all or any portion of the Premises and to exercise such powers as the court shall confer upon the receiver; and (iii) generally may perform all acts necessary or proper to carry out the intention of this Mortgage, as fully and completely as though the Mortgagee were the absolute owner of the Premises for all purposes, and the Mortgagors hereby ratifies and confirms all that the Mortgagee shall do by virtue of this grant of power.

The rights and remedies of the Mortgagee hereunder shall be in addition to every other right and remedy now and hereafter provided by law; the rights and remedies of the Mortgagee shall be cumulative and not exclusive one of the other; the Mortgagee may exercise the same at such times, in such order, to such extent, and as often as Mortgagee deems advisable, and without regard to whether the exercise of one precedes, concurs with, or succeeds the exercise of another; no delay or omission by the Mortgagee in exercising a right or remedy shall exhaust or impair the same, or constitute a waiver of, or acquiescence in, the Event of Default; and no waiver of an Event of Default by the Mortgagee shall extend to or affect any other Event of Default or impair any right or remedy with respect thereto.

VI. MISCELLANEOUS.

A. NOTICES. All notices and other communications given to or made upon any party hereto in connection with this Mortgage shall, except as otherwise expressly herein provided, be in writing and hand delivered or sent by first class United States mail, postage

prepaid, return receipt requested, or by reputable overnight courier providing a receipt against delivery, to the respective parties, as follows:

Mortgagors: Mary Hanslovan
Edward Hanslovan
address

-with a copy to-
Carl Balan, Esq.
address

Mortgagee: General Electric Capital Corporation
Old Ridgebury Road
Danbury, Connecticut 06810
Att: Mark Skura

-with a copy to-

Oppenheimer Wolff & Donnelly LLP
The Chrysler East Building – Suite 1900
New York, New York 10017-4011
Att: Elena Lazarou, Esq.

or to such changed address as may be fixed by notice. All such notices and other communications shall, except as otherwise expressly herein provided, be effective when received by the party to whom properly addressed, the written receipt by any employee of any such party constituting sufficient evidence of such receipt.

B. INDULGENCES; EXTENSIONS. The Mortgagee, with respect to the Secured Obligations secured hereby, the Premises and the Mortgagor's obligations hereunder, may waive compliance with any of the provisions hereof, and may release all or any part of the Premises from any lien hereof, without affecting the priority or validity of the lien hereof upon the remainder of the Premises.

C. INVALID PROVISIONS TO AFFECT NO OTHERS. In case any one or more of the covenants, agreements, terms or provisions contained in this Mortgage shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms or provisions contained herein shall be in no way affected, prejudiced or disturbed thereby.

D. SUCCESSORS AND ASSIGNS; PLURALS. All of the grants, covenants, terms, provisions and conditions of this Mortgage shall run with the land and bind the Mortgagors, its legal representatives, heirs, successors and assigns, and shall inure to the benefit of the Mortgagee, the successors and assigns of the Mortgagee and all subsequent

holders of this Mortgage. As used herein the singular shall include the plural and vice versa as the context requires.

E. **CAPTIONS**. The captions herein are inserted only for convenience of reference and in no way define, limit or describe the scope or intent of this Mortgage or any particular paragraph or section hereof, nor the proper construction hereof.

F. **GOVERNING LAW**. This Mortgage is to be construed according to the laws of the State of Ohio.

H. **COUNTERPARTS. THIS MORTGAGE CANNOT BE CHANGED ORALLY**

I. WAIVER OF JURY TRIAL. THE MORTGAGORS HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN CONNECTION WITH ANY AND ALL LITIGATION INVOLVING THE SUBJECT MATTER OF THIS MORTGAGE.

J. RECEIPT OF MORTGAGE. THE MORTGAGORS HEREBY ACKNOWLEDGES RECEIPT OF A TRUE COPY OF THIS MORTGAGE, WITHOUT CHARGE.

IN WITNESS WHEREOF, the Mortgagors have caused this Mortgage to be executed and delivered as of the day and year first above written.

WITNESS:

_____

Mary Hanslovan

_____

Sworn to before me this
___st day of August, 2002.

_____
Notary Public

WITNESS:

_____

Edward Hanslovan

By:_____

Sworn to before me this
___st day of August, 2002.

_____
Notary Public

MORTGAGE AND SECURITY AGREEMENT

Dated: August __, 2002

From

Edward Hanslovan
and
Mary Hanslovan
address

To

General Electric Capital Corporation
44 Old Ridgebury Road
Danbury, Connecticut 06801

LOCATION OF PREMISES:

Street Address:

Town:
County: _____
State: Pennsylvania
Section: _____
Block: _____
Lot: _____

After recording, please return to:

OPPENHEIMER WOLFF & DONNELLY LLP
The Chrysler East Building
666 Third Avenue, Suite 1900
New York, New York 10017-4011
Attn: Elena Lazarou, Esq.

EXHIBIT C

HANSLOVAN COAL COMPANY MINERAL RESERVES AND SPECIFICATIONS

Location	Job Name	Mineable Acres	Mineral	Approx. Vein Height (in)	Approx. Vein Depth (ft)	Type of Vein	Approx. Amount (Tons)	Est. BTUs	Est. Sulfur (%)	Est. Ash (%)	Permit
Clover Run		480	Coal	50	90-95	U. Freeport	3,480,000	13.6-14.0k	1.20-1.80	8	Yes
			Limestone	264	95-100		38,776,320				
			Coal	35	110-115	L. Freeport	2,436,000	13.6-14.0k	1.20-1.80	8	
	Tower North	255	Coal	50	90-95	U. Freeport	1,848,750	13.6-14.0k	1.20-1.80	8	Yes
			Limestone	264	95-100		20,599,920				
			Coal	35	110-115	L. Freeport	1,294,125	13.6-14.0k	1.20-1.80	8	
Brockway	Buchanon	169	Coal	32	80-90	U. Freeport	784,160	13.6-14.0k	1.10-1.25	9-10	Yes
			Coal	40	130-140	L. Freeport	980,200	13.6-14.0k	1.10-1.25	9-10	
			Coal	192	350-400	Clarion	4,704,960	?	Low sulfur	?	No
	Sedlock	109	Coal	32	80-90	U. Freeport	505,760	13.6-14.0k	1.10-1.25	9-10	No
			Coal	40	130-140	L. Freeport	632,200	13.6-14.0k	1.10-1.25	9-10	
			Coal	192	350-400	Clarion	3,034,560	?	Low sulfur	?	No
	Kearney	100	Coal	32	80-90	U. Freeport	464,000	13.6-14.0k	1.10-1.25	9-10	No
			Coal	40	130-140	L. Freeport	580,000	13.6-14.0k	1.10-1.25	9-10	
			Coal	192	350-400	Clarion	2,784,000	?	Low sulfur	?	No
	Calhoun	153	Coal	192	350-400	Clarion	4,259,520	?	Low sulfur	?	No
	Deemer	97	Coal	192	350-400	Clarion	2,700,480	?	Low sulfur	?	No
	Gustafson	111	Coal	192	350-400	Clarion	3,090,240	?	Low sulfur	?	No
	James Patton	106	Coal	32	80-90	U. Freeport	491,840				
			Coal	192	350-400	Clarion	2,951,040	?	Low sulfur	?	No
	Ray Patton	81	Coal	192	350-400	Clarion	2,255,040	?	Low sulfur	?	No

	Smith	102	Coal	192	350-400	Clarion	2,839,680	?	Low sulfur	?	No
Location	**Job Name**	**Mineable Acres**	**Mineral**	**Approx. Vein Height (in)**	**Approx. Vein Depth (ft)**	**Type of Vein**	**Approx. Amount (Tons)**	**Est. BTUs**	**Est. Sulfur (%)**	**Est. Ash (%)**	**Permit**
Turkey Hil	I	370	Coal	20	20	C-prime	1,073,000	12.0-12.2k	0.6-0.8	9	Yes
			Coal	26	60	C	1,394,900	12.4-12.6k	0.6-0.8	10	
			Coal	24	105	B	1,287,600	13.8-14.0k	0.6-0.8	4	
	II	148	Coal	20	20	C-prime	429,200	12.0-12.2k	0.6-0.8	9	Yes
			Coal	26	60	C	557,960	12.4-12.6k	0.6-0.8	10	
			Coal	24	105	B	515,040	13.8-14.0k	0.6-0.8	4	
Morrisdale		100	Coal	36	80-85	B	522,000	13.0-13.5k	1.6-1.8	9	Yes

SUMMARY

Location	**Strip Mine Coal (Tons)**	**Strip Mine Limestone (Tons)**	**Deep Mine Coal (Tons)**
Clover Run	9,058,875	59,376,240	0
Brockway	3,946,320	0	29,111,360
Turkey Hil	5,257,700	0	0
Morrisdale	522,000	0	0
TOTAL	**18,784,895**	**59,376,240**	**29,111,360**

NOTES:

1) A density of 80 pounds per cubic foot = (145 * inch * acre) was used to compute coal reserves

2) A density of 169 pounds per cubic foot = (306 * inch * acre) was used to compute limestone reserves

3) Mineable acres represents the approximate amount of acres at each job location that have not been stripped										
Prepared by: Jim Davic (216) 977-1079 (7/8/02)										

EXHIBIT D

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT (the "Mortgage") is made this ____ day of August, 2002, by Edward Hanslovan and Mary Hanslovan (the "Mortgagors"), in favor of General Electric Capital Corporation, whose principal business address is 44 Old Ridgebury Road, Danbury, Connecticut 06801 ("GE Capital" or the "Mortgagee").

WITNESSETH:

WHEREAS, GE Capital has agreed to (i) amend and restructure the outstanding obligations of Ed Hanslovan Coal Company, Inc. ("Debtor") of which the Mortgagors are principals, under, among other things, that certain Master Lease Agreement dated April 5, 1996, that certain Installment Note dated October 10, 1997, and that certain Master Security Agreement, dated October 10, 1997, and (ii) forego immediate enforcement of those certain Individual Guaranties executed by each of the Mortgagors and dated March 7, 1996 (the foregoing instruments shall hereinafter be collectively referred to as the "Secured Obligations"). To secure performance of all obligations of the Mortgagors to the Mortgagee hereunder and under each of the Secured Obligations, the Mortgagors hereby mortgage to the Mortgagee:

ALL THAT CERTAIN plot, piece or parcel of land, with the buildings and improvements thereon erected, situated, lying and being known as _____, more particularly described in Exhibit "1" attached hereto and incorporated by reference;

TOGETHER with all and singular the tenements, hereditaments, and appurtenances thereunto belonging, or in any wise appertaining, and the reversion or reversions, remainder and remainders; and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, in law and in equity, of the Mortgagors, of, in and to the same and every part and parcel thereof, with appurtenances, including all fixtures affixed to the same or intended so to be, and also, all machinery, equipment, improvements and personal property now in or upon or which may hereinafter be installed in or affixed to the same, to the extent the foregoing relate to or are necessary for the complete and comfortable use, enjoyment, maintenance, operation or occupancy thereof, including, but not limited to, furnaces, boilers, oil burners, radiators and piping, heating system, electrical system, panel boards, plumbing and bathroom fixtures, air conditioning, sprinkler systems, wash tubs, sinks, gas and electric fixtures, stoves, ranges, awnings, screens, window shades, refrigerators, kitchen cabinets, plants and shrubbery, as to which this Mortgage constitutes a security agreement (the "Property");

TOGETHER with all the right, title and interest of the Mortgagors in and to all streets, roads and public places, opened or proposed, adjoining the Property, and all easements and rights-of-way, public or private, all sidewalks and alleys, and all strips and gores of land now or hereafter used in connection with the Property;

TOGETHER with the rents, issues and profits arising or issuing from the Property or the improvements thereon as further security for the payment of the Secured Obligations of the Mortgagors, and the Mortgagors grants to the Mortgagee the right to enter upon and to possession of the Property for the purpose of collecting the same and to let the Property or any part thereof, and to apply the rents, issues and profits, after payment of all necessary charges and expenses, on account of the Secured Obligations as hereinafter provided;

TOGETHER with any and all awards, damages, payments, judgments, settlements and other compensation, including without limitation, insurance proceeds, and any and all causes of action, claims therefor and rights thereto, which may result from (i) taking or injury by virtue of the exercise of the power of eminent domain, (ii) a lawsuit or other legal proceeding, or (iii) any damage, injury or destruction in any manner caused to the Property or the improvements thereon, or any part thereof;

TOGETHER with all the estate, right, title, interest, property, possession, claim and demand whatsoever of the Mortgagors, in law as well as in equity, of, in and to the same and every part and parcel thereof with the appurtenances;

TOGETHER with all other assets and personal property of the Mortgagors relating to, or used in the operation of, the Property, including without limitation, all accounts, goods, fixtures, inventory, equipment, chattel paper, documents instruments and general intangibles (as such terms are defined in the Uniform Commercial Code), whether now owned or hereafter acquired;

AND ALSO, all proceeds of the foregoing.

ALL of which property and rights therein described above being hereinafter collectively referred to as the "Premises".

TO HAVE AND TO HOLD, the above granted and described Premises unto the Mortgagee, its successors and assigns, to its and their own proper use, benefit and behoove forever.

This Mortgage further creates a security interest in the fixtures included in the Premises and constitutes a security agreement and financing statement under the Uniform Commercial Code. The Mortgagors shall execute, file and refile such financing statements or other security agreements as the Mortgagee shall require from time to time with respect to such fixtures and other personal property and assets included in the Premises. The Mortgagors hereby authorizes the Mortgagee to file such financing statement or statements and any amendments thereto pursuant to said Uniform Commercial Code, without the signature of the Mortgagors, as the Mortgagee may deem necessary to perfect such interest or right in its favor.

PROVIDED ALWAYS, and these presents are made upon this express condition, that if the Secured Obligations shall be duly paid or performed as and when the same shall

become due and payable or be required to be performed, then these presents and the estate hereby granted shall cease, terminate and be void.

I. REPRESENTATIONS AND WARRANTIES OF THE MORTGAGOR.

The Mortgagors hereby represent and warrant to the Mortgagee as follows:

A. ORGANIZATION, POWER AND QUALIFICATION; AUTHORIZATION OF AGREEMENT

(a) The Mortgagors have all requisite authority to own and operate their properties and assets.

(b) The Mortgagors have full power and authority to execute, deliver and perform any action or step which may be necessary to carry out the terms of this Mortgage and this Mortgage is legal, valid and binding obligations on the Mortgagors enforceable in accordance with its terms, subject to any applicable bankruptcy, insolvency, general equity principles or other similar laws affecting the enforcement of creditors' rights generally.

B. **NO LEGAL BAR**. The execution, delivery and performance of this Mortgage will not (i) violate any provision of any existing law, statute, rule, regulation or ordinance, (ii) conflict with, result in a breach of or constitute a default under (a) the certificate of formation or operating agreement of the Mortgagors, (b) any order, judgment, award or decree of any court, arbitrator, or governmental authority, bureau or agency, or (c) any mortgage, indenture, lease, contract or other agreement or undertaking to which the Mortgagors are a party or by which the Mortgagors or any of its properties or assets may be bound, or (iii) result in the creation or imposition of any mortgage, security interest, restriction, lien or other encumbrance upon or with respect to any property or asset now owned or hereafter acquired by the Mortgagors, other than in favor of the Mortgagee.

C. **CONSENT**. No consent, license, permit, approval or authorization of, exemption by, notice to, report to, or registration, filing or declaration with any person or governmental authority, bureau or agency is required in connection with the execution, delivery, performance or validity of the Mortgage or the transactions contemplated thereby.

D. **COMPLIANCE WITH LAW**. The Mortgagors are not in violation of any applicable law, rule, regulation, statute, ordinance, or any order, judgment, award or decree of any court, arbitrator, or governmental authority, bureau or agency, the violation of which would have a materially adverse effect on the business, assets, liabilities or financial condition of the Mortgagors.

E. **NO DEFAULT**. The Mortgagors are not in default in any material respect in the payment or performance of any of its obligations or in the performance of any mortgage, indenture, lease, contract or other agreement or undertaking to which it is a party or by which it or any of its properties or assets may be bound, and no default or event of default has occurred and is continuing. The Mortgagors are not in default under any order, award or

decree of any court, arbitrator or governmental authority, bureau or agency binding upon or affecting it or by which any of its properties or assets may be bound or affected, and no such order, award or decree, if any, materially adversely affects the ability of the Mortgagors to carry on its business as presently conducted or to perform its obligations hereunder.

F. **NO LITIGATION**. No litigation, investigation or proceeding of or before any court, arbitrator or governmental authority, bureau or agency is currently pending, nor, to the knowledge of the Mortgagors, threatened, against the Mortgagors or any of the Mortgagors' properties and revenues which, if adversely determined, would materially adversely affect the ability of the Mortgagors to carry on its business as presently conducted or to perform its obligations hereunder.

G. **NO BURDENSOME RESTRICTIONS**. The Mortgagors are not a party to nor is bound by any contract or agreement or instrument nor subject to any restriction materially and adversely affecting the business or financial condition of the Mortgagors.

H. **TAX RETURNS AND PAYMENTS; FINANCIAL STATEMENTS.**

1. All federal, state and other tax returns of the Mortgagors required by law to be filed have been duly filed or extensions obtained, and all federal, state and other taxes, assessments and governmental charges or levies upon the Mortgagors or any of its properties, income, profits or assets which are due and payable have been paid, except such tax returns the nonfiling of which, and such taxes the non-payment of which, would not have a material adverse effect upon the business, assets, liabilities or financial condition of the Mortgagors and except for such taxes and assessments which the Mortgagors are disputing in good faith and for which the Mortgagors has established adequate reserves on its books for the payment of such disputed taxes or assessments in accordance with generally accepted accounting principles.

2. All financial statements and financial information provided to the Mortgagee by or on behalf of the Mortgagors fairly present the financial position and results of operations of the Mortgagors on the dates and for the periods then ended and show all direct liabilities and all known contingent liabilities of a material nature.

3. Since the date of the most recent financial statement provided to the Mortgagee by or on behalf of the Mortgagors, no material adverse change has occurred in the business, assets, liabilities, financial condition, results of operations or business prospects of the Mortgagors, and no event has occurred or failed to occur which has had or is likely to have a material adverse effect on the business, assets, liabilities, financial condition, results of operations or business prospects of the Mortgagor.

I. **FINANCIAL CONDITION**.

1. The Mortgagors are now, and after giving effect to the transactions contemplated hereby will be in, a financially solvent condition; the execution and delivery of this Mortgage does not constitute a "fraudulent conveyance" or "fraudulent transfer" within

the meaning of any applicable federal or state statute; and no bankruptcy or insolvency proceedings are presently pending by or against the Mortgagors.

2. No fact is known to the Mortgagors which has had or is likely in the future to have (so far as Mortgagors can reasonably foresee) a materially adverse effect upon the Mortgagor's business, assets, liabilities, condition, financial or otherwise, or results of operations that has not been set forth in the financial statements furnished to the Mortgagee or other reports or other papers or data otherwise disclosed in writing to the Mortgagee.

3. The Mortgagors do not intend to, nor does the Mortgagors believe that it will incur debts beyond its ability to pay such debts as they mature. The cash available to the Mortgagors are anticipated to be sufficient to pay all amounts on or in respect of debt of the Mortgagors when such amounts are required to be paid.

4. The Mortgagors does not believe that final judgments against it in actions for money damages will be rendered at a time when, or in an amount such that, the Mortgagors will be unable to satisfy any such judgments promptly in accordance with their terms (taking into account the maximum reasonable amount of such judgments in any such actions and the earliest reasonable time at which such judgments might be rendered). The cash available to the Mortgagors after taking into account all other anticipated uses of the cash of the Mortgagors are anticipated to be sufficient to pay all such judgments promptly in accordance with their terms.

J. **WARRANTY OF TITLE**. The Mortgagors are lawfully seized of an indefeasible estate in fee simple in the Premises, subject only to those exceptions (the "Permitted Encumbrances") set forth in that certain Title Insurance Commitment issued in connection with this Mortgage, as delivered to the Mortgagee and endorsed on the date hereof, which is incorporated herein by reference, and the Mortgagors will warrant and forever defend the title thereof unto the Mortgagee against all lawful claims whatsoever.

K. **ACCURACY AND COMPLETENESS OF INFORMATION**. All written information, reports and other papers and data furnished to the Mortgagee by the Mortgagors were, at the time the same were so furnished and remain, as of the date hereof, complete and correct in all material respects and did not and do not contain any untrue statement of fact or omit to state any material fact necessary in order to make the statements and information contained therein not misleading.

II. COVENANTS OF THE MORTGAGOR.

The Mortgagors hereby covenant and agree with the Mortgagee, until the Secured Obligations are performed and paid in full, as follows:

A. **PAYMENT OF SUMS SECURED**. The Mortgagors will pay the indebtedness as herein before provided. This Mortgage shall remain in full force and effect until the Secured Obligations and all other obligations under this Mortgage are fully and

indefeasibly paid and the performance obligations of the Mortgagors to the Mortgagee under the Loan Documents and this Mortgage have been satisfied in full.

B. **INSURANCE.**

1. The Mortgagors shall (a) keep in effect or cause to be kept in effect upon the Premises for the benefit of the Mortgagee insurance against loss or damage by fire and all other risks embraced within "all risk" and "extended coverage" including, but not limited to, vandalism and malicious mischief endorsements, in such amount, by such insurers, and containing such provisions as the Mortgagee may reasonably require, but in no event less than the replacement value of all improvements on the Premises, and (b) obtain or cause to be obtained public liability insurance in such minimum amounts and with such insurance companies as are reasonably satisfactory to the Mortgagee, but in no event less than $1,000,000 per occurrence.

2. Any insurance required pursuant to this Mortgage shall be so written or endorsed as to (a) name the Mortgagee as an additional insured, (b) contain the standard (non-contributing) mortgagee endorsement in favor of the Mortgagee as second mortgagee, (c) shall not contain any "co-insurance provisions", (d) shall be obtained from insurers which are reasonably satisfactory to the Mortgagee, and (e) with respect to insurance against loss or damage to property, name the Mortgagee as a "loss payee" and make losses payable to the as Second Mortgagee. The Mortgagors shall pay the premiums on the policies of all insurance required pursuant to this Mortgage as they become payable and shall deliver to the Mortgagee certificates of insurance and evidence of payment of all premiums, and, if requested by the Mortgagee, the original policies of property insurance and, if required, flood insurance, and certificates evidencing public liability insurance. All insurance shall provide that the Mortgagee is the Certificate Holder and the Mortgagors shall provide all such Certificates to the Mortgagee. Notwithstanding the foregoing, a mortgagee with a lien against the Premises senior in priority to this Mortgage ("Senior Mortgagee") shall have superior rights to insurance up to the amount of the Senior Mortgagee's mortgage.

3. All renewal or replacement policies shall be delivered by the Mortgagors, premiums paid, to the Mortgagee at least thirty (30) days before the expiration of the expiring policies. Each insurance policy shall provide that the Mortgagee shall be furnished with not less than thirty (30) days' prior written notice before any termination, cancellation, non-renewal or reduction in scope becomes effective as to the Mortgagee. If the Mortgagee becomes the owner of the Premises or any part thereof by foreclosure or otherwise, such policies shall become the absolute property of the Mortgagee.

C. **DAMAGE, DESTRUCTION AND CONDEMNATION**. If the Premises or any part thereof shall be damaged or either partially or totally destroyed, or if title to or the temporary use of the whole or any part of the Premises shall be taken, condemned or purchased under threat of condemnation by a competent authority for a public use or purpose, the Mortgagee shall be entitled to receive and shall receive any and all insurance proceeds or condemnation awards with respect thereto (hereinafter, the "Proceeds"), subject,

however, to the rights of any Senior Mortgagee. The Mortgagee shall have the right to participate in the defense of any condemnation action and the valuation of the Premises in connection therewith. So long as no Event of Default shall have occurred and be continuing hereunder, the Mortgagee shall remit such Proceeds to the Mortgagors to restore, replace or repair the Premises; provided, however, that if an Event of Default shall have occurred and be continuing hereunder, the Mortgagee shall have the right, in its sole and absolute discretion, to determine whether to apply such Proceeds to prepay the principal, interest and other charges on the Secured Obligations or to remit such Proceeds to the Mortgagors to restore, replace or repair the Premises. In any case in which Proceeds (and such additional funds) are to be applied to restore, replace or repair any part of the Premises, such restoration, replacement or repair shall in any event be subject to the satisfaction of the following conditions:

1. The Mortgagors shall submit or cause to be submitted to the Mortgagee for its approval, an estimate of the cost of restoration, replacement or repair of the Premises, accompanied by an architect's certification as to such costs and final plans and specifications with respect thereto. All buildings and improvements so restored, replaced or repaired shall be of substantially the same character and value as the buildings and improvements prior to such damage or destruction and shall be suitable for the purposes for which they were originally erected. The Mortgagors shall furnish the Mortgagee with evidence reasonably satisfactory to the Mortgagee that all buildings and improvements so restored, replaced and/or repaired and their contemplated use fully comply with all zoning and building laws, ordinances and regulations, and with all other applicable federal, state or local laws and requirements.

2. If at any time the estimated cost of restoration, replacement or repair shall exceed the Proceeds available therefor, the Mortgagors shall escrow additional monies with the Mortgagee in an amount equal to such excess estimated cost.

3. Each disbursement of the Proceeds during the course of restoration, replacement or repair shall be subject to receipt by the Mortgagee of a requisition signed by the Mortgagors stating (a) the requisition number, (b) the name and address of the person or entity to whom payment is to be made, or if the payment is to be made to the Mortgagors for a reimbursable advance, the name and address of the person or entity to whom the advance was made together with proof of payment by the Mortgagors, and (c) that each obligation for which payment is sought is unpaid or unreimbursed and has not been the basis of any previously paid requisition. Each requisition shall be accompanied by (i) an approved certification by a licensed A.I.A. architect reasonably acceptable to the Mortgagee as to the cost of materials furnished and work done and evidence that such work and materials are free and clear of liens, (ii) if requested by the Mortgagee, an updated title insurance endorsement as of the date of each such disbursement insuring the continued validity and priority of this Mortgage and (iii) such other documents, certificates or instruments as the Mortgagee shall reasonably require. No payment made prior to the final completion of work shall exceed 90% of the value of the work performed or materials furnished and incorporated into the Premises from time to time, and at all times the undisbursed balance of said Proceeds

(together with the additional security referred to in the preceding paragraph) shall be at least sufficient to pay for the cost of completion of the work, free and clear of liens. Said Proceeds are to be released not more than once a month, and the disbursement of said Proceeds shall be subject to such other provisions and safeguards as the Mortgagee then requires in connection with construction loans for similar projects. The administration of such provisions shall be at the sole cost and expense of the Mortgagor.

4. Final payment shall be made upon receipt by the Mortgagee of a certification by a licensed A.I.A. architect reasonably acceptable to the Mortgagee as to completion in accordance with the approved plans and specifications and, if requested by the Mortgagee, the issuance to the Mortgagee of a title policy endorsement reasonably satisfactory to the Mortgagee insuring the continued validity and priority of this Mortgage as a mortgage lien.

5. All costs and expenses incurred by the Mortgagee in disbursing said funds shall be paid for by the Mortgagors and may be deducted by the Mortgagee from the funds to be so advanced for such restoration, replacement or repair.

6. Nothing herein shall be construed to require the Mortgagee to advance any sums for any such restoration, replacement or repair beyond the amount of the Proceeds actually received by the Mortgagee and set aside for such purpose less the amount of the Mortgagee's costs and expenses referred to above.

7. The Mortgagors shall promptly notify the Mortgagee of any damage, destruction or institution of any proceedings for the condemnation or taking, by powers of eminent domain or purchase under threat thereof, of the whole or any part of the Premises.

8. Prior to an Event of Default, the Mortgagors shall adjust any insurable loss and settle any condemnation proceedings, provided the Mortgagors shall have obtained the prior written consent of the Mortgagee thereto which shall not be unreasonably withheld or delayed. Following the occurrence of an Event of Default, the Mortgagee shall have the exclusive right to adjust any insurable loss and settle any condemnation proceedings.

9. Any moneys released to the Mortgagors or paid or applied to the cost of restoration, replacement or repair shall in no event be deemed a payment of the Secured Obligations. The Mortgagee shall be under no obligation to question the amount of the Proceeds and may accept the same in the amount in which the same shall be paid.

10. Anything to the contrary herein contained notwithstanding, any Proceeds paid over to the Mortgagee and not used for repair, replacement or restoration shall be applied to pay any sums then due and owing to the Mortgagee with respect to the Secured Obligations, and, subject to the rights of the holders (including the Mortgagee) of any Permitted Encumbrances, any excess shall be paid over to the Mortgagor.

D. COMPLIANCE WITH LAWS. The Mortgagors shall comply in all material respects with all applicable federal, state and local laws, rules, regulations, ordinances,

building codes and orders in effect from time to time including, but not limited to, those relating to the environment, the payment of taxes, assessments and other governmental charges, zoning, and the use, occupancy, transfer or encumbrancing of the Premises the failure to comply with which would result in a lien upon the Premises or otherwise impair the value of the Premises. The Mortgagors additionally agrees to pay all costs required to comply with any of the above conditions, and to indemnify and hold the Mortgagee harmless against any loss, liability, cost or expense (including attorneys' fees) arising out of or relating to any proceeding instituted in connection with any alleged or actual violation of any of the foregoing not caused by the Mortgagee.

E. **TAXES AND OTHER CHARGES; MECHANICS' LIENS**. Except as otherwise provided in this Section II(E), the Mortgagors shall pay all taxes, water and sewer rents, fines, impositions and other similar claims, liens and encumbrances assessed, or which may be assessed, against the Premises or any part thereof, without any deduction or abatement, not later than five (5) days before the same shall become due and payable and shall simultaneously with each such payment, furnish to the Mortgagee receipts for the payment thereof in full. The Mortgagors will pay, from time to time when the same shall become due, all lawful claims and demands of mechanics, materialmen, laborers, and others, which, if unpaid, might result in, or permit the creation of, a lien on the Premises or any part thereof, or on the revenues, rents, issues, income and profits arising therefrom, and will do or cause to be done everything necessary so that the lien hereof shall be fully preserved, at the cost of the Mortgagors and without expense to the Mortgagee. If the Mortgagors shall in good faith, and by proper legal action, contest any taxes, assessments, fines, impositions, claims, liens, encumbrances or other charges, or the validity thereof, and provided no Event of Default is then existing and continuing, then the Mortgagors shall not be required to pay the same or to produce such receipts as long as such contest operates to prevent collections, and is maintained and prosecuted with diligence and shall not have been terminated or discontinued adversely to the Mortgagor. In addition to the foregoing, the Mortgagors will pay when due and will not suffer to remain outstanding, any charges for utilities, whether public or private, with respect to the Premises.

F. **FURTHER ASSURANCES; FILING AND RECORDING.**

1. The Mortgagors will, at its sole cost and expense, perform, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, security agreements, assignments, notices of assignment, financing statements, transfers and assurances as the Mortgagee shall from time to time reasonably require, for the better assuring, conveying, assigning, transferring and confirming unto the Mortgagee the property and rights hereby conveyed or assigned or intended now or hereafter so to be, or which the Mortgagors may be or may hereafter become bound to convey or assign to the Mortgagee, for carrying out the intention or facilitating the performance of the terms of this Mortgage or for filing, registering or recording this Mortgage and, on demand, will execute and deliver, and hereby authorizes the Mortgagee and irrevocably appoints the Mortgagee as the agent and attorney-in-fact of the Mortgagors to execute and file in its own name or in the

Mortgagor's name, to the extent it may lawfully do so, all such documents, instruments, certificates and financing statements.

2. The Mortgagors, forthwith upon the execution and delivery of this Mortgage, and thereafter from time to time upon request by the Mortgagee, and as may be required by law, will cause this Mortgage and any security instrument creating a lien or evidencing the lien hereof upon the Premises and the fixtures thereon and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect the lien hereof upon, and the interest of the Mortgagee in, the Premises and the fixtures thereon.

3. The Mortgagors will pay all filing, registration or recording fees, and all expenses incident to the execution and acknowledgment of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Premises and the fixtures thereon, and any instrument of further assurance, and all federal, state, county and municipal stamp taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Premises and the fixtures thereon or any instrument of further assurance.

G. **RIGHT TO REMEDY DEFECTS; INDEMNIFICATION.** If the Mortgagors shall at any time fail to pay any amount payable by it hereunder or fails to comply with any provision of this Mortgage, the Mortgagee may, after reasonable notice to the Mortgagors, pay such amount or comply with such provision and make such expenditures, including reasonable counsel fees, in connection therewith and with enforcing this Mortgage and for repairing, maintaining and preserving the Premises, for establishing, preserving, protecting and restoring the validity and priority of the lien hereof, for obtaining official tax searches of the Premises, for protecting and preserving any use being made of the Premises now or hereafter and for advances to any trustee or receiver of the Premises, as the Mortgagee deems advisable; each amount so paid or expended, with interest at the rate then in effect under the Secured Obligations plus four percent (4%) shall become part of the Secured Obligations and be secured hereby; and the Mortgagors shall pay to the Mortgagee, on demand, the amount of each payment or expenditure, with such aforesaid interest, but no such payment or compliance by the Mortgagee shall constitute a waiver of the Mortgagor's failure so to do or affect any right or remedy of the Mortgagee with respect thereto. The Mortgagors agrees to and does hereby indemnify the Mortgagee, its officers, directors, employees, agents, affiliates and assigns and the Mortgagors shall hold the Mortgagee, its officers, directors, employees, agents, affiliates and assigns harmless from and against any and all losses, claims, damages or liabilities (including all costs, expenses and reasonable counsel fees incurred in investigating or defending such claim) suffered by the Mortgagee, its directors, officers, employees, affiliates and agents and caused by, relating to, arising out of, resulting from or in any way connected with any of the items enumerated in the immediately preceding sentence, except to the extent resulting from the gross negligence or willful misconduct of the Mortgagee or its agents.

H. **PRESERVATION OF THE PREMISES; LIENS AND ENCUMBRANCES**

1. The Mortgagors shall keep the improvements now or hereafter on the Premises in good repair and condition, ordinary wear and tear excepted, and, with reasonable diligence, shall repair, replace or rebuild any material part of the Premises which may be destroyed by any casualty or become damaged, worn or dilapidated. The Mortgagors shall make any repairs needed to immediately preserve the value of the Premises within thirty (30) days after written notice thereof from the Mortgagee; provided, however, that in the event the Mortgagors are diligently undertaking such repairs but same cannot be completed within said 30-day period, the Mortgagee shall extend said 30-day period for as long as the Mortgagors and the Mortgagee shall agree is reasonably necessary in order to complete such repairs; provided further, however, that the Mortgagee shall be under no obligation to extend said period beyond ninety (90) days after the aforementioned written notice.

2. The Mortgagors shall not remove or demolish nor alter the design or structural character of any building now or hereafter erected upon the Premises without the prior written consent of the Mortgagee which consent shall not be unreasonably withheld or delayed. The Mortgagee shall consent to such proposed structural change or alteration upon receipt of (i) a certificate of the Mortgagors stating that no Event of Default then exists and is continuing and (ii) evidence reasonably satisfactory to the Mortgagee to the effect that the proposed structural change or alteration (upon completion) shall not diminish the value of the Premises.

3. The Mortgagors shall not suffer or permit waste of the Premises and shall cause the Premises to comply with all applicable building codes, ordinances, statutes and regulations of all federal, state and municipal governmental authorities and agencies having jurisdiction thereof, including but not limited to, all fire and safety codes.

4. The Mortgagors shall keep the Premises free of all mortgages, liens, charges, encumbrances, attachments, levies, distraints, other judicial process and burdens of every nature, except for Permitted Encumbrances.

I. **NOTIFICATION**. The Mortgagors shall notify the Mortgagee immediately of (a) the occurrence or existence of any Event of Default, (b) the inception of any action, suit, proceeding, inquiry or investigation at law or in equity before any court, public board or body wherein an unfavorable decision, ruling or finding would, to the extent not covered by insurance, have a material adverse effect upon the Premises, and (c) the occurrence of any substantial loss, substantial damage, destruction, condemnation or taking of the whole or any part of the Premises.

J. **RIGHT TO INSPECT PREMISES AND BOOKS AND RECORDS; APPRAISAL**

The Mortgagors shall permit the Mortgagee, by its duly authorized officers and agents during normal business hours and upon reasonable written notice, to enter upon and inspect the Premises and, to the extent and with such frequency as is reasonably required by the Mortgagee, the books and records of the Mortgagor. The Mortgagee shall also have the right, from time to time, upon reasonable notice to the Mortgagors, to conduct or cause to be conducted an appraisal or appraisals of the Premises, the cost of which shall be paid by the Mortgagor.

K. **FINANCIAL STATEMENTS.**

The Mortgagors will furnish the following information to the Mortgagee:

(1) Within 90 days after the end of each fiscal year of the Mortgagors, financial statements on the form approved by Mortgagee and true, correct and complete copies of the Mortgagors federal tax returns as filed;

(2) Within 30 days after the end of each fiscal year of the Mortgagors, an operating statement with respect to the Premises, on the form approved by the Mortgagee;

(3) From time to time and promptly upon each request, such other reports and information regarding the business, assets, liabilities, financial condition, results of operation or business prospects of the Mortgagors as the Mortgagee may reasonably requests;

(4) Prompt notice of any material adverse change with respect to the business, assets, liabilities, financial condition or results of operation of the Mortgagor.

In connection with the delivery of the tax returns which is referred to in clause 1 above, the Mortgagors shall also obtain and deliver to the Mortgagee an acknowledgment of reliance, on the form approved by the Mortgagee from the independence certified public accountant, if any, which prepares such tax returns.

L. **FURTHER INDEBTEDNESS.**

1. The Mortgagors shall not create, assume, incur, guarantee or in any manner become liable, contingently or otherwise, in respect of any indebtedness for money borrowed.

2. The Mortgagors shall not sell, transfer, assign, lease or otherwise dispose of (whether in one transaction or a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired).

3. The Mortgagors shall not guarantee, endorse, become surety for, or otherwise in any way become or be responsible for, the obligations of any other person whether by agreement to purchase the indebtedness of any other person, or agreement for the furnishing of funds, directly or indirectly, for the purpose of payment of indebtedness of any

other person, other than endorsements of negotiable instruments for deposit or collection in the ordinary course of its business.

M. **LEASES**.

1. The Mortgagors shall not lease or sublease all or any portion of the Premises or consent to the leasing, subleasing or assignment of any lease by any tenant of all or any portion of the Premises, or consent to the amendment, modification or termination of any lease with respect to the Premises, except for increases in rent, without the prior review and express prior written consent, both as to the form and substance thereof, of the Mortgagee, which consent shall not be unreasonably withheld or delayed.

2. All present and future lease of the Premises, or any part thereof, shall be subordinate in all respects to the lien of this Mortgage.

3. On or before January 31 of each year, the Mortgagors shall provide to the Mortgagee a current, certified rent roll with respect to all tenants and other occupants of the Premises. In addition, the Mortgagors shall provide to the Mortgagee, promptly upon execution thereof, certified copies of all leases, and all amendments, modifications and supplements to existing leases, entered into with respect to the Premises from and after the date hereof.

N. **NO DEDUCTION**. The Mortgagors shall claim no deduction upon the assessed value of the Premises on account of the monies owing to Mortgagee.

III. **INDEMNIFICATION**

1. The Mortgagors hereby agrees to indemnify the Mortgagee, its directors, officers, employees, affiliates and agents from and against any and all liabilities, suits, obligations, fines, damages, penalties, claims, losses, costs, charges and expenses (including, without limitation, reasonable architect's, engineer's, accountant's, consultant's and attorneys' fees and disbursements) (collectively, the "Losses") which may be imposed upon, incurred or asserted against the Mortgagee, its directors, officers, employees, affiliates and agents by reason of: (a) any construction relating to the Premises; (b) any capital improvements, other work or thing done in, on or about the Premises; (c) any use, non-use, misuse, possession, occupation, alteration, repair, condition, operation, maintenance or management of the Premises or any street, drive, sidewalk, curb, passageway or space comprising a part thereof or adjacent thereto; (d) any negligence or willful act or omission on the part of the Mortgagors, any lessee or any other occupant of the Premises or any agent, contractor, servant, employee, licensee or invitee or any of them; (e) the claims of any lessee or any party acting through or under any such lessee or otherwise arising under or as a consequence of any lessee; (f) any accident, injury (including death) or damage to any person or property occurring in, on or about any sidewalks, drives, curbs, passageways, streets, spaces or alleys adjacent to or on the Premises; (g) any Event of Default; (h) any lien or claim which may be alleged to have arisen on or against the Premises under any law or any liability asserted against the Mortgagee with respect thereto; (i) any tax or other imposition,

including, but not limited to, any imposition attributable to the execution, delivery, filing or recording of this Mortgage or any other documents executed by the Mortgagors in connection herewith; (j) any contest permitted pursuant to the provisions of this Mortgage or the other Loan Documents; and (k) any and all violations of law, including, without limitation, any and all federal, state and local laws, rules and regulations relating to the environment, existing at the Premises. The foregoing indemnity shall not apply to Losses resulting or arising from the gross negligence or willful misconduct of the Mortgagee.

2. The obligations of the Mortgagors under this Article IV shall not in any way be affected or limited by the absence of any insurance, by the amount of any insurance policy or by the failure or refusal of any insurance carrier to perform any obligation on its part under any insurance policies. If any claim, action or proceeding is made or brought against the Mortgagee or any of its directors, officers, employees, affiliates and agents, by reason of any event as to which the Mortgagors are obligated to indemnify the Mortgagee or any of its directors, officers, employees, affiliates and agents, then, upon demand by the Mortgagee, the Mortgagors, at its sole cost and expense, shall resist or defend such claim, action or proceeding in the Mortgagee's, or any of its directors, officers, employees, affiliates and agents, name, if necessary, by the attorneys for the Mortgagor's insurance company or by such attorneys as the Mortgagee shall approve in writing, which approval shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, the Mortgagee or any of its directors, officers, affiliates, employees and agents may engage its own attorneys in its reasonable discretion to defend it or to assist in its defense and the Mortgagors shall pay the reasonable fees and disbursements of such attorneys.

IV. EVENTS OF DEFAULT.

The following shall constitute events of default under this Mortgage (each, an "Event of Default"):

A. If any Event of Default or default shall occur under the terms of any of the Secured Obligations.

B. If the Mortgagors shall default in the performance or observance of any covenant, agreement or condition contained in this Mortgage and such default shall continue for fifteen (15) days after notice thereof from the Mortgagee.

C. If any representation or warranty made by the Mortgagors in this Mortgage or in any other Loan Document shall prove to have been false, incorrect or misleading in any material respect on the date as of which made.

D. If the Premises shall be sold, transferred, assigned or otherwise conveyed, including without limitation, the entering into by the Mortgagors of a long-term lease of the Premises, or if title to the Premises or any part thereof shall be transferred or conveyed to any person, firm, corporation, trust, association or other entity, including without limitation, the passing of title to, or possession of the Premises by, a receiver, trustee or assignee for the benefit of creditors.

E. If any default shall occur under the terms of any of the Permitted Encumbrances.

F. If a default or event of default occurs under a mortgage that is prior or subordinate to the lien of this Mortgage, including without limitation, if any mortgagee claims a right to possession or commences a foreclosure action.

G. (i) The Mortgagors shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian or other similar official for all or any substantial part of its assets, or (ii) the Mortgagors shall make a general assignment for the benefit of creditors; or (iii) the Mortgagors shall commence, or there shall be commenced against the Mortgagors, any case, proceeding or other action of a nature referred to in clause (i) above which (A) results in the entry of an order for relief of any such adjudication or appointment or (B) remains undismissed, undischarged or unbonded for a period of sixty (60) days; or (iv) there shall be commenced against the Mortgagors any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets, which results in the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within sixty (60) days from the entry thereof; or (v) the Mortgagors shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clauses (i), (ii), (iii) or (iv) above; or (v) the Mortgagors shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due.

H. The Mortgagors shall (i) default in any payment with respect to any indebtedness for money borrowed, whether from the Mortgagee or any other lender, beyond the period of grace, if any, provided in the instrument or agreement under which such indebtedness was created; or (ii) default in the observance or performance of any other agreement or condition relating to any such indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur, the effect of which default or other event is to cause, or to permit the holder of such indebtedness (or a trustee or agent on behalf of such holder) to cause, with the giving of notice if required, such indebtedness to become due prior to its stated maturity. In addition, the Mortgagors acknowledges and agrees that any Event of Default hereunder or under any other Loan Document shall be an event of default under and with respect to all other indebtedness, whether actual or contingent, of the Mortgagors to the Mortgagee.

I. A final judgment shall be entered against the Mortgagors by any court for the payment of money which, together with all other outstanding judgments against the Mortgagors, exceeds fifty thousand dollars ($50,000) in the aggregate, which judgment is not fully covered by insurance, or a warrant of attachment or execution or similar process shall

be issued or levied against property of the Mortgagors which, together with such other property subject to such process, exceeds in value fifty thousand dollars ($50,000) in the aggregate and, if within sixty (60) days (ten (10) days if such aggregate amount exceeds one hundred thousand dollars ($100,000)) after the entry, issue or levy thereof, such judgment, warrant or process shall not have been discharged or stayed pending appeal, or, if within sixty (60) days (ten (10) days if such aggregate amount exceeds one hundred thousand dollars ($100,000)) after the expiration of any such stay, such judgment, warrant or process shall not have been discharged.

J. The Mortgagors shall enter into any junior financing of the Premises without the prior written consent of the Mortgagee.

V. **REMEDIES**.

In case one or more Events of Default shall have occurred, the Mortgagee shall have the following rights and remedies:

A. The Mortgagee may declare all amounts outstanding (with accrued interest thereon) and all other amounts owing to it under the Secured Obligations to be immediately due and payable, whereupon the same shall become due and payable forthwith without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Mortgagor.

B. To take any action at law or in equity to collect the payments due under the Secured Obligations secured hereby or to enforce the performance and observance of the obligations, agreements and covenants of the Mortgagors contained in this Mortgage and the other Loan Documents.

C. Enter into possession of the Premises and employ watchmen to protect the Premises from injury.

D. To institute an action of mortgage foreclosure, or take other action as the law may allow, at law or in equity, for the enforcement of this Mortgage, and proceed therein to final judgment and execution for the entire unpaid balance of the Secured Obligations, including costs of suit, interest and reasonable attorneys' fees. In case of any sale of the Premises by virtue of judicial proceedings, the Premises may be sold in one parcel and as an entirety or in such parcels, manner or order as the Mortgagee in its sole discretion may elect. The failure to make any tenants parties defendant to a foreclosure proceeding and to foreclose their rights will not be asserted by the Mortgagors as a defense in any proceeding instituted by the Mortgagee to collect the Secured Obligations secured hereby or any deficiency remaining unpaid after the foreclosure sale of the Premises. Notwithstanding anything herein to the contrary, the Mortgagors shall continue to be responsible for the payment of taxes, insurance and all other amounts payable with respect to the Premises until title to the Premises shall be conveyed at a sheriff's sale or other similar proceeding.

E. If the Event of Default relates to the payment of any tax, assessment, water or sewer rent or governmental charge, or the payment of a premium for insurance, or the obligation to keep the Premises in satisfactory repair and condition, or to otherwise preserve the security of this Mortgage, then the Mortgagee, in addition to or in lieu of exercising any other rights which it may have hereunder or under any other document executed in connection with any Secured Obligations secured hereby, may pay the tax, assessment, water or sewer rent, governmental charge, insurance premium, or the cost of placing the Premises in satisfactory repair and condition, or the cost of otherwise preserving the security of this Mortgage, and the amount so paid shall be added to the moneys owing on the Secured Obligations and shall be secured hereby and shall be due and payable on demand with interest equal to the prevailing interest rate under the Secured Obligations plus four percent (4%).

F. Upon the occurrence of any Event of Default, the Mortgagee is hereby empowered and appointed attorney-in-fact of the Mortgagors to enter upon and take possession of the Premises and rent the same, either in its name or in the name of the owner of such property, and to demand, collect and receive from the tenants, lessees or other occupants then in possession of the Premises or any part thereof, the rents, issues and profits as they become due as well as all past due rents, income or profits which have not been collected by the Mortgagors, to endorse the name of the Mortgagors or any subsequent owner of the Premises on any checks, notes or other instruments for the payment of money, to give any and all acquaintances or any other instrument in relation thereto in the name of the Mortgagors, and to institute, prosecute, settle or compromise any summary or legal proceedings in the name of the Mortgagors or in the name of the Mortgagee for the recovery of such rents, income or profits, or for the abatement of any nuisance thereon, and to defend, at the Mortgagee's option and sole discretion, any legal proceedings brought against the Mortgagors arising out of the operation of the Premises. All rents, issues and profits collected or received by the Mortgagors after an Event of Default shall be accepted and held for the Mortgagee in trust and shall not be commingled with the funds and property of the Mortgagors, but shall be promptly paid over to the Mortgagee; and the Mortgagors agrees to pay the Mortgagee, if demanded by it, a reasonable rental for the portion of the Premises occupied by the Mortgagors, monthly in advance as a tenant from month to month, and in default of any such payment the Mortgagors may be dispossessed by summary proceedings, such tenancy to expire upon delivery of deed in foreclosure; and the Mortgagee shall apply the rents, issues and profits, after the payment of the necessary charges and expenses, including management fees and commissions, on account of the Secured Obligations hereby secured, being accountable only for rents, issues and profits as are collected by it while in possession.

G. Upon the filing of a complaint to collect the amount due on any Secured Obligation, the Mortgagee shall be entitled to the appointment of a receiver of the rents, issues and profits of the Premises without the necessity of proving either inadequacy of the security or insolvency of the Mortgagors or any person who may be legally or equitably liable to pay moneys secured hereby, and the Mortgagors and each such person waive such proof and consent to the appointment of a receiver.

H. To exercise any and all rights and remedies conferred upon secured parties by the Uniform Commercial Code and other applicable laws.

In addition to the above remedies, if the Mortgagors commits a breach or threatens to commit a breach of this Mortgage, the Mortgagee shall have the right and remedy, without posting bond or other security, to have the provisions of this Mortgage specifically enforced by any court having equity jurisdiction, it being acknowledged and agreed that any such breach or threatened breach will cause immediate and irreparable injury to the Mortgagee and that the Mortgagee's rights in and to the Premises will not provide an adequate remedy therefor.

All proceeds received from the sale or other disposition of the whole or any part of the Premises shall be applied as follows: (i) first, to the payment of all fees, costs and expenses incurred by the Mortgagee in connection with such sale or disposition; (ii) second, to the payment in full of the Secured Obligations; and (iii) third, the balance, if any, of such proceeds remaining after payment in full of the foregoing, to the Mortgagors or as a court of competent jurisdiction may otherwise direct.

Without limiting the foregoing, in exercising its remedies upon the occurrence of an Event of Default, the Mortgagee (i) shall not be responsible nor liable for any shortage, discrepancy, damage, loss or destruction of any part of the Premises regardless of the cause thereof unless the same shall happen through its gross negligence or willful misconduct; (ii) shall be entitled to the appointment (without notice and without proof of diminution in value of the Premises) of a receiver to take possession of all or any portion of the Premises and to exercise such powers as the court shall confer upon the receiver; and (iii) generally may perform all acts necessary or proper to carry out the intention of this Mortgage, as fully and completely as though the Mortgagee were the absolute owner of the Premises for all purposes, and the Mortgagors hereby ratifies and confirms all that the Mortgagee shall do by virtue of this grant of power.

The rights and remedies of the Mortgagee hereunder shall be in addition to every other right and remedy now and hereafter provided by law; the rights and remedies of the Mortgagee shall be cumulative and not exclusive one of the other; the Mortgagee may exercise the same at such times, in such order, to such extent, and as often as Mortgagee deems advisable, and without regard to whether the exercise of one precedes, concurs with, or succeeds the exercise of another; no delay or omission by the Mortgagee in exercising a right or remedy shall exhaust or impair the same, or constitute a waiver of, or acquiescence in, the Event of Default; and no waiver of an Event of Default by the Mortgagee shall extend to or affect any other Event of Default or impair any right or remedy with respect thereto.

VI. **MISCELLANEOUS**.

A. **NOTICES**. All notices and other communications given to or made upon any party hereto in connection with this Mortgage shall, except as otherwise expressly herein provided, be in writing and hand delivered or sent by first class United States mail, postage

prepaid, return receipt requested, or by reputable overnight courier providing a receipt against delivery, to the respective parties, as follows:

Mortgagors: Mary Hanslovan
Edward Hanslovan
address

-with a copy to-
Carl Balan, Esq.
address

Mortgagee: General Electric Capital Corporation
Old Ridgebury Road
Danbury, Connecticut 06810
Att: Mark Skura

-with a copy to-

Oppenheimer Wolff & Donnelly LLP
The Chrysler East Building – Suite 1900
New York, New York 10017-4011
Att: Elena Lazarou, Esq.

or to such changed address as may be fixed by notice. All such notices and other communications shall, except as otherwise expressly herein provided, be effective when received by the party to whom properly addressed, the written receipt by any employee of any such party constituting sufficient evidence of such receipt.

B. **INDULGENCES; EXTENSIONS**. The Mortgagee, with respect to the Secured Obligations secured hereby, the Premises and the Mortgagor's obligations hereunder, may waive compliance with any of the provisions hereof, and may release all or any part of the Premises from any lien hereof, without affecting the priority or validity of the lien hereof upon the remainder of the Premises.

C. **INVALID PROVISIONS TO AFFECT NO OTHERS**. In case any one or more of the covenants, agreements, terms or provisions contained in this Mortgage shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms or provisions contained herein shall be in no way affected, prejudiced or disturbed thereby.

D. **SUCCESSORS AND ASSIGNS; PLURALS**. All of the grants, covenants, terms, provisions and conditions of this Mortgage shall run with the land and bind the Mortgagors, its legal representatives, heirs, successors and assigns, and shall inure to the benefit of the Mortgagee, the successors and assigns of the Mortgagee and all subsequent

holders of this Mortgage. As used herein the singular shall include the plural and vice versa as the context requires.

E. **CAPTIONS**. The captions herein are inserted only for convenience of reference and in no way define, limit or describe the scope or intent of this Mortgage or any particular paragraph or section hereof, nor the proper construction hereof.

F. **GOVERNING LAW**. This Mortgage is to be construed according to the laws of the State of Ohio.

H. **COUNTERPARTS. THIS MORTGAGE CANNOT BE CHANGED ORALLY**

I. WAIVER OF JURY TRIAL. THE MORTGAGORS HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN CONNECTION WITH ANY AND ALL LITIGATION INVOLVING THE SUBJECT MATTER OF THIS MORTGAGE.

J. RECEIPT OF MORTGAGE. THE MORTGAGORS HEREBY ACKNOWLEDGES RECEIPT OF A TRUE COPY OF THIS MORTGAGE, WITHOUT CHARGE.

IN WITNESS WHEREOF, the Mortgagors have caused this Mortgage to be executed and delivered as of the day and year first above written.

WITNESS:

_____

Mary Hanslovan

_____

Sworn to before me this
___st day of August, 2002.

_____
Notary Public

WITNESS:

_____

Edward Hanslovan

By:_____

Sworn to before me this
___st day of August, 2002.

_____
Notary Public

MORTGAGE AND SECURITY AGREEMENT

Dated: August __, 2002

From

Edward Hanslovan
and
Mary Hanslovan
address

To

General Electric Capital Corporation
44 Old Ridgebury Road
Danbury, Connecticut 06801

LOCATION OF PREMISES:

Street Address:

Town:
County: _____
State: Pennsylvania
Section: _____
Block: _____
Lot: _____

After recording, please return to:

OPPENHEIMER WOLFF & DONNELLY LLP
The Chrysler East Building
666 Third Avenue, Suite 1900
New York, New York 10017-4011
Attn: Elena Lazarou, Esq.

MODIFICATION AGREEMENT
GE Capital Account No. 6048055-003

THIS MODIFICATION AGREEMENT ("Modification Agreement") is made and entered into as of this ___ day of August 2002, by and between GENERAL ELECTRIC CAPITAL CORPORATION ("GE Capital"), a Delaware corporation with a place of business at 44 Old Ridgebury Road, Danbury, Connecticut and ED HANSLOVAN COAL COMPANY, INC. ("Debtor") a corporation with a place of business at Route 2 Box 230, Morrisdale, PA 16858

RECITALS

WHEREAS, the Debtor leased certain commercial equipment from GE Capital pursuant to a Master Lease Agreement dated April 5, 1996 (as modified or amended, the "Lease");

WHEREAS, the Debtor is currently in default of the obligations due under the Lease;

WHEREAS, the Debtor has requested that GE Capital modify the obligations due under the Lease; and

WHEREAS, GE Capital is willing to modify Debtor's obligations under the Lease as requested subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of these promises and the covenants contained herein and for other good and valuable consideration, the receipt and adequacy of which the parties hereby acknowledge, the parties hereby agree as follows:

I. ACKNOWLEDGMENTS, REPRESENTATION AND COVENANTS: Debtor does hereby represent, acknowledge, warrant and covenant to GE Capital that:

(1) The recitals set forth above are true and accurate;

(2) The Lease is duly executed, binding obligation of Debtor and has not been terminated and the copies of same attached hereto as Exhibit A, respectively, and made a part hereof are true, complete and accurate copies of same;

(3) The Debtor has adequate power and capacity to enter into this Modification Agreement;

(4) The entry into and performance by Debtor of the obligations under this Modification Agreement, and the Lease do not (i) violate any judgment, order law or regulation applicable to Debtor; or (ii) result in any breach of, constitute a default under or result in the creation of any lien, charge, security interest or other encumbrance upon any unit of Equipment (as defined in the Lease) pursuant to any indenture security agreement, deed of trust, bank loan or credit agreement or other instrument to which Debtor is a party;

(5) There are no suits or proceedings pending or threatened in court or before any regulatory commission, board or other administrative governmental agency against or affecting Debtor, which will have a material adverse effect on the ability of Debtor to fulfill its obligations under this Modification Agreement, or the Lease;

(6) The financial statements of Debtor, heretofore delivered to GE Capital accurately present the financial position of Debtor, as of the date of delivery, and there has been no material adverse change in the financial condition of Debtor since the date of such financial statements;

(7) Debtor agrees that, notwithstanding any provision to the contrary herein, it will continue to fulfill any and all of its duties and obligations under the Lease except as those duties and obligations are modified by this Modification Agreement;

(8) As of the date hereof, there is Five Hundred Thirteen Thousand One Hundred Ninety Seven Dollars and 32/100 ($513,197.32) due and owing under the Lease, ("the Account Balance")

II. MODIFICATION:

(1) The payment schedule of the Lease is hereby modified to reflect payment of the Account Balance as follows:

(a) One (1) payment of Seven Thousand Seven Hundred Nineteen Dollars and 88/100 ($7,719.88) by August 31, 2002;

(b) Thirty Six (36) monthly payments of Fourteen Thousand Forty One Dollars and 4/100 ($14,041.04), each payable on the 15th of the month commencing with the month of September 2002, and ending August 2005.

(2) The Lease is hereby modified, as necessary, to incorporate the modifications set forth herein.

III. ADDITIONAL SECURITY: To further secure its obligations to GE Capital under the Lease, and as additional consideration for entering into this Modification Agreement, the Debtor agrees to grant GE Capital:

(1) a security interest in and to the premises located at Morris Township, Clearfield County, by executing, a Mortgage and Security Agreement in favor of GE Capital, substantially in the form annexed as Exhibit B hereto within ten (10) days of the date hereof;

(2) a security interest in certain mineral reserves, more fully described in the annexed Exhibit C, by executing a Mortgage and Security Agreement in favor of GE Capital substantially in the form annexed as Exhibit D hereto within ten (10) days of the date hereof;

IV. REMAINING TERMS AND CONDITIONS CONTINUE IN EFFECT

(1) Except as expressly modified herein, allconditions and terms of the Lease shall continue in full force and effect in accordance with its original terms and conditions. NO TERMS OR CONDITIONS OF THE LEASE HAVE BEEN ALTERED OR ADJUSTED IN ANY WAY EXCEPT FOR THE DUE DATES OF PAYMENT OF THE ACCOUNT BALANCE.

(2) All Exhibits referenced herein and attached hereto are incorporated herein by reference.

(3) If this Modification Agreement is deemed unenforceable in any respect, then the parties agree that the Lease shall be enforceable in accordance with their original terms and conditions as if this Modification Agreement had never been executed.

(4) It is the intention of the parties to comply with all applicable usury laws; accordingly, it is agreed that, notwithstanding any provision to the contrary in this Modification Agreement or the Lease, in no event shall any of the foregoing require the payment or permit the collection of interest in excess of the maximum amount permitted by applicable law. If any such excess interest is contracted for, charged or received thereunder, or in the event that all of the Account Balance shall be prepaid, so that under any of such circumstances the amount of interest contracted for, charged or received under this Modification Agreement or the Lease results in the Account Balance exceeding the maximum amount of interest permitted by applicable law, then in such event (a) the provisions of this Section shall govern and control, (b) neither Debtor nor any other person or entity now or thereafter liable for the payments shall be obligated to pay the amount of such interest to the extent that it is in excess of the maximum amount of interest permitted by applicable law, (c) any such excess which may have been collected shall be either applied as a credit against the then unpaid Account Balance or refunded to the party having paid same, at the option of GE Capital, and (d) the effective rate of interest shall be automatically reduced to the maximum lawful contract rate allowed under applicable law as now or hereafter construed by the courts having jurisdiction thereof.

(5) Any payment received from Debtor may be applied by GE Capital at any time against any obligation due and owing by Debtor under the Modification Agreement or the Lease, in GE Capital's sole discretion, notwithstanding any statement appearing on or referred to in any remittance from customer or any prior application of such payment. In the event any bankruptcy proceedings are instituted by or against Debtor under any applicable bankruptcy law within 90 days after receipt by GE Capital of any such payment, such payment shall be deemed applicable to unpaid obligations then due thereunder in the inverse order of maturity.

(6) Debtor hereby certifies, agrees and acknowledges that the Equipment is installed and fully operational and is now and will continue to be used in the conduct of the Debtor's business.

(7) This Modification Agreement shall be binding upon and shall inure to the benefit of all the parties hereto and their respective administrators, successors and permitted assigns.

(8) No waiver, amendment, release, or modification of this Modification Agreement shall be established by conduct, custom, or course of dealing, but solely by an instrument in writing duly executed by the parties.

(9) Debtor shall take any and all acts and execute any and all documents reasonably requested by GE Capital to effectuate the terms of this Modification Agreement. In the event the Debtor fails to do so, or fails to timely execute any of the documents referenced herein, then this Modification Agreement shall become null and void and of no force or effect, and the parties shall return to the status quo and shall deemed to have waived any rights or defenses with respect to the Lease.

(10) This Modification Agreement shall be governed by and interpreted under the laws of the State of Connecticut.

(11) The invalidity or unenforceability of any one or more phrases, sentences, clauses, or section contained in this Modification Agreement shall not affect the validity or enforceability of the remaining portions of this Modification Agreement, or any part thereof.

(12) Debtor unconditionally waives its rights to a jury trial or any claim or cause of action based upon or arising out of this Modification Agreement, any of the related documents, any dealing between GE Capital and the Debtor relating to the subject matter of this Modification Agreement or any related documents or transactions, and/or the relationship that is being established between GE Capital and the Debtor. The scope of this waiver is intended to be all encompassing of any and all disputes that may be filed in any court. This waiver is irrevocable. This waiver may not be modified either orally or in writing. This waiver also shall apply to any subsequent amendments, renewals, supplements or modifications to this Modification Agreement, any related documents, or to any other documents or agreements relating to this transaction or any related transaction. This Modification Agreement may be filed as a written consent to a trial by the court.

(13) Debtor agrees to pay all reasonable attorneys' fees and other costs incurred by GE Capital in connection with the enforcement, assertion, defense or preservation of GE Capital's rights and remedies under this Modification Agreement, or if prohibited by law, such lesser sum as may be permitted. Debtor further agrees that such fees and costs shall constitute and be added to the Account Balance.

(14) This Modification Agreement may be executed in counterparts and facsimile signatures shall be deemed originals.

IN WITNESS WHEREOF, the parties hereto have executed this Modification Agreement and have caused this Modification Agreement to be executed by their respective duly authorized representatives as of the day first above-written.

DEBTOR:

ED HANSLOVAN COAL COMPANY, INC.

By: E.D. Hanslovan

Title: Pres.

GENERAL ELECTRIC CAPITAL CORPORATION

By: _____

Title: _____

EACH OF THE UNDERSIGNED GUARANTORS HEREBY AGREES AND CONSENTS TO ALL OF THE TERMS, CONDITIONS, AND MODIFICATION SET FORTH HEREIN.

MARY HANSLOVAN

By: Mary Hanslovan

Title: Sec./Treas.

EDWARD HANSLOVAN

By: Edward Hanslo

Title: Pres.

HANSLOVAN TRUCKING COMPANY, INC.

By: Mary Hanslovan

Title: Pres.

EXHIBIT A

Lease Agreement # 1278

MASTER LEASE AGREEMENT

6048055-002
0000024280

THIS MASTER LEASE AGREEMENT, dated as of March 07, 1996, (the "Master Agreement") is entered into between Vision Financial Group, Inc., a Pennsylvania corporation (hereinafter called "Lessor"), having its principal place of business at The Pennsylvanian, 1100 Liberty Avenue, Pittsburgh, Pennsylvania 15222, and Ed Hanslovan Coal Co., Inc., a Pennsylvania corporation (hereinafter called "Lessee"), having its principal place of business at Box 230, Route 2, Morrisdale, Pennsylvania 16858.

As used herein, the terms "Basic Rent Date", "Casualty Value", "Expiration Date", "Installation Date", "Installation Location", "Overdue Rate" and any additional defined terms required shall have the meanings with respect to each item of Equipment set forth on the Equipment Schedule which describes such item of Equipment.

Section I - Lease and Rental

1.1 Lease of Equipment. Subject to the terms and conditions of this Master Agreement, Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the items of personal property (collectively the "Equipment" or individually an "item of Equipment") described in Equipment Schedules executed by Lessor and Lessee from time to time pursuant to this Master Agreement. Each Equipment Schedule shall be considered a separate lease incorporating the terms and conditions of this Master Agreement and shall be referred to herein as the "Lease" with respect to the Equipment described on such Equipment Schedule. Notwithstanding Lessee's possession and use of the Equipment, Lessor shall retain the full legal title to the Equipment, it being expressly understood that the Lease is a true lease of Equipment owned by Lessor and not a security instrument. On the Installation Date of each item of Equipment, such item of Equipment shall be deemed delivered, accepted by Lessee and subject to the terms and conditions of the Lease. Upon Lessor's request, Lessee will promptly execute and deliver an Acceptance Certificate (prepared by Lessor), confirming such Installation Date. Lessor may complete information, on Lessee's behalf, on the Acceptance Certificate if it is returned incomplete by Lessee.

1.2 Rental. Lessee shall pay to Lessor or its Assignee the rent set forth on the Lease for each item of Equipment (hereinafter referred to as "Basic Rent"). Lessee shall also pay to Lessor or its Assignee the following amounts ("Supplemental Rent" and, together with Basic Rent, "Rent"): (i) On the date provided herein, any amount payable hereunder as Casualty Value or any other amounts payable by Lessee pursuant to the Lease; and (ii) On demand, to the extent permitted by applicable law, interest at the Overdue Rate on any payment of Rent which is not received by Lessor or Assignee on the applicable due date. Interest shall accrue from the due date until the amount is received.

1.3 Net Lease. The Lease is a net lease, and Lessee acknowledges and agrees that Lessee's obligation to pay all Rent thereunder, and the rights of Lessor in and to such Rent, shall be absolute and unconditional and shall not be subject to any abatement, reduction, set-off, defense, counterclaim or recoupment ("Abatements") for any reason whatsoever, including, without limitation, Abatements due to any present or future claims of Lessee against Lessor under the Lease or otherwise, against the manufacturer or supplier of any item of Equipment, or by reason of any defect in or damage to, or any loss or destruction of any item of Equipment, or the interference with the use thereof, or the bankruptcy or insolvency of Lessor, it being the express intention of Lessor and Lessee that all Rent payable by Lessee thereunder shall be and continue to be payable in all events. To the extent permitted by applicable law, Lessee hereby waives any and all rights and remedies conferred upon a lessee by sections 2A-508 through 2A-522 of the UCC, including, but not limited to, Lessee's rights to: (i) cancel or repudiate this Lease; (ii) reject the Equipment or revoke acceptance of the Equipment; (iii) a security interest in the Equipment in Lessee's possession or control for any reason; (iv) specific performance, replevin, detinue, sequestration, claim and delivery of the like for any Equipment identified to this Lease. To the extent permitted by applicable law, Lessee also hereby waives any rights now or hereafter conferred by statute or otherwise which may require Lessor to sell, lease or otherwise use any Equipment in mitigation of Lessor's damages hereunder or which may otherwise limit or modify any of Lessor's rights or remedies hereunder.

1.4 Term of Lease. The term of the Lease for each item of Equipment shall commence on the Installation Date and shall expire on the Expiration Date for such item of Equipment unless, as provided herein, the Lease shall have been earlier terminated, or the term of the Lease shall have been extended. The Lease shall be automatically extended beyond the Expiration Date, unless (i) Lessor has previously terminated the Lease (as provided in Section 4.2) or (ii) at least 120 days prior to the Expiration Date, Lessee gives Lessor written notice of its election to terminate the Lease on the Expiration Date and then properly surrenders the Equipment to Lessor (as set forth in Section 3.11 herein) on the day immediately following the Expiration Date. The term of the Lease extension shall be for successive full monthly periods until terminated by either party giving to the other not less than four months prior written notice of termination. If the term of the Lease is so extended, all terms and conditions of the original Lease shall remain in full force and effect.

Section II - Representations and Warranties

2.1 Warranties; Disclaimers. Lessee represents to Lessor that, as of the Installation Date, Lessee shall have (a) inspected the Equipment, (b) determined that all items of Equipment are of a size, design, capacity and manufacture selected by it, and (c) satisfied itself that all items of Equipment are suitable for Lessee's purposes. Lessee acknowledges that (i) Lessor did not select, manufacture or supply the Equipment, (ii) Lessor acquired the Equipment or the right to possession and use of the Equipment in connection with the Lease, and (iii) Lessee has reviewed and approved the supply contract evidencing Lessor's purchase of the Equipment. EXCEPT AS SPECIFICALLY PROVIDED HEREIN, LESSOR HEREBY DISCLAIMS ANY AND ALL REPRESENTATIONS AND WARRANTIES, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE DESIGN OR CONDITION OF THE EQUIPMENT, ITS MERCHANTABILITY OR ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OR CAPACITY OF THE EQUIPMENT, OR ITS CONFORMITY TO THE SPECIFICATIONS OF ANY ORDERS RELATING THERETO, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN LESSOR AND LESSEE, ARE TO BE BORNE BY LESSEE AT ITS SOLE RISK AND EXPENSE. LESSOR SHALL NOT BE LIABLE IN ANY WAY TO LESSEE (i) FOR ANY LOSS, DAMAGE, OR EXPENSE OF ANY KIND CAUSED DIRECTLY OR INDIRECTLY BY THE EQUIPMENT, ITS OPERATION, OR THE INSTALLATION, USE, MAINTENANCE, HANDLING, OR STORAGE THEREOF, OR BECAUSE IT IS OR BECOMES UNSUITABLE OR UNSERVICEABLE, OR FOR ANY INTERRUPTION OF SERVICE OR LOSS OF USE THEREOF, OR (ii) FOR ANY LOSS OF BUSINESS OR PROFITS OR INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, WHATSOEVER OR HOWSOEVER CAUSED, AND REGARDLESS OF WHETHER A CLAIM IS BASED UPON CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY IN TORT, OR OTHER THEORY. LESSOR MAKES NO PATENT WARRANTIES OR REPRESENTATIONS WHATSOEVER. Lessee agrees to look solely to the manufacturer or the supplier of the Equipment and all assignable warranties made by the manufacturer or the supplier of Lessor are hereby assigned to Lessee for the term of the Lease.

2.2 Quiet Enjoyment. Lessor covenants that so long as no Event of Default has occurred under the Lease, Lessee may quietly possess the Equipment subject to and in accordance with provisions of the Lease.

Section III - Covenants of Lessee

3.1 Use of Equipment. Lessee shall use the Equipment in a manner which will not disqualify it for manufacturer maintenance, and in compliance with all laws, rules and regulations of every governmental authority having jurisdiction over the Equipment and with the provision of all policies of insurance carried by Lessee pursuant to Section 3.5. Lessee shall pay all costs, expenses, fees and charges incurred in connection with the use and operation of the Equipment.

3.2 Maintenance. Lessee shall, at its expense, take all actions necessary to maintain and repair the Equipment to keep it in as good operating condition as it was when it first became subject to the Lease, ordinary wear and tear resulting from proper use excepted and, unless otherwise expressly provided for in the Lease, shall enter into and keep in force a maintenance agreement with the manufacturer or other maintenance provider acceptable to Lessor to provide such maintenance and repair. Lessee shall, at its expense, promptly replace all parts of any item of Equipment that become worn out, lost, stolen, destroyed, or unfit for use with replacement parts free of any encumbrance (and title thereto shall vest in Lessor immediately upon installation); provided, however that the foregoing requirement to replace parts of Equipment shall not apply in the case of an Event of Loss as described in Section 3.4(b)(ii) herein.

3.3 **Taxes.** In addition to the ... due hereunder, Lessee agrees to pay and ... pay Lessor for, and hold Lessor harmless from and against all taxes, assessments, fees and charges (hereinafter called "Imposts") together with any penalties, fines or interest thereon levied and imposed by any governmental agency or unit (state, local, federal, domestic or foreign): (a) with respect to the Lease; (b) upon the Equipment, its value or any interest of Lessor and/or Lessee therein; (c) upon or on account of any sale, rental, purchase, ownership, possession, use, operation, maintenance, delivery or return of the Equipment; or (d) on account of, or measured by, the gross earnings or gross receipts arising from the Equipment, or value added thereto, other than taxes imposed on or measured by the net income or capital of Lessor. If Lessor is obligated to directly pay any Impost, the amount of such Impost shall become Supplemental Rent to be paid by Lessee upon Lessor's demand. Unless otherwise specified in the Lease, Lessee agrees to make and file all reports and returns required to be made with respect to Imposts and indemnifies and holds Lessor harmless from all loss, cost, damage or expense arising out of any failure to prepare and promptly file any such reports or returns. In the event Lessor is billed for any Impost or is obligated to file any tax report or return, Lessee shall reimburse Lessor, upon invoice, an amount equal to Lessor's average administrative costs of preparing such reports and returns plus any related payments. If any Impost is assessed while Lessee has possession of the Equipment, then Lessee's liability for such Impost shall continue, notwithstanding the expiration or termination of the Lease, until all such Imposts are paid by Lessee.

3.4 **Loss of Equipment.**

(a) **Risk of Loss.** Lessee shall bear the entire risk of the Equipment being lost, damaged, destroyed or rendered permanently unfit or unavailable for use after its shipment to Lessee and until it is surrendered to Lessor in accordance with Section 3.11 hereof.

(b) **Damage/Event of Loss.** (i) In the event any item of Equipment is damaged to a material extent in Lessor's judgement by any occurrence whatsoever, Lessee shall promptly notify Lessor and shall determine within 15 days of the date of such notice whether such item of Equipment can be repaired. If such Equipment can be repaired, Lessee shall, at its cost and expense, repair such Equipment to its original condition. (ii) In the event any item of Equipment shall be lost, stolen, destroyed, damaged beyond repair or rendered permanently unfit or unavailable for use (through a governmental taking or any other event), for any reason whatsoever (any such occurrence being referred to as an "Event of Loss"), Lessee shall promptly notify Lessor and pay to Lessor, on the first day of the month immediately following such Event of Loss, an amount equal to the Casualty Value applicable to such item of Equipment calculated as of the immediately preceding Basic Rent Date plus any unpaid Rent and the installment of Basic Rent for such item of Equipment due on the Basic Rent Date following the Event of Loss. After the payment of such amounts, Lessee's obligation to pay further Basic Rent for such item of Equipment shall cease, but Lessee's obligation to pay Supplemental Rent, if any, for such item of Equipment, and to pay Rent for all other items of Equipment shall remain unchanged. (iii) Following payment of the Casualty Value and Basic Rent for an item of Equipment in accordance with the provisions of paragraph (ii) of this Section 3.4(b), Lessee may, as agent for Lessor, dispose of such item of Equipment as soon as it is able to do so on an as is, where is basis without representation or warranty. Lessee may, after paying Lessor the amounts specified in the immediately preceding paragraph (ii) retain all of such sale proceeds up to an amount equal to the sum of the Casualty Value plus the reasonable costs of sale with any excess proceeds remitted to Lessor.

(c) **Disposition of Insurance and Other Proceeds.** The proceeds of insurance or any condemnation of an item of Equipment for which an Event of Loss has occurred shall be paid to Lessor (to the extent that Lessor has not previously received all Casualty Value and other payments required to be made by Lessee pursuant to the Lease), and the remainder, if any, shall be paid to Lessee. The proceeds of insurance with respect to damage to an item of Equipment, the repair of which, in the opinion of Lessee, is practicable, shall unless an Event of Default hereunder has occurred and is continuing, be applied either to such repair or to the reimbursement of Lessee for the cost of such repair.

3.5 **Insurance.**

(a) **Coverage.** Lessee will insure for the following risks with insurers of recognized responsibility: (i) All risk of loss and physical damage to the Equipment in amounts not less than the greater of (i) the fair market replacement value or (ii) the aggregate Casualty Value of all Equipment from time to time. (ii) Comprehensive public liability and property damage insurance with respect to the condition, possession, maintenance, operation and use of the Equipment, in an amount not less than $2,000,000 for each occurrence.

(b) **Delivery of Certificates.** Lessee shall deliver to Lessor and any Assignee(s) a valid Certificate of Insurance for each such insurance policy upon the execution thereof and a Certificate of Insurance for each renewal policy not less than 30 days prior to the expiration of the original policy or any renewal policy. Such insurance shall (i) include as additional parties insured and loss payees Lessor and any Assignee(s) of whom Lessee has notice, (ii) provide that such insurance shall not be materially changed or canceled without at least 30 days notice to Lessor and such Assignees, and (iii) provide that such policy shall not be invalidated by any negligence of, or breach of warranty by, Lessee. Upon the request of Lessor, Lessee shall provide any additional data related to the insurance as Lessor reasonably requests.

3.6 Indemnity. Lessee hereby indemnifies and holds Lessor harmless from and against all claims, costs, expenses, damages, losses and liabilities whatsoever (including without limitation claims involving strict liability in tort), incurred by Lessor (including fees and expenses of counsel), as a result of or incident to (a) the ownership, management, control, use, operation, or storage of the Equipment, or any part thereof during the term of the Lease, (b) any defect in the Equipment resulting in costs, expenses, damages or liabilities, (c) any actual or claimed patent or similar infringement, or (d) any default by Lessee under the Lease. Lessee and Lessor shall each give the other immediate written notice of any suit, attachment, lien or other judicial process affecting the Equipment of which they have knowledge. Lessee shall satisfy, pay and discharge any and all judgments and fines that may be recovered against Lessor in any such action or actions. Lessor shall have the right to appear in defense of any such suit or proceeding. The appearance of Lessor in such a suit or proceeding shall not constitute a waiver of its right to require Lessee to fulfill its obligations under the Lease.

3.7 Inspection. Lessee shall permit any person designated by Lessor, at Lessor's expense, to visit and inspect the Equipment, or any part thereof, at such reasonable times and places and as often as Lessor may reasonably request.

3.8 Possession; Assignment; Pledge. Lessee shall not:

(a) ASSIGN OR IN ANY WAY DISPOSE OF ALL OR ANY PART OF ITS RIGHTS OR OBLIGATIONS UNDER THIS LEASE OR ENTER INTO ANY SUBLEASE OF ALL OR ANY PART OF THE EQUIPMENT WITHOUT THE PRIOR WRITTEN CONSENT OF LESSOR. Lessor hereby agrees that Lessee may permit the parent or a subsidiary of Lessee to use the Equipment in the ordinary course of its business at the Installation Location; or

(b) Assign the Lease or its interest hereunder; or

(c) Create, incur, assume or suffer to exist any liens on or with respect to the Equipment, Lessor's title thereto or any interest therein (and Lessee will promptly, at its own expense, take such action as may be necessary duly to discharge any such lien), except (i) the respective rights of Lessor and Lessee as herein provided, (ii) inchoate materialmen's, mechanic's or other like liens arising in the ordinary course of business of Lessee and not delinquent, and (iii) liens granted by Lessor to any Assignee; or

(d) Move any item of Equipment from the Installation Location (set forth in the Lease) without the prior written consent of Lessor, such consent not to be unreasonably withheld.

3.9 Identification. Upon request, Lessee shall mark or permit Lessor to mark each item of Equipment in a reasonably prominent location with a legend stating Lessor's ownership of such item of Equipment and Lessee shall not allow the name of any other party to be placed on the Equipment.

3.10 Alterations, Modifications or Additions. Lessee may, at its own expense and upon prior notice to Lessor, make or permit others to make Equipment alterations, modifications or additions (such as memory upgrades and feature additions), provided such alterations, modifications or additions are readily removable without causing material damage to the Equipment, do not interfere with the maintenance thereof, do not create a safety hazard, and are not subject to any security interest, rent or other right or claim held or retained by a third party. Such alterations, modifications and additions may be removed by Lessee at the expiration or termination of the Lease term (including any extensions), and shall be removed at such time if requested by Lessor. Any such alterations, modifications and additions which are not removed by Lessee shall become the property of Lessor. Except as specially provided above, no Equipment alterations, modifications or additions shall be made or permitted by Lessee.

3.11 Transportation and Equipment Return. All transportation, rigging, [illegible] insurance and other charges payable for delivery of the Equipment to and from the premises of Lessee, and all installation, disconnect and packing charges, shall be paid by Lessee or the Equipment supplier. On or before the Expiration Date or earlier termination of the Lease, Lessee shall at its cost and expense surrender possession of the Equipment at such location(s) in the continental United States of America as Lessor may direct. The Equipment shall be repacked and returned to Lessor in the original or functionally equivalent packing materials provided by the vendor at delivery, with all cables, diagnostics, documentation and accessories (if any) provided upon delivery or at any time during the term of the Lease. Upon the return of the Equipment, Lessee shall identify on the outside of each container the serial numbers and models of the Equipment packed therein. The Equipment is to be in the same condition upon its surrender as when the Lease commenced (ordinary wear and tear resulting from proper use excepted). Computer, communications and similar equipment shall be returned with a certificate from the manufacturer that the Equipment (including any software) has been tested and is functioning properly, that the operating system is at current level, and that the Equipment is qualified for manufacturer maintenance at standard rates without any reconditioning, initial set-up or license charges. In the event that Lessee does not provide such a certificate, Lessor shall have the right to have the Equipment tested and Lessee shall promptly pay for the cost of such testing and any parts, shipping materials, or repairs necessary to bring the Equipment to its original performance condition (ordinary wear and tear excepted) and any updates necessary to bring the operating system to current level. The Lease shall remain in full force and effect and Lessee shall continue to pay Rent on the Equipment until it is surrendered to Lessor in the condition and with the certification described above.

3.12 Financial Statements. Lessee shall upon execution hereof and within 90 days after the close of each fiscal year thereafter, furnish, or cause to be furnished to Lessor and any Assignee, the reviewed annual financial statements of Lessee. In addition, upon request, Lessee will provide to Lessor and any Assignee quarterly financial statements in a form reasonably acceptable to the Lessor.

3.13 Federal Income Taxes. All Tax Benefits are for the account of the Lessee.

3.14 Representations and Warranties. Lessee hereby covenants, represents and warrants to Lessor that (i) it is a corporation duly organized, validly existing and in good standing in its state of incorporation and in every jurisdiction in which the Equipment will be located, (ii) it has taken all corporate action required to authorize the execution, delivery and performance of this Master Agreement and each Lease, and such execution, delivery and performance will not conflict with or violate any provisions of its charter or articles or certificate of incorporation, by-laws or any provisions of any agreement, order, decree or judgment by which it is bound, nor is it now in default under any of the same, (iii) there is no litigation or proceeding pending or threatened against it which may have a materially adverse effect on Lessee or which would prevent or hinder performance of its obligations hereunder, (iv) this Master Agreement, each Lease and all documents provided therewith constitute valid obligations of Lessee, binding and enforceable against it in accordance with their respective terms, (v) it has the power to enter into each Lease and no further action by any party is required to effectuate this Master Agreement and each Lease, (vi) all financial statements heretofore presented to Lessor are true, correct and present fairly the financial condition and results of operations of Lessee and do not contain any untrue statements or material omissions.

Section IV - Default & Remedies

4.1 Events of Default. The occurrence of any of the following shall constitute an "Event of Default" hereunder:

(a) Lessor shall fail to receive all or any portion of any installment of Rent or other payment on or before the date such sum becomes due and payable; or

(b) Any representation or warranty made in the Lease, or in any report, certificate, financial statement or other statement furnished to Lessor pursuant to the provisions of the Lease, shall prove to have been false or misleading in any material respect as of the date on which the same was made; or

(c) An attachment or other lien against the Equipment resulting from any Lessee action, failure to act or responsibility shall be issued or entered and shall remain undischarged or unbonded for ten days; or

(d) Lessee (i) becomes insolvent, or (ii) files any application or petition in any tribunal for the appointment of a receiver or trustee for all or a significant portion of its assets, or (iii) commences any proceeding under any bankruptcy or reorganization statute or under any provision of the U.S. Bankruptcy Code or under any dissolution or liquidation law whether now or hereafter in effect, or if any petition or application of the type described above is commenced against Lessee and is not dismissed within thirty days, or (iv) makes an assignment for the benefit of creditors or an order is entered appointing a trustee or receiver for Lessee or any significant portion of its assets or adjudicating Lessee a bankruptcy; or

(e) A proceeding or case is commenced without the application or consent of Lessee, in any court of competent jurisdiction, seeking (i) the liquidation, reorganization, dissolution, winding up of Lessee or composition or readjustment of the debts of Lessee, (ii) the appointment of a trustee, receiver, custodian, liquidation or similar official for Lessee or for all or any substantial part of its assets, or (iii) similar relief with respect to Lessee under any law providing for the relief of debtors; or an order for relief is entered with respect to Lessee in an involuntary case under the United States Bankruptcy Code, and now or hereafter in effect, or an action under the laws of the jurisdiction of incorporation or organization of Lessee, similar to any of the foregoing, is taken with respect to Lessee without its application or consent; or

(f) Lessee ceases to exist or terminates its independent operations by reason of any discontinuance, dissolution, liquidation, merger, sale of substantially all of its assets, or otherwise ceases doing business as a going concern; or

(g) Lessee defaults under any promissory note, credit agreement, loan agreement, conditional sales contract, guaranty, lease, indenture, bond, debenture or other material obligation whatsoever, and a party thereto or a holder thereof is entitled to accelerate the obligations of Lessee thereunder; or Lessee defaults in meeting any of its trade, tax or other current obligations as they mature, unless such obligations are being contested diligently and in good faith.

4.2 Remedies.

(a) If an Event of Default occurs under the Lease, Lessor may give Lessee notice of the Event of Default and upon the giving of such notice or at any time thereafter do any or all of the following (as Lessor in its sole discretion elects): (1) proceed by appropriate court action or actions to enforce performance by Lessee of the applicable covenants and terms of the Lease or to recover damages for the breach thereof; (2) take possession (by summary proceedings or otherwise) of any or all items of Equipment subject to the Lease without prejudice to any other remedy or claim herein referred to; (3) hold, sell, lease, or otherwise dispose of, any or all items of Equipment subject to the Lease, in any manner Lessor (in its sole discretion) elects; (4) receive from Lessee upon demand for any or all Equipment subject to the Lease the following amounts which Lessee shall be obligated to pay: (i) any unpaid Rent past due, (ii) as liquidated damages for loss of bargain and not as a penalty, the Rent otherwise due on the Basic Rent Date immediately following the date such demand is made, plus the remaining aggregate Casualty Value for such Equipment under the Lease calculated as of the Basic Rent Date immediately preceding the
date such notice is given, (iii) all costs and expenses incurred in searching for, taking, removing, keeping, storing, repairing, and restoring such items of Equipment, (iv) all other amounts then owing by Lessee hereunder, and (v)

all costs and expenses, including (without limitation) reasonable legal fees and expenses, incurred by Lessor as a result of an Event of Default, termination of this Lease, or the exercise by Lessor of its remedies under this Section 4.2; (5) by notice to Lessee, declare the Lease (for any or all Equipment) terminated without prejudice to Lessor's rights in respect of all obligations set forth in this Section 4.2 and any other obligations under the Lease then accrued and remaining unsatisfied; or (6) avail itself of any other remedy or remedies provided for by any statute or otherwise available by law, in equity or in bankruptcy or insolvency proceedings.

(b) The remedies set forth in Section 4.2(a) are not intended to be exclusive, and each shall be cumulative. The amounts to be paid to Lessor under clause (4) of Section 4.2(a) shall be increased by interest, at the Overdue Rate, to the date of receipt by Lessor of the amount payable under said clause, from the respective due dates of such amounts or (with respect to costs, expenses, and losses for which Lessor is entitled to payment or reimbursement under said clause) from the respective dates incurred by Lessor.

(c) Any amounts received by Lessor as the result of it sale, lease during the original term hereof, or other disposition of the Equipment under subparagraph (3) of Section 4.2(a) shall be paid or applied in the following order: (1) to any remaining obligation of Lessee under subparagraph (4) of Section 4.2(a), (2) to reimburse Lessee for the Casualty Value previously paid as liquidated damages, and (3) to Lessor, any remaining balance.

Section V - Miscellaneous

5.1 Security Deposit. Lessee shall pay to Lessor for each item of Equipment described on a Lease, as a security deposit, an amount equal to the last Basic Rent payment payable thereunder, or such other amount which is expressly set forth in the Lease; such security deposit shall be paid with the first Basic Rent payment and will be returned to Lessee within 15 days of the Expiration Date, provided that (i) all the Equipment under the Lease has been returned to Lessor at the place and in the condition required herein and (ii) there are no uncured events of default by Lessee under the Lease. Lessor shall have the right to deduct from the security deposit any amount not paid to Lessor when due. No such deduction shall diminish Lessee's obligation to pay all sums due Lessor and any amounts deducted from the security deposit which are subsequently paid by Lessee shall be used to restore the security deposit to its original amount. Upon demand from Lessor, Lessee shall pay the amount necessary to so restore the security deposit.

5.2 Expenses. Lessor and Lessee each shall bear and be responsible for its own respective costs and expenses incurred in connection with the preparation, execution and delivery of this Master Agreement and the Lease. Lessee shall pay and be responsible for any license or registration fees for the Equipment. Lessee shall, unless otherwise provided on the Lease, reimburse Lessor for any out-of-pocket Lessor costs and expenses in arranging or committing the debt financing for Equipment leased thereunder, provided that Lessee's liability for such amounts shall not exceed one percent of the aggregate Basic Rent payable throughout the term of such Lease.

5.3 Performance of Lessee's Obligations. If Lessee shall fail to make any payment or perform any act required by the Lease, Lessor may, but shall not be obligated to, make such payment or perform such act for the account of and at the expense of Lessee without waiving or releasing any obligation or default. All sums expended and losses incurred by Lessor pursuant to this Section 5.3, plus interest thereon at the Overdue Rate from the date on which such sums are expended (or losses are incurred) to the date on which Lessee reimburses Lessor therefor, shall be included as Supplemental Rent hereunder and shall be paid by Lessee to Lessor upon demand.

5.4 Assignment by Lessor. Lessor may sell, transfer, grant a security interest in or assign part or all of its right, title and interest in and to the Lease, the Equipment, the Rent or any other sums due or to become due by Lessee hereunder, to third parties; and such third parties may also make such sales, transfers, grants and assignments to other third parties (all third parties referred to in this Section 5.4 being called an "Assignee" or the "Assignees"). In the event of an assignment of the Lease, (a) such assignment (unless otherwise expressly set forth therein) will not relieve the original Lessor from its duties and obligations hereunder and shall not be construed to be an assumption by the Assignee of such obligation; (b) upon notice from Lessor, Lessee shall make all payments for Rent and other amounts due under the assigned Lease directly to the Assignee identified in such notice or its designee; (c) Lessee's obligations hereunder shall not be subject to any reduction, abatement, defense, set-off, counterclaim or recoupment for any reason whatsoever; and (d) Lessee will not, after obtaining knowledge of any such assignment, consent to any modification of the assigned Lease without the consent of any Assignees of which Lessee has notice. Reference to Lessor throughout this Master Agreement shall be deemed to include any Assignees; provided, however, that the Assignees shall have no duties and obligations hereunder, except the obligation, so long as no Event of Default has occurred and the Assignee continues to receive all sums assigned

hereunder, to permit Lessee to possess, use, and quietly enjoy the Equipment, according to the terms hereof. Lessee acknowledges that any sale, assignment or grant of security interest shall not materially change Lessee's duties or obligations under this Lease nor materially increase the burdens or risks imposed on Lessee.

5.5 **Further Assurances.** It is expressly understood and agreed that all of the Equipment shall be and remain personal property notwithstanding the manner in which the same may be attached or affixed to realty, and Lessee shall do all acts and enter into all agreements necessary to insure that the Equipment remains personal property and hereby indemnifies Lessor for all loss, cost, damage, and expense (including fees and expenses of counsel) related to or arising out of any claim that the Equipment constitutes a fixture or a part of the realty in or upon which it is located. Upon request of Lessor, Lessee shall at any time and from time to time after the execution and delivery of the Lease, execute and deliver such further documents (including but not limited to opinions of counsel, acknowledgements of assignment, waivers, certificates, and UCC-1 financial statements) and do such further acts and things as Lessor may reasonably request in order fully to effect the purposes of the Lease, and any assignment hereof. Lessee hereby appoints Lessor, with full power of substitution, as its agent and attorney-in-fact, which
appointment is irrevocable and coupled with an interest, to execute any financing statements in Lessee's name and to perform all other acts which Lessor deems appropriate and necessary to perfect Lessor's interest in the Equipment.

5.6 **Rights, Remedies, Powers.** Each and every right, remedy and power granted to Lessor hereunder shall be cumulative and in addition to any other right, remedy or power herein specifically granted or now or hereafter existing in equity, at law, by virtue of any statute or otherwise and may be exercised by Lessor from time to time concurrently or independently and as often and in such order as Lessor may deem expedient. Any failure, partial exercise, or delay on the part of Lessor in exercising any such right, remedy or power, or abandonment or discontinuance of steps to enforce the same, shall not operate as a waiver thereof or affect Lessor's right thereafter to exercise the same.

5.7 **Confession of Judgement.** UPON LESSEE'S DEFAULT HEREUNDER, LESSEE HEREBY AUTHORIZES AND EMPOWERS ANY ATTORNEY OF ANY COURT OF RECORD TO APPEAR FOR LESSEE AND, WITH OR WITHOUT ONE OR MORE DECLARATIONS FILED, ENTER A JUDGEMENT OR JUDGEMENTS AGAINST LESSEE IN FAVOR OF LESSOR, ITS SUCCESSORS OR ASSIGNS, AS OF ANY TERM FOR THE FULL AMOUNT THEN DUE, WITH OR WITHOUT ACCELERATION, TOGETHER WITH INTEREST THEREON AND ANY OTHER SUMS DUE HEREUNDER PLUS COST OF SUIT AND AN ATTORNEY'S COMMISSION OF FIFTEEN PERCENT (15%), WITHOUT STAY OF EXECUTION. LESSEE HEREBY RELEASES LESSOR FROM ALL ERRORS AND DEFECTS WHATSOEVER IN ENTERING SAID JUDGEMENT, WAIVES ALL EXEMPTIONS FROM LEVY AND SALE OF ANY PROPERTY THAT NOW IS OR HEREAFTER MAY BE EXEMPTED BY LAW AND AGREES THAT NO WRIT OF ERROR, APPEAL, PETITION TO STAY, OPEN OR STRIKE OFF JUDGEMENT OR OTHER OBJECTION SHALL BE FILED OR MADE WITH RESPECT THERETO.

5.8 **Headings.** Section headings are inserted for convenience only and shall not affect any interpretation of this Master Agreement. The words "herein", "hereof", "hereby", "hereto", "hereunder", and words of similar import refer to this Master Agreement as a whole (including any supplements, addenda and riders thereto to the extent applicable and the Lease on which the leased Equipment is described) and not to any particular section, or subdivision hereof.

5.9 **Governing Law.** This Master Agreement and each Lease shall be deemed to have been made under, and shall be governed by, the laws of the Commonwealth of Pennsylvania in all respects, including matters of construction, validity and performance.

5.10 **Severability.** If any provision of the Lease is prohibited by, or is unlawful or unenforceable under any applicable law of any jurisdiction, such provision shall, as to such jurisdiction, be ineffective to the extent of such prohibition without invalidating the remaining provisions hereof; provided, however, that any such prohibition in any jurisdiction shall not invalidate such provisions in any other jurisdiction; and provided, further, that where the provisions of any such applicable law may be waived, they hereby are waived by Lessee to the full extent permitted by law to the end that the Lease shall be deemed to be a valid and binding agreement in accordance with its terms.

5.12 **Chattel Paper.** An executed Lease (Equipment Schedule), marked "Original", shall be the original of the Lease for the Equipment described on such Lease. All other executed counterparts of the Lease shall be marked "Duplicate". To the extent that the Lease constitutes chattel paper, as such term is defined in the Uniform Commercial Code of the applicable jurisdiction, no security interest in the Lease may be created through the transfer of possession of any counterpart other than the Original of a Lease.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Master Agreement to be executed as of the date first written above.

Vision Financial Group, Inc.
(Lessor)

By: _____
Print Name: _____
Title: Frederick S. Summers
CEO & Chairman

Ed Hanslovan Coal Co., Inc.
(Lessee)

By: _____
Print Name: Edward Hanslovan
Title: President

Doc #: 127801

Equipment Schedule No. 1
to the Master Lease Agreement (the "Lease") dated as of March 07, 1996
between
Vision Financial Group, Inc. ("Lessor")
and
Ed Hanslovan Coal Co., Inc. ("Lessee")

****

Section I - Equipment Description and Defined Terms

Equipment Description: (1) EX1800 LD-2 Hitachi Shovel, S/N 182-0296, as better described on the corresponding Acceptance Certificate(s), having an Estimated Lessor's Cost of $1,650,000.00, and additional Collateral as detailed on the attached Schedule "A".

Vendor: Rudd Equipment

Installation Location: Brockway, PA

Installation Date: For each item of Equipment, the earliest of (i) the date the item is installed and accepted by the Lessee, or (ii) the date the Lessor remits all (or any part) of its acquisition cost of the item to the manufacturer, or (iii) five (5) days following delivery of the item by the Manufacturer to lessee. In the event that individual items of Equipment described herein are accepted on different dates, then each item of Equipment will have a separate Installation Date to reflect the date described in the preceding sentence. On or about the Installation Date for each item of Equipment, Lessee shall deliver an Acceptance Certificate to Lessor.

Lease Factors:

Factor Type	Factor
Daily Lease Factor:	.0713%
Lease Factor:	2.137%

First Basic Rent Date: The first day of the calendar month immediately following the last Installation Date for all the Equipment described herein.

Basic Rent: An amount equal to 2.137% of Lessor's Cost for each item of Equipment payable on each Basic Rent Date. In addition, Lessee shall, on the First Basic Rent Date, make an initial payment for each Unit of Equipment equal to .0713% of Lessor's Cost for each day from and including the Installation Date to the First Basic Rent Date.

Expiration Date: The later of (i) the last day of the month in which the 53rd Basic Rent Date occurs or (ii) the last day of any extension of this Lease.

Basic Rent Dates: The first day of each of 53 months, commencing with and including the First Basic Rent Date (for a total of 53 Basic Rent Dates, each one month apart), and the first day of each month thereafter during the term of any extension of this Lease.

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Lessee

Lessor's Cost: The amount shown above as "Estimated Lessor's Cost" or any greater amount as Lessor may be obligated to pay the Manufacturer for purchase of the Equipment. In the event the Lessor's Cost (for the purpose of this Lease) is different from the Estimated Lessor's Cost shown above, such amount shall be shown on the Acceptance Certificate and shall be binding on Lessor and Lessee.

Casualty Value: The Casualty Value from time to time for any item of Equipment subject to this Lease shall be an amount equal to the greater of (a) the item of Equipment's fair market value at the time of the Casualty Value determination or (b) the product of (i) the Lessor's Cost of such item of Equipment times (ii) the percentage indicated in the table immediately below for the Basic Rent Date immediately preceding the date of the Event of Loss, or notice of an Event of Default.

Basic Rent Date in Months	Casualty Value (as a % of Lessor's Cost)
0-12	115% - 108%
13-24	107% - 101%
25-36	100% - 92%
37-48	91% - 82%
49-53	81% - 70%
53 and thereafter	69%, declining by 1/4% per month, but in no event less than 20%.

Casualty Value for any Event of Loss during a Basic Rent Date period shown shall be a pro rata amount determined from the table immediately above.

Overdue Rate: The lesser of 5.0% per month or the maximum rate permitted by law.

Section II - Special Conditions

Equipment Acquisition: Lessee represents that it has specified and ordered the equipment described herein from the Manufacturer pursuant to purchase agreements or purchase orders between the Lessee and the Manufacturer, and Lessee will execute and deliver to the Manufacturer an Assignment of such agreements in a form which will permit the Lessor to purchase directly from the Manufacturer the Equipment described hereon. Lessor will remit the net purchase price which is due to the Manufacturer on a normal (net 30 days) basis or a more favorable basis if made available by the Manufacturer.

Supplemental Rent: In addition to Basic Rent payable by Lessee, Lessee shall pay to the Lessor as Supplemental Rent on each Basic Rent Date an amount equal to the product of 2.244% multiplied by any Soft Costs paid by Lessor. "Soft Costs" shall mean all software, freight charges, transportation charges, installation charges and other similar non-hardware costs.

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Lessor:
Lessee:

Financing: Lessor's obligations hereunder are contingent upon Lessor being able to raise long-term senior non-recourse debt against the security of this Lease and the Equipment. If Lessor determines that the aforesaid financing is not available under terms acceptable to Lessor, the Lessor shall have the right, upon notice to Lessee, to terminate this Lease. Upon the happening of such an event, Lessor shall be released from all obligations under this Equipment Schedule.

Purchase/Renewal Option: Provided that Lessee has given 90 or more days' written notice to the Lessor and no Event of Default has occurred hereunder, the Lessee shall have the option to purchase all (but not less than all) of the Equipment subject to this Equipment Schedule on its original Expiration Date for $236,872, or renew for (7) additional rents of $35,261 and then purchase for an amount equal to $1.00.

Tax Representation: All tax benefits are for the account of the Lessee.

Title, Registration Identification Marks: If requested by Lessor or required by federal, state or local law, Lessor shall furnish to Lessee and Lessee shall, at Lessee's expense, affix to the Equipment a sign, tag or other form of notice to disclose Lessor's ownership of the Equipment or that the Equipment is leased, and Lessee shall keep and maintain such sign, tag or other form of notice affixed or attached to the Equipment throughout the Lease Term. Lessee will not allow the name of any persons other than Lessor or its assignee to be placed on any Equipment as a claim of ownership other than that of Lessor; provided, however, that Lessee may cause such Equipment to be lettered with the names or initials or other insignia customarily affixed by the Manufacturer thereof or used by Lessee on equipment used by it of the same or a similar type for convenience of identification of its rights to use such Equipment as permitted under this Lease or normal advertising displays.

Maintenance and Repair: In addition to the terms contained in the Lease, Lessor and Lessee agree that the following shall be included in the Lease and made a part hereof:

(i) The Lessee shall at its sole cost and expense, service, repair, overhaul and maintain the Equipment in the condition that it was in when delivered to the Lessee, ordinary wear and tear excepted, in good operating order, consistent with prudent industry practice (but in any event of the same extent that the Lessee would, in the prudent management of its properties, maintain similar equipment if owned or leased by the Lessee), and in compliance with all applicable laws, ordinances, regulations, the conditions of all insurance policies required to be maintained by the Lessee pursuant to this Lease, and all written requirements as to repair and maintenance practices (if any) issued by the Manufacturer of the Equipment including, but not limited to:

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(ii) The Lessee shall make all additions, modifications and improvements to each item required by applicable law, ordinance or regulation.

(a) Daily maintenance such as a routine check of each unit of Equipment at the beginning of each shift.

(b) Repairs that may be required if any unit of Equipment is damaged or any part of a component thereof fails as the result of over-loading or abusive or improper usage.

(iii) The Lessee shall replace all parts that become worn out, lost, stolen, destroyed, damaged beyond repair or other wise rendered permanently unfit for use with replacement parts each of which shall be in at least as good condition as the part being replaced (assuming the replaced part to have been maintained to the standard required by this Lease), be free of liens except those permitted by the Lessor and immediately become the property of Lessor. The Lessor shall not be required in any way to maintain, repair or rebuild any item of Equipment and Lessee expressly waives the right to perform any such actions at the expense of the Lessor pursuant to any law at any time in effect.

(iv) The Lessee shall deliver to the Lessor copies of the plans, specifications, operation manuals and other warranties and documents furnished by the manufacturer of the Equipment and such other documents in the Lessee's possession relating to the maintenance and methods of operation of the Equipment.

(v) Lessor, at its sole discretion, may from time to time, at reasonable times and with reasonable notice to Lessee, inspect the Equipment at its sole cost and expense. Lessor shall notify, in writing to Lessee, any discrepancies found pertaining to the general condition of the Equipment as required by the Lease and this Equipment Schedule. Lessee shall then have 30 days to rectify the discrepancies, within thirty (30) days Lessor shall have the right to cause such discrepancies to be rectified and shall invoice Lessee for all costs and expenses related to rectifying the discrepancies. Such invoice shall be paid promptly upon receipt by Lessee.

Equipment Return:

(i) Upon the expiration or earlier termination of this Lease or any renewal or extension hereof, with respect to an item of Equipment, the Lessee at its sole cost and expense, shall return such item of Equipment to the Lessor together with all license plates and all registration certificates, certificates of ownership, maintenance and repair records and similar documents in the Lessee's possession, in the condition in which such item of Equipment is required to be maintained pursuant to this Lease.

(ii) Upon return of the Equipment, Lessor or its agent shall inspect the Equipment; if in the Lessor's opinion the Equipment is not in compliance with the conditions herein described, a mutually acceptable independent appraiser shall be appointed by the Lessor to inspect the Equipment for the purpose of determining the repairs, additions, or replacements, if any, which are necessary to place the Equipment in the condition described in the Lease and as described herein.

(a) The Equipment must be in good operating order within the Manufacturer's accepted tolerances for operation in all material respect and in compliance with Section 3.1 of the Lease.

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Lessor
Lessee

(b) When the Equipment is surrendered to Lessor, it will be free of all evidence of advertising or insignia placed on it by Lessee in a manner as not to cause damage to the appearance of the Equipment and meet all legal and regulatory conditions necessary for the Lessor to sell or lease it to a third party.

(c) The Equipment shall have no abnormal dents or scrapes, and not require major repairs.

(d) All components and features furnished with the Equipment will be in working condition subject to normal wear and tear.

(iii) In the event that any necessary repairs or replacements are not completed by the Expiration Date, Lessee shall pay to Lessor, interim rent equal to the Daily Lease Factor, multiplied by the Lessor's Cost of the item of Equipment, for each day in excess of the term of this Lease, until such repairs or replacements are completed and the Equipment returned to the Lessor. The frequency of such payments shall not be less than monthly.

By execution hereof, the undersigned confirm that this Equipment Schedule, marked "Original", together with a reprographic copy of the Master Lease Agreement incorporated herein by reference, will constitute an original, separable, and enforceable agreement of lease, independent of any other Equipment Schedules.

The Lease constitutes the entire agreement between the Lessor and Lessee with respect to the Equipment, and any change or modification thereto and any related agreement must be in writing and signed by the parties thereto.

Vision Financial Group, Inc.
(Lessor)

By: _____
Title: Frederick S. Summers
CEO & Chairman

Ed Hanslovan Coal Co., Inc.
(Lessee)

By: Edward F. Hanslovan
Title: President

Doc #: 127801-01

ACCEPTANCE CERTIFICATE NO. 1 OF 1
For Equipment Schedule No. 1 to the
Master Lease Agreement dated as of March 07, 1996 (the "Lease")
between
Vision Financial Group, Inc. ("Lessor")
and
Ed Hanslovan Coal Co., Inc. ("Lessee")

Equipment Acceptance: The Lessee hereby certifies that the following Equipment (as set forth in the Equipment Schedule identified below) has been delivered and installed as of the Installation Date at the location and on the date indicated below. This Equipment has been tested and inspected by the Lessee, found to be in good order and is accepted as Equipment under the Lease, on the Installation Date indicated below. Further, the Lessee hereby certifies that the information set forth hereon is accurate and supersedes and amends the Equipment Schedule identified below.

Equipment Schedule:	No. 1
Installation Location:	Brockway, PA
Installation Date:	April 10, 1996
First Basic Rent Date:	May 01, 1996
Description of Equipment:	(1) Hitachi EX 1800 LD-2 Hydraulic Shovel S/N 182-0296
Lessor's Cost:	$1,650,000.00
Lease Factor:	2.137%
Basic Rent:	$35,261.00 for 53 equal monthly installments in advance commencing with the payment due on the First Basic Rent Date.
Lease Term:	53 months (without early termination) commencing on the First Basic Rent Date and preceded by a period from the Installation Date to the First Basic Rent Date.

Lessee hereby confirms the acceptance of the Equipment described above under the Lease, the Lease Factor, the First Basic Rent Date, Lessor's Cost and other information described above, and the Lessee hereby represents and warrants that the Lease is in full force and effect, there have been no defaults thereunder, the Equipment is in good order and repair and there are no agreements between Lessor and Lessee other than the Lease and the Equipment Schedule which cover the leasing of this Equipment.

Ed Hanslovan Coal Co., Inc.
(Lessee)

By: Edward J. Hanslovan
Title: President
Date: As of the Installation Date

TO: Vision Financial Group, Inc.
1100 Liberty Avenue
Pittsburgh, PA 15222

ADDITIONAL SECURITY AGREEMENT - LEASE

Ladies/Gentlemen:

In consideration of any financial accommodations or leases previously, now or hereafter made or granted by you to us, with us or for our benefit, we agree as follows:

1. **Definitions.** (a) "Agreement": this Agreement; (b) "Other Agreements": any note, agreement or document heretofore, now or hereafter executed by us for your benefit or by us and transferred to you; (c) "Obligations": all of our now existing or hereafter arising payment and performance obligations to you howsoever created by us or acquired by you; (d) "Collateral": all property described in Section 2 of this Agreement; (e) "Policies": all policies of insurance required under the Other Agreements to be maintained with respect to the Equipment; (f) "Equipment": the personal property described in Section 2(a) of this Agreement; (g) "Guarantor": any guarantor with respect to any of the Obligations; and (h) "person": any individual or entity whatsoever. Each term defined in such of the Other Agreements which have been executed between you and us or by us specifically for your benefit and not defined in this Agreement shall have the meaning provided in such Other Agreement. Any term used in this Agreement and not defined herein or in such Other Agreement executed between you and us, or by us specifically for your benefit, shall have the meaning provided in the Uniform Commercial Code to the extent the same is defined or used therein

2. **Collateral.** To secure both our payment and full and prompt performance and observance of all of our Obligations, we hereby grant to you a first priority security interest in and to all of the following: (a) all of the following equipment, vehicles and fixtures, together with all additions attachments, accessories, improvements, parts, repairs and appurtenances thereto, now or hereafter made or acquired, and all substitutions and replacements thereof:

DESCRIPTION (quantity, model no., year, etc.)	SERIAL NUMBER
See attached Exhibit "A"	

(b) all of the Policies; (c) all products and proceeds (including without limitation any arising from the sale, lease or rent) of the Equipment and Policies; and (d) all books, records and files pertaining to the foregoing. We shall execute and deliver to you, at such time or times as you may request, all financing statements, certificates of title and other documents and instruments that you may deem necessary to perfect and maintain perfected your security interests in the Collateral. A copy of this Agreement may serve and be filed as a financing statement. We shall make appropriate entries on our books and records disclosing your security interests in the Collateral. Except for certain titled vehicles, the Equipment is now and shall at all times while any Obligations are outstanding be located at our address (set forth below) and shall not be removed therefrom without your prior written consent. Under no circumstances whatsoever shall we remove any item of Equipment to outside the continental United States.

3.1 **General Affirmative Warranties, Representations and Covenants.** Except as otherwise specifically provided in any of the Other Agreements, we warrant and represent to and covenant with you that: (a) your security interest in each item of Collateral (1) is now and shall at all times constitute a first priority security interest in such Collateral, and (2) is not now and shall not become subordinate or junior to the lien or claim of any person or entity; (b) we have the right and power and are duly authorized to enter into this Agreement; (c) our execution of this Agreement does not constitute a breach of any provision contained in our articles of incorporation or bylaws or partnership agreement, as the case may be, or of any other agreement to which we are now or may hereafter become a party or by which we are or may hereafter become bound; (d) all taxes, assessments and governmental charges of any nature which are or may be due by us in connection with any part of the Collateral have been fully paid, and we shall maintain reserves adequate in amount to fully pay, and shall promptly pay when due (unless timely and appropriately contested), all such liabilities which may hereafter accrue; (e) we shall permit you (or any person designated by you), during our usual business hours, to have access to and examine any and all of our books and records in connection with the Collateral and permit the copying of the same; (f) we shall promptly notify you of any decline in value of the Collateral and the amount of such decline; and (g) we shall keep and maintain all of the Equipment in good operating condition and repair and shall make all necessary replacements of and renewals thereto so that the value and operating efficiency thereof shall at all times be maintained and preserved.

3.2 **General Negative Covenants.** Except as otherwise provided in any of the Other Agreements, we covenant with you that we shall not: (a) grant to or in favor of any person or entity (other than you) a security interest in or permit to exist a lien or claim upon any of the Collateral; (b) permit any levy, attachment or restraint to be made affecting any of the Collateral, (c) permit any item of Equipment to become a fixture to real estate or accession to other property; or (d) sell, lease, assign, transferor in any other manner dispose of, encumber or permit the disposition or encumbrance of any Collateral or interest therein.

3.3 **Warranties, True/Survival.** All of our warranties, representations and covenants in this Agreement and all conditions to be performed by us pursuant to this Agreement are true and have been satisfied at the time of our execution of this Agreement and shall survive the execution, delivery and closing of this Agreement.

4. **Insurance.** At our sole expense, we shall (a) keep the Equipment insured against loss or damage by fire, theft, accident and all other hazards and risks ordinarily insured against by owners or users of such properties in similar businesses, and (b) maintain public liability insurance relating to

ADDITIONAL PROVISIONS

6 2 **Your Rights** In the event of a Default, you may, without notice or demand, do any one or more of the following: (a) declare all or any part of the Obligations immediately due and payable, (b) cease advancing money or extending credit to or for our benefit, (c) exercise any or all of the rights accruing to a secured party upon default by a debt or under the Uniform Commercial Code and any other applicable law; (d) take possession of all or any part of the Collateral and use or store it in our premises (without charge to you), or remove or require us, at our expense, to remove it to such other place or places as you may deem convenient; (e) sell or otherwise dispose of the Collateral at public or private sale as you deem advisable, for cash or credit (provided, however, that you may (i) become the purchaser at any such sale and, you may, in lieu of actual payment of the purchase price, offset the amount thereof against our Obligations, and (ii) deduct and retain from the proceeds of any such sale all amounts owed to you in respect of the Obligations including without limitation all amounts in connection with any taking of the Collateral); (f) use, without charge or liability, any of our labels, trade names, licenses or other of our rights, properties or interests in properties in advertising for sale, selling or otherwise disposing of any of the Collateral, and (g) exercise all powers granted under any of the Other Agreements. In connection with Vision'Ssale of Collateral, the same may be sold in its then condition or after further repair or preparation thereof, utilizing in connection therewith, without charge or liability to you therefor, any and all of our assets. If at any time or times hereafter you shall employ counsel for advice or other representation (i) to enforce any of your rights in any way relating to any of the Collateral or in respect of the Obligations against us, Guarantor or any other person or entity that may be obligated to you by virtue of this Agreement or any of the Other Agreements (including our account debtors), or (ii) to defend any action brought by us or any Guarantor contesting or enforceability of this Agreement or any of the Other Agreements, you may collect all reasonable attorney's fees arising from such services.

7. **Our Obligations, Waiver, Notice.** All of your rights and remedies granted under this Agreement and the Other Agreements are cumulative and nonexclusive. In the event of a Default by us, we waive and release: any right we may have to assert, by way of counterclaim or affirmative defense in any action to enforce our obligations hereunder, any claim whatsoever against you; any and all claims and causes of action which we may now or ever have against you as a result of any possession, repossession, collection or disposition by you of any of the Collateral, notwithstanding the effect of any such action upon our business; all rights of redemption from any such sale, and the benefit of all valuation, appraisal and exemption laws. If you seek to take possession of any of the Collateral by replevin or other court process, we hereby irrevocably waive any bonds, surety and security relating thereto required by any statute, court rule or otherwise as an incident to such possession and any demand for possession of the Collateral prior to the commencement of any suit or action to recover possession thereof. Any notice of any kind required to be given by you may be personally delivered to us or may be deposited in the United States mail, postage prepaid, and duly addressed to us at our address set forth below. Any such notice shall be deemed to constitute reasonable and fair notice to us of any such action if so delivered or mailed at least five (5) days prior to such proposed action

8 1 **Collection, Demand, Waivers.** We agree that all instruments delivered to you on account of the Obligations shall constitute conditional payment until you actually receive such funds. We agree that you shall have the continuing exclusive right to apply and re-apply any and all payments received by you on account of the Obligations in such manner as you may deem advisable notwithstanding any entry by you upon any of your books and records. We hereby waive: (a) notice and opportunity for hearing; (b) demand, protest and notices of protest or dishonor; (c) notices of payment and nonpayment; (d) notices of default, release, compromise, settlement, extension or renewal of any documents or instruments at any time held by you on which we may in any way be liable; and (e) notice of acceptance thereof.

8 2 **Reimbursement.** We shall pay you on demand all charges and expenses which you incur in protecting or enforcing your security interests in the Collateral, in enforcing the payment or performance of the Obligations, and in defending any claim asserted by us against you. Without waiving or releasing any Default or Obligation, you may perform any Obligations that we fail or refuse to perform, and may, at anytime or times hereafter, but shall be under no obligation to so do, pay, acquire or accept any assignment of any lien or claim against the Collateral asserted by any person or entity.

8 3 **Alteration/Waiver.** This Agreement may not be altered or amended except in a writing signed by your and our authorized representatives. Your failure at any time to require strict performance by us of any agreement or Obligation shall not waive or diminish any right by you thereafter to demand strict compliance and performance. Any waiver by you of any Default by us shall not waive or affect any other Default by us, whether such Default is prior or subsequent to such other Default and whether of the same or a different type. None of our agreements and Obligations contained in this Agreement or any of the Other Agreements and no Default shall be deemed waived by you unless such waiver is by a written instrument specifying such waiver, signed by one of your officers and directed to us. Upon our payment in full to you of the Obligations, we shall release you of any and all claims, causes of action, debts and liabilities relating in any manner whatsoever to the Equipment.

8 4 **Severability, Discretion.** If any provision of this Agreement or the application hereof is held invalid or unenforceable, the remainder of this Agreement and the application hereof will not be affected thereby, the provisions of this Agreement being severable in any such instance. To the extent this Agreement grants any discretion to you in the exercise of your rights, such discretion shall be absolute and unconditional.

8 5 **Power of Attorney.** We hereby irrevocably make and appoint you (and any person designated by you) as our true and lawful attorney with full power to: (a) sign our name on any form, title, document or instrument and make all necessary corrections thereto that you shall deem necessary or appropriate to perfect and maintain perfected the security interests in the Collateral (including correcting or inserting serial numbers, as needed); (b) make, settle and adjust claims under the Policies and endorse our name on any draft instrument or other item of payment in respect of the Policies; (c) take control in any manner of any item of payment or proceeds of Collateral; and (d) prepare, file and sign our name on any proof of claim in bankruptcy or similar document against any obligor. The Power of Attorney granted by this Section is coupled with an interest and is irrevocable so long as any Obligations remain outstanding.

8 6 **Connecticut.** This Agreement shall be deemed to have been made in Danbury, Connecticut. THIS AGREEMENT AND ALL TRANSACTIONS PURSUANT HERETO SHALL BE GOVERNED AND CONSTRUED IN ALL RESPECTS (INCLUDING BUT NOT LIMITED TO THE LEGALITY OF ANY INTEREST CHARGED TO US PURSUANT THERETO) BY THE LAWS OF THE STATE OF CONNECTICUT. In order to induce you to accept this Agreement, we agree that all actions or proceedings arising in connection with, out of, or in any way related to this Agreement ("Litigation") may be litigated, at your sole discretion, in courts located in the State of Connecticut. WE HEREBY WAIVE ANY RIGHT WE MAY HAVE TO TRANSFER OR CHANGE THE VENUE OF ANY LITIGATION. To the extent permitted by the law of the state of our place of business, WE HEREBY IRREVOCABLY WAIVE THE RIGHT TO TRIAL BY JURY WITH RESPECT TO ANY ACTION OR PROCEEDING IN WHICH YOU AND WE ARE PARTIES.

8 7 **Other Provisions.** This Agreement shall be binding upon and inure to your and our benefit and our respective heirs, personal representatives, successors and assigns. We shall have no right to assign this Agreement or any Obligations without your prior written consent. We warrant and represent to and covenant with you that: (a) no oral representations, agreements or understandings shall in any manner whatsoever modify or explain any of the terms and conditions herein; and (b) all such oral

Schedule A

To: _____ Lease _____ Financing Agreement
_____ UCC - 1 X_____ Subordination Agreement
_____ Other (specify: _____)

Dated April 5, 1996

Between
GE Capital Commercial Asset Funding
General Electric Capital Corporation
and

Pennsylvania Capital Bank

Equipment Location: _____ Street Address
_____ City, State, Zip Code

Item #	Equipment Description (including quantity)	Year & Model #		Serial No.
1	One (1) Hitachi Hydraulic Track Shovel, 14' rock bucket, automatic lube fire suppression system	Year 75	EX1800LD-2	182-0296 R→ year?
2	One (1) Michigan Front End Loader	1983	275C 15	492B-135
3	One (1) Michigan Front End Loader	1984	275C 15	492B337CAC
4	One (1) Komatsu Crawler Tractor	1984	D455 25	1606 R→ wrong year
5	One (1) Euclid Off Road End Dump	1978	R-50 30	68 362 R
6	One (1) Euclid Off Road End Dump	1979	R-50 30	69 000 R
7	One (1) Euclid Off Road End Dump	1980	R-50 40	69 920R → Never years
8	One (1) Euclid Off Road End Dump	1981	R50 40	69 994 R
9	One (1) Euclid Off Road End Dump	1980	R-50 40	68 986 R
10	One (1) Euclid Off Road End Dump	1980	R-50 40	68 989 R
11	One (1) Kolberg Rotary Breaker	7 year	2600 series	
12	One (1) International Truck mounted with Reich Model F2574 Drill model T-650-C	1995	40	1HTGGGCT5LH240596 650TWCH0090

Together with all parts, accessories, attachments, substitutions, repairs improvements and replacements, and any and all rights thereunder and proceeds thereof, including without limitation insurance proceeds.

Pennsylvania Capital Bank

By: _____

Title: _____ R→ SOMETHING on ResponCEF

j:\masters\hanclova.loa

508
826 - 6635

Schedule A

To: _____ Lease
_____ UCC - 1
_____ Other (specify: _____)

_____ Financing Agreement
X Subordination Agreement

Dated April 5, 1996

Between
GE Capital Commercial Asset Funding
General Electric Capital Corporation
and

Pennsylvania Capital Bank

Equipment Location: _____ Street Address

_____ City, State, Zip Code

Item #	Equipment Description (including quantity)	Year & Model #		Serial No.
13	One (1) Hough Front End Loader	1978	400 15	2693
14	One (1) Hough Front End Loader	1978	400 15	2617
15	One (1) Hough Front End Loader	1976	400 15	2410
16	One (1) Hough Front End Loader	1975	400 15	2302
17	One (1) Hough Front End Loader		400 15	
18	One (1) Michigan Front End Loader	1976	275 B 10	425C-517
19	One (1) Michigan Front End Loader	1976	275 B 10	425C-531
20	One (1) Komatsu Crawler Tractor	1978	D355 10	1077 R
21	One (1) Komatsu Crawler Tractor	1975	D355 10	1790 R
22	One (1) Komatsu Crawler Tractor	1976	D355 10	2100 R
23	One (1) Komatsu Crawler Tractor	1978	D455 15	1048 R
24	One (1) Kolberg Crush & Conveyor, 90 ft. radial stacker	1981		6486163615088
25	One (1) Kolberg Crush & Conveyer, 150 ft. radial stacker	1988		6486163615088

Together with all parts, accessories, attachments, substitutions, repairs improvements and replacements, and any and all rights thereunder and proceeds thereof, including without limitation insurance proceeds.

Pennsylvania Capital Bank

By: Susan G. Kratzer

Title: Asst. Commercial Loan Manager

Schedule A

To: _____ Lease _____ Financing Agreement
_____ UCC - 1 X Subordination Agreement
_____ Other (specify: _____)

Dated April 5, 1996

Between
GE Capital Commercial Asset Funding
General Electric Capital Corporation
and

Pennsylvania Capital Bank

Equipment Location: _____ Street Address
_____ City, State, Zip Code

Item #	Equipment Description (including quantity)	Year & Model #		Serial No.	
26	One (1) Ford Mechanics truck	1985	F600	1FDXR80UXFVA03713	3 -
27	One (1) Ford Mechancis truck	1995	F600	1FDXF80C4SVA77476	15
28	One (1) Ford Utility truck	1979	F400	V90LVDC9777	10
29	One (1) Davey Drill	1979		1881233	3 -
30	One (1) International Water truck	1975		DC0202A0FD862580	3
31	One (1) Chevrolet Pick-up truck	?		2GECK14H9E1177602	2
32	One (1) Viking pump			19001	1
33	One (1) Army Surplus Fertilizer truck			640942	[illegible]

Together with all parts, accessories, attachments, substitutions, repairs improvements and replacements, and any and all rights thereunder and proceeds thereof, including without limitation insurance proceeds.

Pennsylvania Capital Bank

By: Susan R Kurtz

Title: Asst Relationship Manager

RUDD EQUIPMENT COMPANY

INVOICE

BUNCHER INDUSTRIAL DISTRICT
BUILDING 1, AVENUE A
LEETSDALE, PA 15056-0005

P.O. BOX 5
LEETSDALE, PA 15056-0005
(412) 322-1112

TIN 61-1096179

REMIT TO: DEPT. L 142P • PITTSBURGH, PA 15264

Sold To

VISION FINANCIAL GROUP, INC.
1100 LIBERTY AVENUE
ATTN: KIM SMITH
PITTSBURGH PA 15222

[illegible] HANSLEVEN COAL CO.
[illegible] BROOKAWAY PA

Customer P.O. No.	Date Ordered	Invoice Date	Reference No.	Customer No.	Page	Invoice No.
-	12/15/95	3/12/96	9004478	PN92400	1	9021841

Make	Model	Serial No.	Equipment No.	Hour/Miles
HITACHI	EX1800LC-2	182-0295		

Description	B/O	Quantity	Unit Price	Total Price

HITACHI MODEL EX1800LC-2
HYDRAULIC SHOVEL
WITH (2) CUMMINS KTA19-C625
ENGINES; 14 CU. YD. ROCK BUCKET;
54,700 Lbs. COUNTERWEIGHT; ALL
WEATHER CAB; AIR CONDITIONING;
CATWALKS; HANDRAILS; SEAT BELT;
AUTOMATIC LUBE SYSTEM; FIRE
SUPPRESSION SYSTEM

SERIAL NUMBER: 182-0295 [illegible] $1,550,000.00

NON-TAXABLE PA 320.7507

SHIP VIA: TRUCK [illegible]

TERMS...: NET CASH-RECEIPT OF INVOICE

SALESMAN: MOSHER,PAT
Ordered from CLEARFIELD, PA

Credit Amount	Invoice Total
	$1,550,000.00

TERMS: NET 30 DAYS FROM DATE OF INVOICE. INTEREST AT THE RATE OF 1½% PER MONTH WILL BE CHARGED ON THE UNPAID BALANCE. INTEREST IS CALCULATED ON THE BASIS OF 18% PER ANNUM SIMPLE INTEREST.

VISION
Financial Group, Inc.
GUARANTY

The Pennsylvanian • 1100 Liberty Avenue • Pittsburgh, PA 15222
(412) 261-6465 • Fax (412) 261-9404

LESSEE: Ed Hanslovan Coal Co., Inc.

LEASE NUMBER: 127801-01 DATE: March 07, 1996

For valuable consideration, the receipt of which is hereby acknowledged, and to induce Lessor, Vision Financial Group, Inc., to enter into the foregoing Equipment Lease with Lessee, the Undersigned hereby irrevocably and unconditionally guarantee(s) to Lessor the full performance by said Lessee of any and all of Lessee's obligations under the Equipment Lease identified above for the original term and any and all renewal terms, including without limitation the payment by Lessee of all rentals and other amounts due and to become due according to the terms of said Equipment Lease, whether at maturity or earlier by reason of default of the Lessee or otherwise.

The Undersigned hereby waives notice of acceptance of this guaranty and of any liability to which it applies or may apply under the terms hereof, and waives presentment, demand for payment, notice of dishonor or non-payment, protest, notice of protest on any such liabilities, suit or taking other action by Lessor against, and giving any notice of default or other notices of any kind to, or making any demand on any party liable thereon, including the Undersigned.

Lessor may, at any time and from time to time, without the consent of or notice to the Undersigned and without impairing or releasing the obligations of the Undersigned hereunder (1) change the manner, place or terms of payment or change or extend the time of payment of or extend or renew the term of or renew or alter any liability of the Lessee under the Lease and this guaranty shall apply to the liabilities of the Lessee, as changed, renewed or altered in any manner, and (2) exercise or refrain from exercising any rights against Lessee or others (including the Undersigned) or otherwise act or refrain from acting, and (3) settle or compromise liabilities hereby guaranteed (including any liabilities hereunder) or may subordinate the payment of all or any part thereof to the payment of any liabilities which may be due to Lessor or others, and (4) apply any sum whatsoever paid or howsoever realized to any liability or liabilities of Lessee regardless of what liability or liabilities of Lessee remain unpaid.

No invalidity, irregularity, or unenforceability of the liabilities hereby guaranteed shall affect, impair, or be a defense to this guaranty and this guaranty is a primary obligation of the Undersigned.

This guaranty is a continuing one and the Undersigned agree(s) that all liabilities to which it applies or may apply under the terms thereof shall be conclusively presumed to have been created in reliance hereon and as to each of the Undersigned this guaranty shall continue until all of the liabilities of the Lessee have been fully and completely performed and discharged.

In the event that said Equipment Lease shall have more than one Lessee, this guaranty shall apply to the obligations of all such Lessees, jointly and severally.

No delay on the part of Lessor in exercising any of its rights under the Lease or under this guaranty and no partial or single exercise thereof and no action or nonaction by Lessor, with or without notice to the Undersigned or anyone else, shall constitute a waiver or any right or shall affect or impair this guaranty. Lessor shall not be required to first resort to Lessee or to any other persons, firms or entities for payment and in the event of any default by Lessee, the Undersigned shall be responsible to Lessor for full performance of all of Lessee's obligations under this Lease.

UPON DEFAULT, UNDERSIGNED HEREBY EMPOWER THE PROTHONOTARY OR ANY ATTORNEY OF ANY COURT OF RECORD WITHIN THE UNITED STATES OR ELSEWHERE TO APPEAR FOR THEM AND, WITH OR WITHOUT ONE OR MORE DECLARATIONS FILED, ENTER A JUDGMENT OR JUDGMENTS AGAINST THEM OR ANY OF THEM IN FAVOR OF LESSOR, ITS SUCCESSORS OR ASSIGNS, AS OF ANY TERM FOR THE SUM THEN DUE, INTEREST THEREON, AND ANY OTHER SUMS DUE BY LESSEE PLUS COSTS OF SUIT AND AN ATTORNEY'S COMMISSION OF FIFTEEN PERCENT (15%) FOR COLLECTION WITH RELEASE OF ALL ERRORS AND WITHOUT STAY OF EXECUTION.

The term "Undersigned" as used herein shall mean the Undersigned or any or more of them if this guaranty is executed by more than one signer, all agreements and promises herein shall be construed to be and are hereby declared to joint and several in each and every particular and shall be fully binding upon and enforceable against either, any or all of such signers. The death of the Undersigned, or any of them, shall not revoke this guaranty as to such decedent.

This guaranty and every part thereof shall be binding upon the Undersigned and upon the heirs, legal representatives, successors and assigns the Undersigned, and of each of them respectively and shall inure to the benefit of Lessor, its successors and assigns.

IN WITNESS WHEREOF, this Guaranty has been duly executed by the Undersigned intending to be legally bound, this 3rd day of April, 1996.

WITNESS:

Mary Beth Speigle

Mary Beth Speigle

GUARANTOR(S):

X Edward J. Hanslovan

Edward J. Hanslovan

X Mary E. Hanslovan

Mary E. Hanslovan

LOAN AND SECURITY AGREEMENT

This LOAN AND SECURITY AGREEMENT (this "Agreement") dated April 5,1996, is entered into by and between Vision Financial Group, Inc., a Pennsylvania corporation ("Debtor") having its principal office at 1100 Liberty Ave. Pittsburgh, PA 15222, and GENERAL ELECTRIC CAPITAL CORPORATION, a New York corporation (the "GE Capital"), with an office at 44 Old Ridgebury Road, Danbury, CT 06810, with reference to the following facts:

A. Debtor is the current lessor under Equipment Schedule No. 1 to Master Lease Agreement No. 1278 dated March 7, 1996 (the "Master Lease") entered into between Ed Hanslovan Coal Co., Inc. ("Lessee") and Debtor as lessor (said Equipment Schedule, the Master Lease as it relates to such Equipment Schedule, and all addenda, attachments, schedules, exhibits and riders as they relate to the Equipment Schedule, being hereinafter collectively referred to as the "Lease").

B. Debtor desires to borrow from GE Capital and GE Capital desires to lend to Debtor the principal sum of $1,489,093.77 (the "Loan") evidenced by Debtor's Promissory Note (the "Note") substantially in the form of Exhibit A attached hereto, such loan to be secured by all of Debtor's right, title and interest in and to the Lease and the Equipment subject thereto;

NOW THEREFORE, in consideration of the Loan and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to secure the payment by Debtor of all principal and interest owed under the Promissory note and the prompt performance of all the covenants and conditions contained in the Promissory note, the parties agree to the following terms and conditions:

SECTION 1 SECURITY INTEREST

1.1 Grant of Security Interest. Debtor hereby mortgages, assigns, pledges, and grants a security interest in, and hypothecates unto GE Capital, its successors and assigns, the following described properties, rights, interest and privileges (collectively, the Collateral"):

(a) The equipment which is the subject of the Lease together with all accessories, attachments and appurtenances appertaining or attached thereto, and all substitutions, renewals and replacements, of and improvements to any and all of said Equipment (other than those not financed by GE Capital and which can be removed from the Equipment without impairing its operation or value as originally configured) together with all rents, proceeds, issues, income and profits therefrom, other than "Excepted Amounts" as defined below, (hereinafter collectively referred to as the "Equipment").

(b) All rights, title and interest of Debtor, as lessor, in, under and to the Lease and all rents and other sums due and to become due thereunder, including any and all extensions or renewals thereof insofar as the same cover or relate to the Equipment, and all proceeds of the foregoing (other than Excepted Amounts).

"Excepted Amounts" shall mean all rental payments due Debtor prior to the first rental payment assigned to GE Capital hereunder, all sales, use personal property or similar taxes payable by Lessee, all related tax indemnity payments made or to be made by Lessee pursuant to Section(s) 3.3 of the Master Lease.

_____ (Initial)

SECTION 2 COVENANTS AND WARRANTIES

Debtor covenants, warrants and agrees as follows:

2.1 Warranty of Title. Debtor has good title to the Collateral, free and clear in each instance of all security interests, liens, claims and encumbrances whatsoever, except for the interest of Lessee under the Lease and the lien created by this Agreement. Debtor has full power and authority to grant a first lien security interest in the Collateral to GE Capital and hereby warrants said title to and said first lien security interest in the Collateral against all claims and demands whatsoever (excepting only in the case of the Equipment, the right and interest of Lessee under the Lease).

2.2 Further Assurances. Debtor shall upon written direction from GE Capital and at Debtor's own expense do, execute, acknowledge and deliver all and every further acts, deeds, conveyances, transfers and assurances reasonably necessary or proper for the better assuring, conveying, assigning and confirming unto GE Capital all of the Collateral. Debtor shall perform all obligations of the lessor under the Lease however arising, as if this Agreement had not been made.

2.3 Recordation and Filing. Debtor shall execute and GE Capital shall prepare and file, if not already filed, such financing statements or other documents and such continuation statements with respect to financing statements previously filed relating to the security interest created under this Agreement in the Collateral as may be required from time to time by GE Capital.

2.4 Modifications of the Lease. Debtor shall not without the prior written consent of GE Capital:

(a) Declare a default or exercise the remedies of the lessor under, terminate, modify or accept a surrender of or permit modification, surrender or termination of, the Lease or consent to the creation or existence of any security interest or other lien to secure the payment of indebtedness upon the leasehold estate created by the Lease or any part thereof; or

(b) Collect any rental payment under the Lease (other than Excepted Amounts) prior to the date for payment thereof provided for by the Lease or extend any time for payment or grant any waiver of consent under the Lease.

2.5 Power of Attorney in Respect to the Lease. Debtor does hereby irrevocably constitute and appoint GE Capital its true and lawful attorney with full power of substitution, for it and in its name, place and stead, to ask, demand, collect, receive, receipt for, sue for, compound and give acquittance for any and all rents, income and other sums which are assigned under Section 1.1(b) of this Agreement with full power to settle, adjust or compromise any claim thereunder as fully as Debtor could itself do, and to endorse the name of Debtor on all commercial paper given in payment or in part payment thereof, and in its discretion to file any claim or take any other action or proceedings, either in its own name or in the name of Debtor, or otherwise, which GE Capital may deem necessary or appropriate to collect any and all sums which may be or become due or payable under Lease, or which may be necessary or appropriate to protect and preserve the right, title and interest of GE Capital in and to the Collateral.

2.6 Notice of Default. Debtor further covenants and agrees that it shall give GE Capital prompt written notice of any event or condition, other than non-payment of rent, constituting an event of default under the Lease of which Debtor has actual notice.

2.7 Retention of Title. Debtor shall not encumber, sell, allow Lessee to sublease the Equipment (except as provided in the Lease), assign or otherwise dispose of any interest in the Collateral. The representations and warranties of Debtor made to GE Capital hereunder and in the acknowledgment letter executed by and among Debtor, GE Capital and Lessee substantially in the form attached hereto as Exhibit B shall survive the termination of this Agreement.

2.8 Totality of Documents. Debtor represents and warrants that (i) the Lease has been duly executed by an authorized representative of Debtor and Lessee; (ii) the Lease constitutes the valid and

_____ (Initial)

binding obligations of Debtor and Lessee and is enforceable in accordance with its terms; (iii) the Equipment has been delivered to and accepted by Lessee; (iv) the Lease represents the total and complete agreement between Debtor and Lessee with respect to the Collateral; (v) Debtor has entered into no other agreements, whether written or oral, with Lessee, in respect of the Collateral; (vi) the original executed copy of each Equipment Schedule which has been delivered by Debtor to GE Capital is the only copy marked "Original", and all other copies of said Schedule have been stamped or marked as duplicates; and (vii) Debtor or Debtor's designated agent shall retain the original executed Master Lease Agreement for the benefit of GE Capital with respect to the Equipment Schedules assigned hereunder (with Debtor providing GE Capital with a certified copy of the Master Lease, which together with an original Equipment Schedule shall constitute chattel paper for purposes of the Uniform Commercial Code).

2.9 Collection of Sales/Use and Property Tax. Debtor agrees that it shall invoice Lessee, where necessary, for any and all taxes to be paid by Lessee pursuant to the Lease, and upon Debtor's receipt of such amounts from Lessee, Debtor shall cause such taxes to be promptly paid to the appropriate taxing authority.

2.10 Acknowledgment of Commercial Loan. Debtor acknowledges that GE Capital has advised Debtor that it is receiving the Loan evidenced by the Note from GE Capital in the ordinary course of GE Capital's commercial lending business and that GE Capital is acquiring the Note for its own account for investment and not with a view to, or for sale in connection with, any distribution thereof.

2.11 Disclaimer of Tax Benefits. Debtor acknowledges and agrees that GE Capital has made absolutely no representations or warranties as to the availability of tax benefits, including but not limited to the investment tax credit and depreciation deductions.

SECTION 3 APPLICATION OF MONIES RECEIVED

3.1 Application of Rents and Other Payments by Lessee. Debtor agrees to instruct Lessee to make all payments due under the Lease (excluding Excepted Amounts) directly to GE Capital or in accordance with GE Capital's instructions until such time as Debtor's obligations hereunder and under the Note have been discharged. Debtor agrees that should it receive any such payments or any proceeds for or with respect to the Collateral (other than Excepted Amounts) it will promptly forward such payments to GE Capital or in accordance with GE Capital's instructions. The rents and other sums received by GE Capital pursuant to this Agreement shall be held by GE Capital as part of the Collateral and, so long as no event of default referred to in Section 4 hereof has occurred and is continuing, or, which with the lapse of time or the giving of notice, or both, would constitute an event of default as so defined, all such rents and other sums shall be paid and applied as follows:

(a) The amounts from time to time received by GE Capital which constitute payment of rent under the Lease shall be applied first, to the payment of the amounts of interest and principal (with interest being allocated first, then principal) then due and payable on the Note; second, any balance on such payment of rentals shall be applied first to interest and then to principal for each successive payment due under the Note .

(b) Any amounts received by GE Capital which constitute settlement by Lessee of an Event of Loss or payment by Lessee of the Casualty Value pursuant to Section 3.4 of the Lease, shall be paid and applied to prepay the Note.

3.2 Application of Payments in Event of Default. Notwithstanding anything else contained in this Section, if any event of default referred to in Section 4 hereof has occurred and is continuing, all amounts received by GE Capital (other than Excepted Amounts) under this Agreement shall be applied in the manner provided for in Section 4 with respect to proceeds and avails of the Collateral.

SECTION 4 DEFAULTS AND OTHER PROVISIONS

_____ (Initial)

4.1 Event of Default Defined. The term "Event of Default" for the purpose hereof shall mean (i) any one or more breaches by Debtor under the terms and conditions of the Note or this Agreement; (ii) a failure by Debtor in the due observance or performance of any covenant, condition or agreement required to be observed or performed by Debtor pursuant to the terms of the Lease; or (iii) a default by Lessee as defined in Section 4.1 of the Lease.

4.2 Remedies Upon Event of Default. Upon the occurrence of an Event of Default GE Capital shall be entitled to take all actions permitted to GE Capital under the Uniform Commercial Code and any other applicable law, including but not limited to selling the Lease and its right in the Equipment at private or public sale, in bulk or in parcels, with or without notice, and without having the Equipment present at such sale. In addition to, and without in any way limiting the foregoing GE Capital may at its sole discretion:

(a) Upon the occurrence of an Event of Default under Section 4.1(i), all of Debtor's right, title and interest in and to the Lease and the Equipment leased thereunder shall be deemed irrevocably and unconditionally assigned to GE Capital and Debtor shall otherwise cooperate with GE Capital in all reasonable ways to enable GE Capital to collect the rent or other amounts due under the Lease, take possession of the Equipment leased thereunder, or otherwise obtain any remedy available under the Lease or protect GE Capital's investment.

(b) Upon the occurrence of an Event of Default under Section 4.1, Debtor shall, within ten (10) days after GE Capital's written demand to Debtor, immediately prepay to GE Capital the full amount of the then outstanding balance of the Note (the "Pay-Off Balance"). Upon receipt of the Pay-Off Balance, GE Capital agrees to release its security interest in the Collateral. Debtor's obligations under this paragraph shall be absolute and unconditional, and GE Capital shall not be required to first seek or exhaust any other remedies against any Lessee or any Equipment. Should Debtor refuse to pay the Pay-Off Balance to GE Capital within said ten (10) day period, then Debtor shall also be obligated to pay GE Capital all costs, expenses, and reasonable attorney's fees incurred by GE Capital in connection with the enforcement and collection of said Pay-Off Balance.

(c) Notwithstanding all other provisions of this Agreement, in the event a Lease Payment is not paid by Lessee on or before the tenth (10th) day after GE Capital shall have given Debtor written notice of Lessee failure to timely remit lease payments in accordance with the Lease (the "Past Due Date"), Debtor may, not later than the tenth (10th) day following the Past Due Date (the "Debtor Payment Date"), either (i) provided that there exists no other Lessee breach of its obligations under the Lease, cure such rent default by paying to GE Capital, in immediately available funds, such past due Lease Payment ("Cure Payment"); or (ii) deliver to GE Capital a notice informing GE Capital that Debtor has elected not to make such payment. Debtor will be deemed to have elected not to make such payment if no such notice is received by GE Capital on or before Debtor Payment Date. If Debtor elects not to make such payment, GE Capital may immediately proceed to take whatever action it may deem necessary to enforce its rights with respect to the Lease and Equipment under the provisions of this agreement or otherwise. The Cure Payment procedure provided for herein relates solely to a Lessee's failure to timely remit Lease Payments and is not applicable to any other breaches by Lessee of its obligations under the Lease.

4.3 Sale of Collateral. Any sale by GE Capital whether under any power of sale hereby given or by virtue of judicial proceedings, shall operate to divest all right, title, interest, claim and demand whatsoever, either at law or in equity, of Debtor in and to the property sold and shall be a perpetual bar, both at law and in equity, against Debtor, its successors and assigns and any and all persons claiming the property sold or any part thereof under, by or through Debtor, its successors or assigns (subject, however, to the then existing rights, if any of Lessee under the Lease and to the rights and interest of Debtor, its successors and assigns, in the proceeds of such sale which are in excess of the amount required to satisfy the provisions of Sections 4.4 (a) and 4.4 (b) hereof).

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4.4 Application of Sale Proceeds and Other Recoveries. The proceeds of any sale of the Collateral or any part thereof, and the proceeds and the avails of any remedy hereunder shall be paid and applied as follows:

(a) To the payment of cost and expenses of foreclosure or suit, if any, and of such sale, and the reasonable compensation of the agents, attorneys and the counsel of GE Capital and of all proper expenses, liabilities and advances incurred or made hereunder by GE Capital, or the holder or holders of the Note, and of all taxes, assessments or liens (if any) superior to the lien of these presents, except any taxes, assessments or other superior lien subject to which said sale may have been made;

(b) To the payment to GE Capital or the holder or holders of the Note to the amount then owing or unpaid on the Note for principal and interest and in case any such proceeds shall be insufficient to pay the whole amount so due upon the Note then to the payment of such principal and/or interest then owing on the Note as GE Capital or the holders of such Note shall elect; and

(c) To the payment to Debtor of all sums remaining.

4.5 No Waiver; Remedies Cumulative. No delay or omission of GE Capital, its successors or assigns, or of any holder of the Note, to exercise any right or power arising from any default on the part of Debtor shall exhaust or impair any such right or power or prevent its exercise during the continuance of such default. No waiver by GE Capital or any holder or holders of the Note of any such default, whether such waiver be full or partial, shall extend to or be taken to affect any subsequent default or to impair the rights resulting therefrom, except as may be otherwise provided herein.

SECTION 5 MISCELLANEOUS

5.1 Successors and Assigns. Whenever any of the parties hereto is referred to, such reference shall be deemed to include the successors and assigns of such party; and all covenants, premises and agreements in this Agreement contained by or on behalf of Debtor or by or on behalf of GE Capital shall bind and inure to the benefit of the respective successors and assigns of such parties whether so expressed or not.

5.2 Release. GE Capital shall release this Agreement and the lien thereof by proper instrument or instruments at such time as all indebtedness secured hereby has been fully paid or discharged.

5.3 Communications. All communications and notices provided for herein shall be in writing and shall be deemed to have been given on the fourth (4th) business day after the same have been deposited in the United States mail, registered or certified, postage prepaid, addressed as follows:

If to GE Capital: GENERAL ELECTRIC CAPITAL CORPORATION
11590 Century Blvd., Suite 111
Cincinnati, OH 45246
Attn: Zone Credit Manager

If to Debtor:

Vision Financial Group, Inc.
1100 Liberty Ave.
Pittsburgh, PA 15220

If to Lessee:

Ed Hanslovan Coal Co., Inc.

_____ (Initial)

Route 2, Box 230
Morrisdale, PA 16858

or as to any of the foregoing parties at such other address as such party may designate by notice duly given in accordance with this Section to other parties.

5.4 Governing Law. This Loan and Security Agreement has been delivered in the State of Connecticut and shall be governed by, and be construed in accordance with, the laws of the State of Connecticut.

5.5 Non-Recourse Nature of Note. GE Capital agrees that, except as otherwise provided in Section 4.2(b), GE Capital will look solely to the Collateral for repayment of the Loan, without recourse against Debtor, and that Debtor shall not be personally liable for the payment of the Note or any other sums provided herein or in the Note. The foregoing shall not limit, restrict or impair the right of GE Capital to accelerate the maturity of the Note upon any event of default or to exercise all rights provided for hereunder or otherwise realize upon the Collateral.

5.6 Modification. This Agreement may not be modified except by a written agreement signed by both parties.

5.7 Jury Trial Waiver. THE PARTIES TO THIS AGREEMENT HEREBY UNCONDITIONALLY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OR ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF, DIRECTLY OR INDIRECTLY, THIS LOAN AND SECURITY AGREEMENT, THE NOTE WHICH RELATES TO IT AND ANY OF THE RELATED DOCUMENTS, AND DEALINGS BETWEEN THEM RELATING TO THE SUBJECT MATTER OF THIS TRANSACTION OR ANY RELATED TRANSACTIONS, AND/OR THE RELATIONSHIP THAT IS BEING ESTABLISHED BETWEEN THEM. The scope of this waiver is intended to be all encompassing of any and all disputes that may be filed in any court (including, without limitation, contract claims, tort claims, breach of duty claims, and all other common law and statutory claims). THIS WAIVER IS IRREVOCABLE MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THE WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT, ANY RELATED DOCUMENTS, OR TO ANY OTHER DOCUMENTS OR AGREEMENT RELATING TO THIS TRANSACTION OR ANY RELATED TRANSACTION. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

IN WITNESS WHEREOF, The parties hereto, intending to be legally bound hereby have caused this Agreement to be executed all as of the day and year first above written.

GE CAPITAL:

GENERAL ELECTRIC CAPITAL CORPORATION

By: Daryl Marcum

Title: Territory Credit Manager

DEBTOR:

Vision Financial Group, Inc.

By:

Title: CEO/Owner

PROMISSORY NOTE

$1,489,093.77 Dated: April 5, 1995

FOR VALUE RECEIVED, Vision Financial Group, Inc., a corporation organized under the laws of the State of Pennsylvania ("Borrower"), hereby promises to pay to the order of GENERAL ELECTRIC CAPITAL CORPORATION, a corporation organized under the laws of the laws of the State of New York ("GE Capital"), the principal sum of One million four hundred eigthy-nine thousand ninety-three and 77/100 Dollars (U.S. $1,489,093.77) (the "Principal Sum") together with interest thereon at the rate of nine and eight tenths percent (9.8%) per annum payable in the manner and at the times hereinafter set forth.

This promissory note is given pursuant to the terms of a loan and security agreement (the "Loan Agreement") dated of even date herewith between the Borrower and GE Capital to which this promissory note is subject in all respects. Capitalized terms used in this promissory note and not otherwise defined shall have the meanings assigned to them in the Loan and Security Agreement dated April 5, 1996 between Borrower and GE Capital (the "Loan Agreement").

This promissory note is given to evidence a loan of the Principal Sum by GE Capital to the Borrower the repayment of which, together with interest thereon; shall be satisfied by GE Capital's receipt of the payments which are required to be made in accordance with the Lease referred to in Schedule A hereto (the "Account Document"). Payment by the party named in the Account Document (the "Account Party") of the installments due thereunder in the manner and at the times required by the Account Document shall constitute payment of the Principal Sum and all interest due hereunder; similarly, any default by the Account Party to make the payments required to be made in the manner and at the times set forth in the Account Document shall constitute default hereunder. All payments received by GE Capital shall be applied first in payment of all outstanding interest (including default interest, if applicable) and the balance of each payment shall thereafter be applied to reduce the outstanding amount of the Principal Sum.

The acceptance by GE Capital of any payment which is less than payment in full of all amounts due and owing at such time shall not constitute a waiver of GE Capital's right to receive payment in full at such time or at any prior or subsequent time. Interest shall be calculated on the basis of a 365 day year.

Time is of the essence hereof. If any installment or any other sum due under this promissory note is not received within ten (10) days after its due date, the Borrower agrees to pay, in addition to the amount of each such installment or other sum, a late payment charge of five percent (5%) of the amount of said installment or other sum, but not exceeding any lawful maximum. In the event that (i) payment of any amount due hereunder is not made within ten (10) days after the same becomes due and payable; or (ii) the provisions of the Loan Agreement so require, then the entire principal sum remaining unpaid, together with all interest thereon and any other sum payable under this promissory note, at the election of GE Capital, shall immediately become due and payable, with interest thereon at the lesser of eighteen percent (18%) per annum or the highest rate not prohibited by applicable law from the date of such accelerated maturity until paid (both before and after any judgment). The payment by the Account Party of late charges and interest on overdue installments, as provided for in the Account Document, shall constitute full satisfaction of the Borrower's obligation for late charges and default interest.

It is the intention of the parties hereto to comply with the applicable usury laws; accordingly, it is agreed that, notwithstanding any provision to the contrary in this promissory note or the Loan Agreement, in no event shall this promissory note or the Loan Agreement require the payment or permit the collection of interest in excess of the maximum amount permitted by applicable law. If any such excess interest is contracted for, charged or received under this promissory note or the Loan Agreement, or in the event that all of the principal balance shall be prepaid, so that under any of such circumstances the

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event (a) the provisions this paragraph shall govern and control, (b) neither the Borrower nor any other person or entity now or hereafter liable for the payment hereof shall be obligated to pay the amount of such interest to the extent that it is in excess of the maximum amount of interest permitted by applicable law, (c) any such excess which may have been collected shall be either applied as a credit against the then unpaid principal balance or refunded to the Borrower, at the option of GE Capital, and (d) the effective rate of interest shall be automatically reduced to the maximum lawful contract rate allowed under applicable law as now or hereafter construed by the courts having jurisdiction thereof. It is further agreed that without limitation of the foregoing, all calculations of the rate of interest contracted for, charged or received under this promissory note or the Loan Agreement which are made for the purpose of determining whether such rate exceeds the maximum lawful contract rate, shall be made, to the extent permitted by applicable law, by amortizing, prorating, allocating and spreading in equal parts during the period of the full stated term of the indebtedness evidenced hereby, all interest at any time contracted for, charged or received from the Borrower or otherwise by GE Capital in connection with such indebtedness; provided, however, that if any applicable state law is amended or the law of the United States of America preempts any applicable state law, so that it becomes lawful for GE Capital to receive a greater interest per annum rate than is presently allowed, the Borrower agrees that, on the effective date of such amendment or preemption, as the case may be, the lawful maximum hereunder shall be increased to the maximum interest per annum rate allowed by the amended state law or the law of the United States of America.

The Borrower and all sureties, endorsers, guarantors or any others (each such person, other than the Borrower, an "Obligor") who may at any time become liable for the payment hereof jointly and severally consent hereby to any and all extensions of time, renewals, waivers or modifications of, and all substitutions or releases of, security or of any party primarily or secondarily liable on this promissory note or the Loan Agreement or any term and provision of either, which may be made, granted or consented to by GE Capital, and agree that suit may be brought and maintained against any one or more of them, at the election of GE Capital without joinder of any other as a party thereto. The Borrower and each Obligor hereby waives presentment, demand for payment, notice of nonpayment, protest, notice of protest, notice of dishonor, and all other notices in connection herewith, as well as filing of suit (if permitted by law) and diligence in collecting this promissory note or enforcing any of the security hereof, and agrees to pay (if permitted by law) all expenses incurred in collection, including GE Capital's actual attorneys' fees.

THE BORROWER HEREBY UNCONDITIONALLY WAIVES ITS RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF, DIRECTLY OR INDIRECTLY, THIS PROMISSORY NOTE, ANY OF THE RELATED DOCUMENTS, ANY DEALINGS BETWEEN THE BORROWER AND GE CAPITAL RELATING TO THE SUBJECT MATTER OF THIS TRANSACTION OR ANY RELATED TRANSACTIONS, AND/OR THE RELATIONSHIP THAT IS BEING ESTABLISHED BETWEEN THE BORROWER AND GE CAPITAL. The scope of this waiver is intended to be all encompassing of any and all disputes that may be filed in any court (including, without limitation, contract claims, tort claims, breach of duty claims, and all other common law and statutory claims). THIS WAIVER IS IRREVOCABLE MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THE WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS PROMISSORY NOTE, ANY RELATED DOCUMENTS, OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THIS TRANSACTION OR ANY RELATED TRANSACTION. In the event of litigation, this promissory note may be filed as a written consent to a trial by the court.

This promissory note, the Loan Agreement and the documents executed in connection therewith constitute the entire agreement of the Borrower and GE Capital with respect to the subject matter hereof and supersedes all prior understandings, agreements and representations, express or implied.

No variation or modification of this promissory note, or any waiver of any of its provisions or conditions, shall be valid unless in writing and signed by an authorized representative of the Borrower and GE Capital. Any such waiver, consent, modification or change shall be effective only in the specific instance and for the specific purpose given.

_____ (Initial)

Notwithstanding anything contained in this promissory note to the contrary, Borrower shall be liable for and upon the indebtedness evidenced by this promissory note only to the extent of, and GE Capital's exclusive rights to collect or recover payment of such indebtedness are limited to, (i) the security for the payment of such indebtedness pursuant to the Loan Agreement and such liability may be enforced and such rights may be exercised only in the manner and under the conditions set forth in the Loan Agreement and (ii) the mandatory prepayment provisions set forth in Section 4.2(b) of the Loan Agreement.

This promissory note may only be assigned by GE Capital as part of an assignment of all of GE Capital's rights under the Loan Agreement.

IN WITNESS WHEREOF, the Borrower has executed and delivered this promissory note on the date first above written.

Vision Financial Group, Inc.

By: _____

Title: _____

SCHEDULE A TO PROMISSORY NOTE

Description of Account:

Fifty Two (52) monthly rentals in the amount of Thirty Five Thousand Two Hundred Sixty One and 00/100 Dollars ($35,261.00), commencing with the month of June 1, 1996 and ending September 1, 2000.

(Initial)

ACCEPTANCE AND DELIVERY

TO: GE Capital Commercial Asset Funding
General Electric Capital Corporation
44 Old Ridgebury Road
Danbury, CT 06810

We are pleased to confirm the following:

1. We have read the lease, financing, loan, security or other agreement ("Agreement") which we executed with you on April 5, 1996 and understood its terms before we signed it; and
2. We selected both the personal property ("Equipment") which is the subject of the Agreement and the supplier from whom the Equipment was purchased, and we understand that neither the supplier nor any salesman or agent of the supplier is an agent or representative of yours or your assigns; and
3. Having examined the Equipment, its parts and accessories, we are completely satisfied with its delivery to us at our location as specified in the Agreement; and
4. The Equipment has been installed in good condition and inspected and accepted by us as satisfactory, and it satisfies all the purposes for which it was chosen; and
5. We understand and agree that neither you nor your assigns make any WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, as to any matter whatsoever concerning the condition of the Equipment or the use or maintenance of it; and
6. If the Equipment is not properly installed, does not operate as represented by the supplier or is unsatisfactory for any reason, we shall make any and all claims in respect thereof solely against the supplier and shall nevertheless pay you or your assigns all sums payable under the Agreement, and we waive any and all rights, claims and set-offs against you or your assigns that might otherwise have arisen under the Agreement; and
7. WE CERTIFY that the Equipment is and shall be used for BUSINESS PURPOSES exclusively; and
8. We understand that you reply on this signed Acceptance and Delivery and the truth of all statements in it when you pay the supplier; and
9. We understand that the Agreement may be assigned to another party, and we consent to that assignment; and
10. We understand that we are responsible for filing returns and paying all taxes and other charges payable to all federal, state and local authorities relative to the Equipment and the Agreement.

DO NOT SIGN THIS ACCEPTANCE AND DELIVERY UNTIL ALL OF THE EQUIPMENT HAS BEEN DELIVERED AND INSTALLED.

Today's Date: April 10, 1996

Date of delivery of the Equipment:

April 10, 1996

Customer Name: Vision Financial Group, Inc.

By: _____

Title: _____

To: GE Capital Commercial Asset Funding
General Electric Capital Corporation
44 Old Ridgebury Road
Danbury, CT 06810

ASSIGNMENT OF LEASE (WITHOUT RECOURSE)

In consideration of the extension of certain financial accommodations (including the sum of $1,489,093.77) by the General Electric Capital Corporation ("GE Capital"), a New York Corporation, to Vision Financial Group, Inc. ("Assignor"), a Pennsylvanian Corporation, with principal offices located at 1100 Liberty Avenue, Pittsburgh, Pennsylvania 15222 the receipt and sufficiency of which is hereby acknowledged by Assignor, Assignor hereby sells, assigns, transfers and sets over to GE Capital, its successors and assigns, without recourse: (a) all of Assignor's right, title and interest in and to that certain lease agreement dated 52 rents @ $$35,261 each, commencing June 01, 1996, March 07, 19 96 (the "Lease") between Assignor as Lessor and Ed Hanslovan Coal Co., Inc. as Lessee ("Lessee"), and all of those agreements and instruments executed in connection with the Lease including without limitation all financing statements and guaranties (the Lease and all of said agreements and instruments collectively the "Agreements"), together with all of Assignor's rights and remedies thereunder; (b) all rental and other payments due and to become due under the Agreements; and (c) all of Assignor's rights and interests in and to the property the subject of the Lease (the "Equipment"). (The Equipment is more fully described in the Lease.)

GE Capital shall have the right, in GE Capital's own behalf and in GE Capital's own name, to take any action under the Agreements which Assignor might have taken, save for this Assignment. Contemporaneously with execution hereof, Assignor shall deliver to GE Capital all of the Agreements.

Assignor warrants and represents to and covenants with GE Capital that:

a. each of the Agreements is genuine and enforceable against Lessee (and all others who are parties thereto), the only agreements executed with respect to the Equipment, and the copies given to GE Capital by Assignor are the only originals thereof;

b. the Equipment is and will continue to be free and clear of all security interests, claims, liens and encumbrances of any kind or nature whatsoever (other than any security interest granted to GE Capital);

c. Assignor is the lawful owner of the Equipment and has absolute right and title to each and every item of Equipment;

d. Assignor has the full legal right, power and authority to execute this Assignment and to consummate all of the actions contemplated by this Assignment, the execution and delivery of this Assignment by Assignor has been approved by all necessary corporate or other action, and none of Assignor's obligations hereunder will result in any breach of any provision of any agreement or instrument to which Assignor is a party or by which Assignor is bound;

e. all signatures, names, addresses, amounts and other statements contained in the Agreements are true and correct;

f. each of the Agreements conforms to all applicable laws and regulations and is legally enforceable in the state or states where the Lessee and the Equipment are located, and if filing or recording of any of the Agreements or any other or similar instrument is required or permitted by law, the same has been so filed or recorded as to be effective against all persons;

g. the Equipment has been delivered to and accepted by Lessee in a condition satisfactory to Lessee;

h. Assignor has complied and will continue to comply with all of its representations, warranties, convenants and all other obligations to Lessee under each of the Agreements;

i. Assignor will indemnify and hold GE Capital harmless from and defend GE Capital against any liability or expense under or an account of any of the Agreements;

j. Lessee understands the terms of each of the Agreements and has neither disputed any obligation arising under any of the Agreements nor has any claim of defense or offset with respect to any of the Agreements or any of Lessee's obligations thereunder;

k. no amount due under any of the Agreements has been prepaid by Lessee, and no deposit has been paid by Lessee except as specifically stated in the Agreements delivered to GE Capital;

l. except as to any titled vehicles, the Equipment is presently located at Lessee's address as shown in the Lease and shall not be moved from said location except upon the prior written consent of GE Capital;

m. Lessee has complied with all of its obligations to Assignor under each of the Agreements, and Lessee is not presently in default of any of such obligations; and

n. Assignor has not made any prior sale or assignment of any of the Agreements or any item of Equipment to any person, firm or corporation or granted any waiver under or agreed to any modification or amendment of the Agreements or any of them.

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If Assignor shall be breached any of its warranties, covenants or obligations to GE Capital under this Assignment, or any representation made to GE Capital under this Assignment shall be false. Assignor shall repurchase the Agreements from GE Capital for the total amount of all unpaid payments thereunder, whether due or to become due, at the time of such repurchase, together with all costs of collection, if any, including, but not limited to attorney's fees.

To secure both the performance by Lessee of all of its obligations under the agreements and the performance by Assignor of all of its obligations hereunder, Assignor hereby grants to GE Capital and its successors and assigns, a security interest, pursuant to the Uniform Commercial Code and any other applicable law, in the Equipment and all parts, repairs, improvements, attachments, accessories and additions thereto now or hereafter at any time made or acquired, and all proceeds, substitutions and replacements thereof; provided, however, any such substitution or replacement may only be made with GE Capital's prior written consent. Assignor shall execute a UCC-1 financing statement or such similar instrument as GE Capital shall require naming Assignor, as debtor, and GE Capital, as secured party, evidencing GE Capital's security interest herein granted. Assignor hereby grants GE Capital an irrevocable power of attorney and authorizes and empowers GE Capital to execute and file all forms, documents and titles and make all necessary corrections thereto to perfect and record its security interest in the Equipment. If Lessee shall be deemed to be in default under the terms of any of the Agreements, all amounts due under the Agreements shall at GE Capital's sole election, become immediately due and payable to GE Capital, and GE Capital will be entitled to exercise any and all rights and remedies available to it under the Uniform Commercial Code and any other applicable law in respect of the Equipment, including but not limited to the right to require Assignor to assemble the Equipment and make it available to GE Capital at a place designated by GE Capital and to enter upon the premises where the Equipment, or any part of the Equipment may be, and take possession thereof. In the event of repossession after any default by Lessee, Assignor hereby WAIVES NOTICE OF AND OPPORTUNITY FOR HEARING. Assignor shall not (and shall not permit Lessee to) sell, transfer, move, assign or encumber, in any manner whatsoever, the Equipment (or any part thereof) without the prior written consent of GE Capital. Under no circumstances whatsoever shall item of Equipment be moved outside the continental United States.

GE Capital shall have no obligation of lessor under the Lease, and nothing herein shall relieve Assignor of any of its obligations under the Lease or any of the Agreements. Assignor shall have no authority to, and will not, without GE Capital's prior written consent, accept collections, repossess or consent to the return of the Equipment, or modify or amend, in any respect, the terms of any of the Agreements. Any failure or delay by GE Capital in enforcing any right hereunder shall not be deemed a waiver of such right or of any subsequent default by Assignor or of GE Capital's right to require strict performance of Assignor's obligations under this Assignment. This Assignment shall be binding upon Assignor and its successors and assigns and shall inure to the benefit to GE Capital and its successors and assigns. If GE Capital shall retain an attorney for the purpose of enforcing any of its rights against Assignor under this Assignment, Assignor shall be responsible for and reimburse GE Capital for all such attorney's fees and costs. Assignor shall execute and deliver to GE Capital, on demand and from time to time, such other and additional documents and instruments as GE Capital shall deem necessary to effectuate this Assignment.

Assignor subordinates to GE Capital any right Assignor has or might have: (a) in the Equipment; (b) against Lessee; (c) against any guarantor under any guaranty; and (d) by reason of payment to GE Capital of any payments under any of the Agreements or otherwise. Assignor hereby waives notice of: acceptance hereof; amendment or modification of any of the Agreements; the granting to Lessee of any indulgences or extensions of time for payment; and all other notices or formalities to which Assignor might otherwise be entitled.

If GE Capital takes possession of the Equipment, or any part thereof, and the same shall be sold at a public or private sale, GE Capital shall deduct and retain from the proceeds of such sale or sales any and all amounts whatsoever paid of expended in connection with any such taking of possession or sale, including attorney's fees paid by GE Capital. The balance of any such proceeds shall be applied to GE Capital to the indebtedness secured hereby, in such order and manner as GE Capital may determine.

Assignor waives any right it may have to assert, by way of counterclaim or affirmative defense in any action to enforce Assignor's obligations hereunder, any claim whatsoever against GE Capital. The foregoing provision shall not bar Assignor from asserting the substance of any such counterclaim in a separate action against GE Capital.

Assignor warrants and represents to and covenants wit GE Capital that: this Assignment contains the entire agreement of the parties; all prior agreements, commitments, understandings, representations, warranties and negotiations in connection herewith, if any, are hereby merged into this Assignment; and no oral representations shall in any manner whatsoever modify or explain any of the terms and conditions of this Assignment or any of the Agreements.

This Assignment shall be governed by and construed in accordance with the laws of the State of Connecticut. Assignor hereby agrees that all actions or proceedings arising, directly or indirectly, in connection with, out of or related to this Assignment may be litigated, at GE Capital's sole discretion and election, in courts in Connecticut, and Assignor hereby subjects itself to the jurisdiction of any local, state or federal court located within Connecticut.

IN WITNESS WHEREOF, Assignor has executed this Assignment this ____ day of _____, 19 96.

Witness: _____ _____ (Assignor)

(SEAL)

Attest: Dana M. Minster
(Sign and Print Name)
Dana M. Minster

By: _____

Title: _____

RDB/Standard/CAF/assignma:2

Exhibit B
Form of Acknowledgment Letter

General Electric Capital Corporation
44 Old Ridgebury Road
Danbury, CT 06810

RE: Master Lease No. 1278 dated as of March 7, 1996 between Ed Hanslovan Coal Co., Inc. ("Lessee") and Vision Financial Group, Inc. ("Lessor"), to the extent said Master Lease relates to Equipment Schedule No. 1 (the Equipment Schedule and the Master Lease as it relates thereto the "Lease").

Gentlemen:

Lessor proposes to assign, grant a security interest in, and hypothecate to General Electric Capital Corporation ("GE Capital") Lessor's right, title, and interest in and to the Lease. All capitalized terms used herein which are not otherwise defined shall have the respective meanings given to them in the Lease.

This letter constitutes Lessor's notice to Lessee of the assignment of the Lease effective as of April 5, 1996 ("Effective Date"). Beginning with such date, Lessee is hereby directed to send all payments of rentals, additional rent (except as excluded herein), casualty and/or stipulated loss values due and payable under the Lease to GE Capital.

Lessee hereby represents and agrees as follows: (i) the Lease is in full force and effect, and no Event of Default (as defined in the Master Lease) or event which with notice or lapse of time or both would become an Event of Default has occurred and is continuing, (ii) the execution and delivery of the Lease by Lessee and the performance of its obligations thereunder was duly authorized by all necessary corporate action of Lessee, and the Lease constitutes a valid, binding agreement of Lessee, enforceable in accordance with its terms; (iii) the Master Lease Agreement and Equipment Schedule No. 1 together represent the sole agreement between Lessor and Lessee respecting the equipment described in said Schedule (the "Equipment") and the rentals and other payments due for the Equipment under the Lease, and Lessee has entered into no other agreement, whether written or oral, with the Lessor with respect to the Equipment; (iv) Lessee has not made any prepayments of any rentals or other payments due under the Leases; (v) Lessee has not placed or allowed to be placed any lien, claim, or encumbrance on the Equipment; (vi) Lessor has not improperly interfered with Lessee's quiet enjoyment of the Equipment; (vii) Lessee's obligation to make all payments as set forth in the Lease is unconditional and Lessee will make all of said payments, including any termination or casualty payments, in accordance with the instructions herein set forth unless otherwise notified in writing by GE Capital and without any right of setoff, defense or counterclaim, notwithstanding any past, present, or future claim which Lessee has or may have against Lessor, any defect in the Equipment being leased, any damage or loss to all or any portion of the Equipment, or any other cause or reason whatsoever; (viii) the number of rental payments remaining under the Lease and the amount of those payments is set forth on Annex No. 1 hereto; (ix) the provisions of the Lease may not be amended, modified or waived without the prior written consent of GE Capital; (x) all of the Equipment has been delivered and installed and has been found to be acceptable and satisfactory to Lessee; (xi) Lessee's representations and warranties set forth in the Master Lease are true and correct on the date hereof and are hereby reaffirmed for the benefit of GE Capital; (xii) GE Capital shall enjoy all of Lessor's rights and privileges under the Lease; (xiii) the original executed copy of each Schedule which has been delivered to GE Capital by Debtor is the only copy marked "Original" and all other copies of each Schedule have been stamped or marked as duplicates; (xiv) any notice which Lessee is required to give Lessor under the Lease shall be sent to Lessor with a copy to GE Capital at 44 Old Ridgebury Road, Danbury, CT 06810, Attention: Business Center; (xv) Lessee agrees to provide GE Capital with annual audited financial statements within 90 days of the close of each fiscal year and upon GE Capital's request, with quarterly financial statements in a form reasonably acceptable to GE Capital;

_____ (Initial)

(xvi) Lessee shall continue to pay directly or reimburse Lessor for all taxes due under the Master Lease; and (xvii) Lessee's obligations under the Lease shall survive termination thereof.

WAIVER OF JURY TRIAL. GE CAPITAL, LESSOR AND LESSEE HEREBY UNCONDITIONALLY WAIVE THEIR RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF, DIRECTLY OR INDIRECTLY, THIS AGREEMENT, ANY OF THE LOAN DOCUMENTS, ANY DEALINGS BETWEEN GE CAPITAL, LESSOR AND LESSEE RELATING TO THE SUBJECT MATTER HEREOF OR THEREOF, AND/OR THE RELATIONSHIP THAT IS BEING ESTABLISHED BETWEEN GE CAPITAL, LESSOR AND LESSEE. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT (INCLUDING, WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS). THIS WAIVER IS IRREVOCABLE MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THE WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT OR THE LEASE DOCUMENTS. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

This acknowledgment is executed for the purpose of inducing GE Capital to finance the Lease. The parties hereto agree that this acknowledgment may be executed in three counterparts, each of which shall be deemed an original for all purposes, but all of which together shall constitute one and the same instrument. Please promptly return two fully executed counterparts of this acknowledgment to Lessor.

WITNESS the due execution hereof as of the 5 day of April, 1996.

ACKNOWLEDGED AND AGREED:

Ed Hanslovan Coal Co., Inc.

By: _____

Title: _____

Vision Financial Group, Inc.

By: _____

Title: _____

GENERAL ELECTRIC CAPITAL CORPORATION

By: _____

Title: Territory Credit Manager

ANNEX NO. 1

Fifty Two (52) monthly rentals in the amount of Thirty Five Thousand Two Hundred Sixty One and 00/100 Dollars ($35,261.00), commencing with the month of June 1, 1996 and ending September 1, 2000.

_____ (Initial)

General Electric Capital Corporation
44 Old Ridgebury Road
Danbury, CT 06810

RE: Master Lease No. 1278 dated as of March 7, 1996 between Ed Hanslovan Coal Co., Inc. ("Lessee") and Vision Financial Group, Inc. ("Lessor"), to the extent said Master Lease relates to Equipment Schedule No. 1 (the Equipment Schedule and the Master Lease as it relates thereto the "Lease").

Gentlemen:

Lessor proposes to assign, grant a security interest in, and hypothecate to General Electric Capital Corporation ("GE Capital") Lessor's right, title, and interest in and to the Lease. All capitalized terms used herein which are not otherwise defined shall have the respective meanings given to them in the Lease.

This letter constitutes Lessor's notice to Lessee of the assignment of the Lease effective as of April 5, 1996 ("Effective Date"). Beginning with such date, Lessee is hereby directed to send all payments of rentals, additional rent (except as excluded herein), casualty and/or stipulated loss values due and payable under the Lease to GE Capital.

Lessee hereby represents and agrees as follows: (i) the Lease is in full force and effect, and no Event of Default (as defined in the Master Lease) or event which with notice or lapse of time or both would become an Event of Default has occurred and is continuing, (ii) the execution and delivery of the Lease by Lessee and the performance of its obligations thereunder was duly authorized by all necessary corporate action of Lessee, and the Lease constitutes a valid, binding agreement of Lessee, enforceable in accordance with its terms; (iii) the Master Lease Agreement and Equipment Schedule No. 1 together represent the sole agreement between Lessor and Lessee respecting the equipment described in said Schedule (the "Equipment") and the rentals and other payments due for the Equipment under the Lease, and Lessee has entered into no other agreement, whether written or oral, with the Lessor with respect to the Equipment; (iv) Lessee has not made any prepayments of any rentals or other payments due under the Leases; (v) Lessee has not placed or allowed to be placed any lien, claim, or encumbrance on the Equipment; (vi) Lessor has not improperly interfered with Lessee's quiet enjoyment of the Equipment; (vii) Lessee's obligation to make all payments as set forth in the Lease is unconditional and Lessee will make all of said payments, including any termination or casualty payments, in accordance with the instructions herein set forth unless otherwise notified in writing by GE Capital and without any right of setoff, defense or counterclaim, notwithstanding any past, present, or future claim which Lessee has or may have against Lessor, any defect in the Equipment being leased, any damage or loss to all or any portion of the Equipment, or any other cause or reason whatsoever; (viii) the number of rental payments remaining under the Lease and the amount of those payments is set forth on Annex No. 1 hereto; (ix) the provisions of the Lease may not be amended, modified or waived without the prior written consent of GE Capital; (x) all of the Equipment has been delivered and installed and has been found to be acceptable and satisfactory to Lessee; (xi) Lessee's representations and warranties set forth in the Master Lease are true and correct on the date hereof and are hereby reaffirmed for the benefit of GE Capital; (xii) GE Capital shall enjoy all of Lessor's rights and privileges under the Lease; (xiii) the original executed copy of each Schedule which has been delivered to GE Capital by Debtor is the only copy marked "Original" and all other copies of each Schedule have been stamped or marked as duplicates; (xiv) any notice which Lessee is required to give Lessor under the Lease shall be sent to Lessor with a copy to GE Capital at 44 Old Ridgebury Road, Danbury, CT 06810, Attention: Business Center; (xv) Lessee agrees to provide GE Capital with annual audited financial statements within 90 days of the close of each fiscal year and upon GE Capital's request, with quarterly financial statements in a form reasonably acceptable to GE Capital;

_____ (Initial)

(xvi) Lessee shall continue to pay directly or reimburse Lessor for all taxes due under the Master Lease; and (xvii) Lessee's obligations under the Lease shall survive termination thereof.

WAIVER OF JURY TRIAL. GE CAPITAL, LESSOR AND LESSEE HEREBY UNCONDITIONALLY WAIVE THEIR RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF, DIRECTLY OR INDIRECTLY, THIS AGREEMENT, ANY OF THE LOAN DOCUMENTS, ANY DEALINGS BETWEEN GE CAPITAL, LESSOR AND LESSEE RELATING TO THE SUBJECT MATTER HEREOF OR THEREOF, AND/OR THE RELATIONSHIP THAT IS BEING ESTABLISHED BETWEEN GE CAPITAL, LESSOR AND LESSEE. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT (INCLUDING, WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS). THIS WAIVER IS IRREVOCABLE MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THE WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT OR THE LEASE DOCUMENTS. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

This acknowledgment is executed for the purpose of inducing GE Capital to finance the Lease. The parties hereto agree that this acknowledgment may be executed in three counterparts, each of which shall be deemed an original for all purposes, but all of which together shall constitute one and the same instrument. Please promptly return two fully executed counterparts of this acknowledgment to Lessor.

WITNESS the due execution hereof as of the 5 day of April, 1996.

ACKNOWLEDGED AND AGREED:

Ed Hanslovan Coal Co., Inc.

By: _____

Title: _____

Vision Financial Group, Inc.

By: _____

Title: _____

GENERAL ELECTRIC CAPITAL CORPORATION

By: _____

Title: Territory Credit Manager

ANNEX NO. 1

Fifty Two (52) monthly rentals in the amount of Thirty Five Thousand Two Hundred Sixty One and 00/100 Dollars ($35,261.00), commencing with the month of June 1, 1996 and ending September 1, 2000.

_____(Initial)

Debtor name (last name first if individual) and mailing address:

Ed Hanslovan Coal Co., Inc.
Route 2
Morrisdale, PA 16858

1

Debtor name (last name first if individual) and mailing address:

1a

Debtor name (last name first if individual) and mailing address:

1b

Secured Party(ies) name(s) (last name first if individual) and address for security interest information:

Vision Financial Group, Inc.
1100 Liberty Avenue
Pittsburgh, PA 15222

2

Assignee(s) of Secured Party name(s) (last name first if individual) and address for security interest information:

General Electric Capital Corporation
11590 Century Blvd., Suite 111
Cincinnati, OH 45246

2a

Special Types of Parties (check if applicable):

☐ The terms "Debtor" and "Secured Party" mean "Lessee" and "Lessor," respectively.

☐ The terms "Debtor" and "Secured Party" mean "Consignee" and "Consignor," respectively.

☐ Debtor is a Transmitting Utility.

3

SECURED PARTY SIGNATURE(S)

This statement is filed with only the Secured Party's signature to perfect a security interest in collateral (check applicable box(es))-

a. ☐ acquired after a change of name, identity or corporate structure of the Debtor.

b. ☐ as to which the filing has lapsed.

c. already subject to a security interest in another county in Pennsylvania-
☐when the collateral was moved to this county.
☐when the Debtor's residence or place of business was moved to this county.

d. already subject to a security interest in another jurisdiction-
☐when the collateral was moved to Pennsylvania.
☐when the Debtor's location was moved to Pennsylvania.

e. ☐ which is proceeds of the collateral described in block 9, in which a security interest was previously perfected (also describe proceeds in block 9, if purchased with cash proceeds and not adequately described on the original financing statement).

Secured Party Signature(s)
(required only if box(es) is checked above):

4

Uniform Commercial Code Form UCC-1
IMPORTANT - Please read instructions on reverse. Item 4 before completing

Filing No. (stamped by filing officer): File # P-48399

Date, Time, Filing Office (stamped by filing officer): Date April 15, 1996

Docket # 15-396-02 Time 10:50am

Clearfield County Prothonotary Office

5

This **Financing Statement** is presented for filing pursuant to the Uniform Commercial Code, and is to be filed with the (check applicable box):

☐ Secretary of the Commonwealth.

☒ Prothonotary of Clearfield County.

☐ real estate records of _____ County.

6

Number of Additional Sheets (if any): 7

Optional Special Identification (Max. 10 characters): 8

COLLATERAL

Identify collateral by item and/or type:

See attached Schedule A

☐ (check only if desired) Products of the collateral are also covered. 9

Identify related real estate, if applicable: The collateral is, or includes (check appropriate box(es))-

a. ☐ crops growing or to be grown on -
b. ☐ goods which are or are to become fixtures on -
c. ☐ minerals or the like (including oil and gas) as extracted on -
d. ☐ accounts resulting from the sale of minerals or the like (including oil and gas) at the wellhead or minehead on -

the following real estate:

Street Address:

Described at: Book _____ of (check one) ☐ Deeds ☐ Mortgages, at Page(s) _____

for _____ County. Uniform Parcel Identifier _____

☐ Described on Additional Sheet.

Name of record owner (required only if no Debtor has an interest of record):

10

DEBTOR SIGNATURE(S)

Debtor Signature(s):

Ed Hanslovan Coal Co., Inc.

1 Edward J. Hanslovan, Pres

1a Mary Hanslovan, Secretary

1b

11

RETURN RECEIPT TO:

General Electric Capital Corporation
11590 Century Blvd., Suite 111
Cincinnati, OH 45246

12

STANDARD FORM - FORM UCC-1 (7-89)
Approved by Secretary of Commonwealth of Pennsylvania

FILING OFFICE ACKNOWLEDGEMENT - County only.
NOTE - Do not send this page to the Department of State.

REORDER FROM
Registre, Inc.
514 PIERCE ST.
P.O. BOX 216
ANOKA, MN. 55303
(612) 421-1713

VISION
Financial Group, Inc.

The Pennsylvanian • 1100 Liberty Avenue • Pittsburgh, PA 15222
(412) 261-6465 • Fax (412) 261-9404

Friday, April 5, 1996

Via Fax and Regular Mail

Mr. Darryl Marwen
GE Capital
11590 Century Boulevard
Suite 111
Cincinnati, OH 45246

Subject: Hanalovan Coal

Dear Darryl:

We are please to enclose properly executed documents for our mutual client as follows:

- master lease
- schedule
- acceptance certificate
- exc's
- schedule "A"
- additional security
- lease certification
- personal guaranty
- lessee and lessor incumbency certificate
- notice of assignment, and
- assignment of lease -VFG to GE, 52 rents commencing 6/1/96 @ $35,261 for $1,459,093.77.

In that we are scheduled to fund on 4/10/96, I have provided wiring instructions to Rudd Equipment below:

VFG will wire to you $160,906.23 on 4/10/96, unless you want us to wire the vendor our portion. Our wire will be requested on 4/9/96 to insure you receive same by 10 a.m. on 4/10/96. We have all had plenty of time to make sure we perform. If there is any additional data that is needed, please call Dana Minster, Lou Brill, or myself upon receipt of this Fax.

Sincerely,

Frederick S. Summers Jr.

Fred Summers

MODIFICATION AGREEMENT
GE Capital Account No.
6048055-003

THIS MODIFICATION AGREEMENT ("Modification Agreement") is made and entered into as of this 11th day of January, 2000, by and between GENERAL ELECTRIC CAPITAL CORPORATION ("GE Capital "), a New York corporation with a place of business at 44 Old Ridgebury Road, Danbury, CT and Ed Hanslovan Coal Company, Inc. ("Customer") a Pennsylvania Corporation, with a place of business at Route 2 Box 230, Morrisdale, PA 16858.

RECITALS

WHEREAS on or about April 5, 1996, GE Capital loaned Debtor the Principal sum of One Million Four Hundred Eighty Nine Thousand Ninety Three and 77/100 Dollars ($1,489,093.77) (the "Principal Amount")

WHEREAS Debtor has requested that GE Capital modify its obligations under the Note;

WHEREAS GE Capital is willing to modify customer's obligations as requested subject to the terms and conditions set forth herein.

NOW THEREFORE, in consideration of these premises and the covenants contained herein and for other good and valuable consideration, the receipt and adequacy of which the parties hereby acknowledge, the parties hereby agree as follows:

I. ACKNOWLEDGMENTS, REPRESENTATIONS AND COVENANTS: Debtor does hereby represent, acknowledge, warrant and covenant to GE Capital that:

1) The recitals set forth above are true and accurate;

2) The Note and Security Agreement are duly executed, binding obligations of Debtor and have not been terminated and the copies of same attached hereto as Exhibits A and B, respectively, and made a part hereof are true, complete and accurate copies of same;

3) Debtor has adequate power and capacity to enter into this Modification Agreement;

4) The entry into and performance by Debtor of his obligations under this Promissory Note do not (i) violate any judgment, order law or regulation applicable to Debtor; or (ii) result in any breach of, constitute a default under or result in the creation of any lien, charge, security interest or other encumbrance upon any unit of Equipment pursuant to any indenture, security agreement, deed of trust, bank loan or credit agreement or other instrument (other than the Security Agreement) to which Debtor is a party;

5) There are no suits or proceedings pending or threatened in court or before any regulatory commission, board or other administrative governmental agency against or affecting Debtor, which will have a material adverse effect on the ability of Debtor to fulfill its obligations under this Modification Agreement, the Note or Security Agreement;

6) The financial statements of Debtor, heretofore delivered to GE Capital accurately present the financial position of Debtor, as of the date of delivery, and there has been no material adverse change in the financial condition of Debtor since the date of such financial statements;

7) Debtor agrees that, notwithstanding any provision to the contrary herein, it will continue to fulfill any and all of its duties and obligations under the Note and Security Agreement, except as those duties and obligations are modified by this Modification Agreement;

8) As of the date hereof, there are Twenty One (21) installments of principle and interest of Thirty Five Thousand Two Hundred Sixty One and /100 Dollars ($35,261.00), followed by One (1) payment including the balance of all remaining principal and accrued and unpaid interest; next due on December 1, 1999 which remain to be paid thereon.

II. MODIFICATION:

1) The payment schedule of the Note set forth above beginning as of the date hereof is hereby modified as follows:

(a) Twenty One (21) installments of principle and interest of Thirty Five Thousand Two Hundred Sixty One and /100 Dollars ($35,261.00), next due on February 1, 2000 which remain to be paid thereon

Followed by One (1) final payment which is to include all remaining principal and interest outstanding to be paid thereon.

2) The Security Agreement is hereby modified, as necessary, to incorporate the modifications in the Note set forth herein.

III. REMAINING TERMS TO CONTINUE IN EFFECT

1) Except as expressly modified herein, conditions and terms of the Note, and Security Agreement shall continue in full force and effect in accordance with their original terms and conditions.

2) All Exhibits referenced herein and attached hereto are incorporated herein by reference.

3) If this Modification Agreement is deemed unenforceable in any respect, then and in such case the parties agree that the Note and Security Agreement shall be enforceable in accordance with their original terms and conditions as if this Modification Agreement had never been executed.

4) It is the intention of the parties hereto to comply with all applicable usury laws; accordingly, it is agreed that, notwithstanding any provision to the contrary in this Modification Agreement, the Note or Security Agreement, in no event shall any of the foregoing require the payment or permit the collection of interest in excess of the maximum amount permitted by applicable law. If any such excess interest is contracted for, charged or received thereunder, or in the event that all of the Account Balance shall be prepaid, so that under any of such circumstances the amount of interest contracted for, charged or received under this Modification Agreement, the Note or Security Agreement shall exceed the maximum amount of interest permitted by applicable law, then in such event (a) the provisions of this Section shall govern and control, (b) neither Debtor nor any other person or entity now or thereafter liable for the payments shall be obligated to pay the amount of such interest to the extent that it is in excess of the maximum amount of interest permitted by applicable law, (c) any such excess which may have been collected shall be either applied as a credit against the then unpaid Account Balance or refunded to the party having paid same, at the option of GE Capital , and (d) the effective rate of interest shall be automatically reduced to the maximum lawful contract rate allowed under applicable law as now or hereafter construed by the courts having jurisdiction thereof.

5) Any payment received from Debtor may be applied by GE Capital at any time against any obligation due and owing by Debtor under the Note or Security Agreement, in GE Capital 's sole discretion, notwithstanding any statement appearing on or referred to in any remittance from Debtor or any prior application of such payment. In the event any bankruptcy proceedings are instituted by or against Debtor under any applicable bankruptcy law within 90 days after receipt by GE Capital of any such payment, such payment shall be deemed applicable to unpaid obligations then due thereunder in the inverse order of maturity.

6) Debtor hereby certifies, agrees and acknowledges that the Equipment is installed and fully operational and is now and will continue to be used and in the conduct of Debtor's business.

7) This Agreement shall be binding upon and shall inure to the benefit of all the parties hereto and their respective administrators, successors and permitted assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement and have caused this Agreement to be executed by their respective duly authorized representatives as of the day first above-written.

DEBTOR:

Ed Hanslovan Coal Company, Inc.

By: Mary Hanslovan

Title: Vice Pres

GENERAL ELECTRIC CAPITAL CORPORATION:

By: _____

Title: _____

EXHIBIT B

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT (the "Mortgage") is made this ____ day of August, 2002, by Edward Hanslovan and Mary Hanslovan (the "Mortgagors"), in favor of General Electric Capital Corporation, whose principal business address is 44 Old Ridgebury Road, Danbury, Connecticut 06801 ("GE Capital" or the "Mortgagee").

W I T N E S S E T H:

WHEREAS, GE Capital has agreed to (i) amend and restructure the outstanding obligations of Ed Hanslovan Coal Company, Inc. ("Debtor") of which the Mortgagors are principals, under, among other things, that certain Master Lease Agreement dated April 5, 1996, that certain Installment Note dated October 10, 1997, and that certain Master Security Agreement, dated October 10, 1997, and (ii) forego immediate enforcement of those certain Individual Guaranties executed by each of the Mortgagors and dated March 7, 1996 (the foregoing instruments shall hereinafter be collectively referred to as the "Secured Obligations"). To secure performance of all obligations of the Mortgagors to the Mortgagee hereunder and under each of the Secured Obligations, the Mortgagors hereby mortgage to the Mortgagee:

ALL THAT CERTAIN plot, piece or parcel of land, with the buildings and improvements thereon erected, situated, lying and being known as _____, more particularly described in Exhibit "1" attached hereto and incorporated by reference;

TOGETHER with all and singular the tenements, hereditaments, and appurtenances thereunto belonging, or in any wise appertaining, and the reversion or reversions, remainder and remainders; and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, in law and in equity, of the Mortgagors, of, in and to the same and every part and parcel thereof, with appurtenances, including all fixtures affixed to the same or intended so to be, and also, all machinery, equipment, improvements and personal property now in or upon or which may hereinafter be installed in or affixed to the same, to the extent the foregoing relate to or are necessary for the complete and comfortable use, enjoyment, maintenance, operation or occupancy thereof, including, but not limited to, furnaces, boilers, oil burners, radiators and piping, heating system, electrical system, panel boards, plumbing and bathroom fixtures, air conditioning, sprinkler systems, wash tubs, sinks, gas and electric fixtures, stoves, ranges, awnings, screens, window shades, refrigerators, kitchen cabinets, plants and shrubbery, as to which this Mortgage constitutes a security agreement (the "Property");

TOGETHER with all the right, title and interest of the Mortgagors in and to all streets, roads and public places, opened or proposed, adjoining the Property, and all easements and rights-of-way, public or private, all sidewalks and alleys, and all strips and gores of land now or hereafter used in connection with the Property;

TOGETHER with the rents, issues and profits arising or issuing from the Property or the improvements thereon as further security for the payment of the Secured Obligations of the Mortgagors, and the Mortgagors grants to the Mortgagee the right to enter upon and to possession of the Property for the purpose of collecting the same and to let the Property or any part thereof, and to apply the rents, issues and profits, after payment of all necessary charges and expenses, on account of the Secured Obligations as hereinafter provided;

TOGETHER with any and all awards, damages, payments, judgments, settlements and other compensation, including without limitation, insurance proceeds, and any and all causes of action, claims therefor and rights thereto, which may result from (i) taking or injury by virtue of the exercise of the power of eminent domain, (ii) a lawsuit or other legal proceeding, or (iii) any damage, injury or destruction in any manner caused to the Property or the improvements thereon, or any part thereof;

TOGETHER with all the estate, right, title, interest, property, possession, claim and demand whatsoever of the Mortgagors, in law as well as in equity, of, in and to the same and every part and parcel thereof with the appurtenances;

TOGETHER with all other assets and personal property of the Mortgagors relating to, or used in the operation of, the Property, including without limitation, all accounts, goods, fixtures, inventory, equipment, chattel paper, documents instruments and general intangibles (as such terms are defined in the Uniform Commercial Code), whether now owned or hereafter acquired;

AND ALSO, all proceeds of the foregoing.

ALL of which property and rights therein described above being hereinafter collectively referred to as the "Premises".

TO HAVE AND TO HOLD, the above granted and described Premises unto the Mortgagee, its successors and assigns, to its and their own proper use, benefit and behoove forever.

This Mortgage further creates a security interest in the fixtures included in the Premises and constitutes a security agreement and financing statement under the Uniform Commercial Code. The Mortgagors shall execute, file and refile such financing statements or other security agreements as the Mortgagee shall require from time to time with respect to such fixtures and other personal property and assets included in the Premises. The Mortgagors hereby authorizes the Mortgagee to file such financing statement or statements and any amendments thereto pursuant to said Uniform Commercial Code, without the signature of the Mortgagors, as the Mortgagee may deem necessary to perfect such interest or right in its favor.

PROVIDED ALWAYS, and these presents are made upon this express condition, that if the Secured Obligations shall be duly paid or performed as and when the same shall

become due and payable or be required to be performed, then these presents and the estate hereby granted shall cease, terminate and be void.

I. REPRESENTATIONS AND WARRANTIES OF THE MORTGAGOR.

The Mortgagors hereby represent and warrant to the Mortgagee as follows:

A. ORGANIZATION, POWER AND QUALIFICATION; AUTHORIZATION OF AGREEMENT

(a) The Mortgagors have all requisite authority to own and operate their properties and assets.

(b) The Mortgagors have full power and authority to execute, deliver and perform any action or step which may be necessary to carry out the terms of this Mortgage and this Mortgage is legal, valid and binding obligations on the Mortgagors enforceable in accordance with its terms, subject to any applicable bankruptcy, insolvency, general equity principles or other similar laws affecting the enforcement of creditors' rights generally.

B. NO LEGAL BAR. The execution, delivery and performance of this Mortgage will not (i) violate any provision of any existing law, statute, rule, regulation or ordinance, (ii) conflict with, result in a breach of or constitute a default under (a) the certificate of formation or operating agreement of the Mortgagors, (b) any order, judgment, award or decree of any court, arbitrator, or governmental authority, bureau or agency, or (c) any mortgage, indenture, lease, contract or other agreement or undertaking to which the Mortgagors are a party or by which the Mortgagors or any of its properties or assets may be bound, or (iii) result in the creation or imposition of any mortgage, security interest, restriction, lien or other encumbrance upon or with respect to any property or asset now owned or hereafter acquired by the Mortgagors, other than in favor of the Mortgagee.

C. CONSENT. No consent, license, permit, approval or authorization of, exemption by, notice to, report to, or registration, filing or declaration with any person or governmental authority, bureau or agency is required in connection with the execution, delivery, performance or validity of the Mortgage or the transactions contemplated thereby.

D. COMPLIANCE WITH LAW. The Mortgagors are not in violation of any applicable law, rule, regulation, statute, ordinance, or any order, judgment, award or decree of any court, arbitrator, or governmental authority, bureau or agency, the violation of which would have a materially adverse effect on the business, assets, liabilities or financial condition of the Mortgagors.

E. NO DEFAULT. The Mortgagors are not in default in any material respect in the payment or performance of any of its obligations or in the performance of any mortgage, indenture, lease, contract or other agreement or undertaking to which it is a party or by which it or any of its properties or assets may be bound, and no default or event of default has occurred and is continuing. The Mortgagors are not in default under any order, award or

decree of any court, arbitrator or governmental authority, bureau or agency binding upon or affecting it or by which any of its properties or assets may be bound or affected, and no such order, award or decree, if any, materially adversely affects the ability of the Mortgagors to carry on its business as presently conducted or to perform its obligations hereunder.

F. **NO LITIGATION**. No litigation, investigation or proceeding of or before any court, arbitrator or governmental authority, bureau or agency is currently pending, nor, to the knowledge of the Mortgagors, threatened, against the Mortgagors or any of the Mortgagors' properties and revenues which, if adversely determined, would materially adversely affect the ability of the Mortgagors to carry on its business as presently conducted or to perform its obligations hereunder.

G. **NO BURDENSOME RESTRICTIONS**. The Mortgagors are not a party to nor is bound by any contract or agreement or instrument nor subject to any restriction materially and adversely affecting the business or financial condition of the Mortgagors.

H. **TAX RETURNS AND PAYMENTS; FINANCIAL STATEMENTS.**

1. All federal, state and other tax returns of the Mortgagors required by law to be filed have been duly filed or extensions obtained, and all federal, state and other taxes, assessments and governmental charges or levies upon the Mortgagors or any of its properties, income, profits or assets which are due and payable have been paid, except such tax returns the nonfiling of which, and such taxes the non-payment of which, would not have a material adverse effect upon the business, assets, liabilities or financial condition of the Mortgagors and except for such taxes and assessments which the Mortgagors are disputing in good faith and for which the Mortgagors has established adequate reserves on its books for the payment of such disputed taxes or assessments in accordance with generally accepted accounting principles.

2. All financial statements and financial information provided to the Mortgagee by or on behalf of the Mortgagors fairly present the financial position and results of operations of the Mortgagors on the dates and for the periods then ended and show all direct liabilities and all known contingent liabilities of a material nature.

3. Since the date of the most recent financial statement provided to the Mortgagee by or on behalf of the Mortgagors, no material adverse change has occurred in the business, assets, liabilities, financial condition, results of operations or business prospects of the Mortgagors, and no event has occurred or failed to occur which has had or is likely to have a material adverse effect on the business, assets, liabilities, financial condition, results of operations or business prospects of the Mortgagor.

I. **FINANCIAL CONDITION**.

1. The Mortgagors are now, and after giving effect to the transactions contemplated hereby will be in, a financially solvent condition; the execution and delivery of this Mortgage does not constitute a "fraudulent conveyance" or "fraudulent transfer" within

the meaning of any applicable federal or state statute; and no bankruptcy or insolvency proceedings are presently pending by or against the Mortgagors.

2. No fact is known to the Mortgagors which has had or is likely in the future to have (so far as Mortgagors can reasonably foresee) a materially adverse effect upon the Mortgagor's business, assets, liabilities, condition, financial or otherwise, or results of operations that has not been set forth in the financial statements furnished to the Mortgagee or other reports or other papers or data otherwise disclosed in writing to the Mortgagee.

3. The Mortgagors do not intend to, nor does the Mortgagors believe that it will incur debts beyond its ability to pay such debts as they mature. The cash available to the Mortgagors are anticipated to be sufficient to pay all amounts on or in respect of debt of the Mortgagors when such amounts are required to be paid.

4. The Mortgagors does not believe that final judgments against it in actions for money damages will be rendered at a time when, or in an amount such that, the Mortgagors will be unable to satisfy any such judgments promptly in accordance with their terms (taking into account the maximum reasonable amount of such judgments in any such actions and the earliest reasonable time at which such judgments might be rendered). The cash available to the Mortgagors after taking into account all other anticipated uses of the cash of the Mortgagors are anticipated to be sufficient to pay all such judgments promptly in accordance with their terms.

J. **WARRANTY OF TITLE**. The Mortgagors are lawfully seized of an indefeasible estate in fee simple in the Premises, subject only to those exceptions (the "Permitted Encumbrances") set forth in that certain Title Insurance Commitment issued in connection with this Mortgage, as delivered to the Mortgagee and endorsed on the date hereof, which is incorporated herein by reference, and the Mortgagors will warrant and forever defend the title thereof unto the Mortgagee against all lawful claims whatsoever.

K. **ACCURACY AND COMPLETENESS OF INFORMATION.** All written information, reports and other papers and data furnished to the Mortgagee by the Mortgagors were, at the time the same were so furnished and remain, as of the date hereof, complete and correct in all material respects and did not and do not contain any untrue statement of fact or omit to state any material fact necessary in order to make the statements and information contained therein not misleading.

II. COVENANTS OF THE MORTGAGOR.

The Mortgagors hereby covenant and agree with the Mortgagee, until the Secured Obligations are performed and paid in full, as follows:

A. **PAYMENT OF SUMS SECURED.** The Mortgagors will pay the indebtedness as herein before provided. This Mortgage shall remain in full force and effect until the Secured Obligations and all other obligations under this Mortgage are fully and

indefeasibly paid and the performance obligations of the Mortgagors to the Mortgagee under the Loan Documents and this Mortgage have been satisfied in full.

B. **INSURANCE.**

1. The Mortgagors shall (a) keep in effect or cause to be kept in effect upon the Premises for the benefit of the Mortgagee insurance against loss or damage by fire and all other risks embraced within "all risk" and "extended coverage" including, but not limited to, vandalism and malicious mischief endorsements, in such amount, by such insurers, and containing such provisions as the Mortgagee may reasonably require, but in no event less than the replacement value of all improvements on the Premises, and (b) obtain or cause to be obtained public liability insurance in such minimum amounts and with such insurance companies as are reasonably satisfactory to the Mortgagee, but in no event less than $1,000,000 per occurrence.

2. Any insurance required pursuant to this Mortgage shall be so written or endorsed as to (a) name the Mortgagee as an additional insured, (b) contain the standard (non-contributing) mortgagee endorsement in favor of the Mortgagee as second mortgagee, (c) shall not contain any "co-insurance provisions", (d) shall be obtained from insurers which are reasonably satisfactory to the Mortgagee, and (e) with respect to insurance against loss or damage to property, name the Mortgagee as a "loss payee" and make losses payable to the as Second Mortgagee. The Mortgagors shall pay the premiums on the policies of all insurance required pursuant to this Mortgage as they become payable and shall deliver to the Mortgagee certificates of insurance and evidence of payment of all premiums, and, if requested by the Mortgagee, the original policies of property insurance and, if required, flood insurance, and certificates evidencing public liability insurance. All insurance shall provide that the Mortgagee is the Certificate Holder and the Mortgagors shall provide all such Certificates to the Mortgagee. Notwithstanding the foregoing, a mortgagee with a lien against the Premises senior in priority to this Mortgage ("Senior Mortgagee") shall have superior rights to insurance up to the amount of the Senior Mortgagee's mortgage.

3. All renewal or replacement policies shall be delivered by the Mortgagors, premiums paid, to the Mortgagee at least thirty (30) days before the expiration of the expiring policies. Each insurance policy shall provide that the Mortgagee shall be furnished with not less than thirty (30) days' prior written notice before any termination, cancellation, non-renewal or reduction in scope becomes effective as to the Mortgagee. If the Mortgagee becomes the owner of the Premises or any part thereof by foreclosure or otherwise, such policies shall become the absolute property of the Mortgagee.

C. **DAMAGE, DESTRUCTION AND CONDEMNATION**. If the Premises or any part thereof shall be damaged or either partially or totally destroyed, or if title to or the temporary use of the whole or any part of the Premises shall be taken, condemned or purchased under threat of condemnation by a competent authority for a public use or purpose, the Mortgagee shall be entitled to receive and shall receive any and all insurance proceeds or condemnation awards with respect thereto (hereinafter, the "Proceeds"), subject,

however, to the rights of any Senior Mortgagee. The Mortgagee shall have the right to participate in the defense of any condemnation action and the valuation of the Premises in connection therewith. So long as no Event of Default shall have occurred and be continuing hereunder, the Mortgagee shall remit such Proceeds to the Mortgagors to restore, replace or repair the Premises; provided, however, that if an Event of Default shall have occurred and be continuing hereunder, the Mortgagee shall have the right, in its sole and absolute discretion, to determine whether to apply such Proceeds to prepay the principal, interest and other charges on the Secured Obligations or to remit such Proceeds to the Mortgagors to restore, replace or repair the Premises. In any case in which Proceeds (and such additional funds) are to be applied to restore, replace or repair any part of the Premises, such restoration, replacement or repair shall in any event be subject to the satisfaction of the following conditions:

1. The Mortgagors shall submit or cause to be submitted to the Mortgagee for its approval, an estimate of the cost of restoration, replacement or repair of the Premises, accompanied by an architect's certification as to such costs and final plans and specifications with respect thereto. All buildings and improvements so restored, replaced or repaired shall be of substantially the same character and value as the buildings and improvements prior to such damage or destruction and shall be suitable for the purposes for which they were originally erected. The Mortgagors shall furnish the Mortgagee with evidence reasonably satisfactory to the Mortgagee that all buildings and improvements so restored, replaced and/or repaired and their contemplated use fully comply with all zoning and building laws, ordinances and regulations, and with all other applicable federal, state or local laws and requirements.

2. If at any time the estimated cost of restoration, replacement or repair shall exceed the Proceeds available therefor, the Mortgagors shall escrow additional monies with the Mortgagee in an amount equal to such excess estimated cost.

3. Each disbursement of the Proceeds during the course of restoration, replacement or repair shall be subject to receipt by the Mortgagee of a requisition signed by the Mortgagors stating (a) the requisition number, (b) the name and address of the person or entity to whom payment is to be made, or if the payment is to be made to the Mortgagors for a reimbursable advance, the name and address of the person or entity to whom the advance was made together with proof of payment by the Mortgagors, and (c) that each obligation for which payment is sought is unpaid or unreimbursed and has not been the basis of any previously paid requisition. Each requisition shall be accompanied by (i) an approved certification by a licensed A.I.A. architect reasonably acceptable to the Mortgagee as to the cost of materials furnished and work done and evidence that such work and materials are free and clear of liens, (ii) if requested by the Mortgagee, an updated title insurance endorsement as of the date of each such disbursement insuring the continued validity and priority of this Mortgage and (iii) such other documents, certificates or instruments as the Mortgagee shall reasonably require. No payment made prior to the final completion of work shall exceed 90% of the value of the work performed or materials furnished and incorporated into the Premises from time to time, and at all times the undisbursed balance of said Proceeds

(together with the additional security referred to in the preceding paragraph) shall be at least sufficient to pay for the cost of completion of the work, free and clear of liens. Said Proceeds are to be released not more than once a month, and the disbursement of said Proceeds shall be subject to such other provisions and safeguards as the Mortgagee then requires in connection with construction loans for similar projects. The administration of such provisions shall be at the sole cost and expense of the Mortgagor.

4. Final payment shall be made upon receipt by the Mortgagee of a certification by a licensed A.I.A. architect reasonably acceptable to the Mortgagee as to completion in accordance with the approved plans and specifications and, if requested by the Mortgagee, the issuance to the Mortgagee of a title policy endorsement reasonably satisfactory to the Mortgagee insuring the continued validity and priority of this Mortgage as a mortgage lien.

5. All costs and expenses incurred by the Mortgagee in disbursing said funds shall be paid for by the Mortgagors and may be deducted by the Mortgagee from the funds to be so advanced for such restoration, replacement or repair.

6. Nothing herein shall be construed to require the Mortgagee to advance any sums for any such restoration, replacement or repair beyond the amount of the Proceeds actually received by the Mortgagee and set aside for such purpose less the amount of the Mortgagee's costs and expenses referred to above.

7. The Mortgagors shall promptly notify the Mortgagee of any damage, destruction or institution of any proceedings for the condemnation or taking, by powers of eminent domain or purchase under threat thereof, of the whole or any part of the Premises.

8. Prior to an Event of Default, the Mortgagors shall adjust any insurable loss and settle any condemnation proceedings, provided the Mortgagors shall have obtained the prior written consent of the Mortgagee thereto which shall not be unreasonably withheld or delayed. Following the occurrence of an Event of Default, the Mortgagee shall have the exclusive right to adjust any insurable loss and settle any condemnation proceedings.

9. Any moneys released to the Mortgagors or paid or applied to the cost of restoration, replacement or repair shall in no event be deemed a payment of the Secured Obligations. The Mortgagee shall be under no obligation to question the amount of the Proceeds and may accept the same in the amount in which the same shall be paid.

10. Anything to the contrary herein contained notwithstanding, any Proceeds paid over to the Mortgagee and not used for repair, replacement or restoration shall be applied to pay any sums then due and owing to the Mortgagee with respect to the Secured Obligations, and, subject to the rights of the holders (including the Mortgagee) of any Permitted Encumbrances, any excess shall be paid over to the Mortgagor.

D. **COMPLIANCE WITH LAWS.** The Mortgagors shall comply in all material respects with all applicable federal, state and local laws, rules, regulations, ordinances,

building codes and orders in effect from time to time including, but not limited to, those relating to the environment, the payment of taxes, assessments and other governmental charges, zoning, and the use, occupancy, transfer or encumbrancing of the Premises the failure to comply with which would result in a lien upon the Premises or otherwise impair the value of the Premises. The Mortgagors additionally agrees to pay all costs required to comply with any of the above conditions, and to indemnify and hold the Mortgagee harmless against any loss, liability, cost or expense (including attorneys' fees) arising out of or relating to any proceeding instituted in connection with any alleged or actual violation of any of the foregoing not caused by the Mortgagee.

E. **TAXES AND OTHER CHARGES; MECHANICS' LIENS.** Except as otherwise provided in this Section II(E), the Mortgagors shall pay all taxes, water and sewer rents, fines, impositions and other similar claims, liens and encumbrances assessed, or which may be assessed, against the Premises or any part thereof, without any deduction or abatement, not later than five (5) days before the same shall become due and payable and shall simultaneously with each such payment, furnish to the Mortgagee receipts for the payment thereof in full. The Mortgagors will pay, from time to time when the same shall become due, all lawful claims and demands of mechanics, materialmen, laborers, and others, which, if unpaid, might result in, or permit the creation of, a lien on the Premises or any part thereof, or on the revenues, rents, issues, income and profits arising therefrom, and will do or cause to be done everything necessary so that the lien hereof shall be fully preserved, at the cost of the Mortgagors and without expense to the Mortgagee. If the Mortgagors shall in good faith, and by proper legal action, contest any taxes, assessments, fines, impositions, claims, liens, encumbrances or other charges, or the validity thereof, and provided no Event of Default is then existing and continuing, then the Mortgagors shall not be required to pay the same or to produce such receipts as long as such contest operates to prevent collections, and is maintained and prosecuted with diligence and shall not have been terminated or discontinued adversely to the Mortgagor. In addition to the foregoing, the Mortgagors will pay when due and will not suffer to remain outstanding, any charges for utilities, whether public or private, with respect to the Premises.

F. **FURTHER ASSURANCES; FILING AND RECORDING.**

1. The Mortgagors will, at its sole cost and expense, perform, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, security agreements, assignments, notices of assignment, financing statements, transfers and assurances as the Mortgagee shall from time to time reasonably require, for the better assuring, conveying, assigning, transferring and confirming unto the Mortgagee the property and rights hereby conveyed or assigned or intended now or hereafter so to be, or which the Mortgagors may be or may hereafter become bound to convey or assign to the Mortgagee, for carrying out the intention or facilitating the performance of the terms of this Mortgage or for filing, registering or recording this Mortgage and, on demand, will execute and deliver, and hereby authorizes the Mortgagee and irrevocably appoints the Mortgagee as the agent and attorney-in-fact of the Mortgagors to execute and file in its own name or in the

Mortgagor's name, to the extent it may lawfully do so, all such documents, instruments, certificates and financing statements.

2. The Mortgagors, forthwith upon the execution and delivery of this Mortgage, and thereafter from time to time upon request by the Mortgagee, and as may be required by law, will cause this Mortgage and any security instrument creating a lien or evidencing the lien hereof upon the Premises and the fixtures thereon and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect the lien hereof upon, and the interest of the Mortgagee in, the Premises and the fixtures thereon.

3. The Mortgagors will pay all filing, registration or recording fees, and all expenses incident to the execution and acknowledgment of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Premises and the fixtures thereon, and any instrument of further assurance, and all federal, state, county and municipal stamp taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Premises and the fixtures thereon or any instrument of further assurance.

G. **RIGHT TO REMEDY DEFECTS; INDEMNIFICATION.** If the Mortgagors shall at any time fail to pay any amount payable by it hereunder or fails to comply with any provision of this Mortgage, the Mortgagee may, after reasonable notice to the Mortgagors, pay such amount or comply with such provision and make such expenditures, including reasonable counsel fees, in connection therewith and with enforcing this Mortgage and for repairing, maintaining and preserving the Premises, for establishing, preserving, protecting and restoring the validity and priority of the lien hereof, for obtaining official tax searches of the Premises, for protecting and preserving any use being made of the Premises now or hereafter and for advances to any trustee or receiver of the Premises, as the Mortgagee deems advisable; each amount so paid or expended, with interest at the rate then in effect under the Secured Obligations plus four percent (4%) shall become part of the Secured Obligations and be secured hereby; and the Mortgagors shall pay to the Mortgagee, on demand, the amount of each payment or expenditure, with such aforesaid interest, but no such payment or compliance by the Mortgagee shall constitute a waiver of the Mortgagor's failure so to do or affect any right or remedy of the Mortgagee with respect thereto. The Mortgagors agrees to and does hereby indemnify the Mortgagee, its officers, directors, employees, agents, affiliates and assigns and the Mortgagors shall hold the Mortgagee, its officers, directors, employees, agents, affiliates and assigns harmless from and against any and all losses, claims, damages or liabilities (including all costs, expenses and reasonable counsel fees incurred in investigating or defending such claim) suffered by the Mortgagee, its directors, officers, employees, affiliates and agents and caused by, relating to, arising out of, resulting from or in any way connected with any of the items enumerated in the immediately preceding sentence, except to the extent resulting from the gross negligence or willful misconduct of the Mortgagee or its agents.

H. **PRESERVATION OF THE PREMISES; LIENS AND ENCUMBRANCES**

1. The Mortgagors shall keep the improvements now or hereafter on the Premises in good repair and condition, ordinary wear and tear excepted, and, with reasonable diligence, shall repair, replace or rebuild any material part of the Premises which may be destroyed by any casualty or become damaged, worn or dilapidated. The Mortgagors shall make any repairs needed to immediately preserve the value of the Premises within thirty (30) days after written notice thereof from the Mortgagee; provided, however, that in the event the Mortgagors are diligently undertaking such repairs but same cannot be completed within said 30-day period, the Mortgagee shall extend said 30-day period for as long as the Mortgagors and the Mortgagee shall agree is reasonably necessary in order to complete such repairs; provided further, however, that the Mortgagee shall be under no obligation to extend said period beyond ninety (90) days after the aforementioned written notice.

2. The Mortgagors shall not remove or demolish nor alter the design or structural character of any building now or hereafter erected upon the Premises without the prior written consent of the Mortgagee which consent shall not be unreasonably withheld or delayed. The Mortgagee shall consent to such proposed structural change or alteration upon receipt of (i) a certificate of the Mortgagors stating that no Event of Default then exists and is continuing and (ii) evidence reasonably satisfactory to the Mortgagee to the effect that the proposed structural change or alteration (upon completion) shall not diminish the value of the Premises.

3. The Mortgagors shall not suffer or permit waste of the Premises and shall cause the Premises to comply with all applicable building codes, ordinances, statutes and regulations of all federal, state and municipal governmental authorities and agencies having jurisdiction thereof, including but not limited to, all fire and safety codes.

4. The Mortgagors shall keep the Premises free of all mortgages, liens, charges, encumbrances, attachments, levies, distraints, other judicial process and burdens of every nature, except for Permitted Encumbrances.

I. **NOTIFICATION**. The Mortgagors shall notify the Mortgagee immediately of (a) the occurrence or existence of any Event of Default, (b) the inception of any action, suit, proceeding, inquiry or investigation at law or in equity before any court, public board or body wherein an unfavorable decision, ruling or finding would, to the extent not covered by insurance, have a material adverse effect upon the Premises, and (c) the occurrence of any substantial loss, substantial damage, destruction, condemnation or taking of the whole or any part of the Premises.

J. **RIGHT TO INSPECT PREMISES AND BOOKS AND RECORDS; APPRAISAL**

The Mortgagors shall permit the Mortgagee, by its duly authorized officers and agents during normal business hours and upon reasonable written notice, to enter upon and inspect the Premises and, to the extent and with such frequency as is reasonably required by the Mortgagee, the books and records of the Mortgagor. The Mortgagee shall also have the right, from time to time, upon reasonable notice to the Mortgagors, to conduct or cause to be conducted an appraisal or appraisals of the Premises, the cost of which shall be paid by the Mortgagor.

K. **FINANCIAL STATEMENTS.**

The Mortgagors will furnish the following information to the Mortgagee:

(1) Within 90 days after the end of each fiscal year of the Mortgagors, financial statements on the form approved by Mortgagee and true, correct and complete copies of the Mortgagors federal tax returns as filed;

(2) Within 30 days after the end of each fiscal year of the Mortgagors, an operating statement with respect to the Premises, on the form approved by the Mortgagee;

(3) From time to time and promptly upon each request, such other reports and information regarding the business, assets, liabilities, financial condition, results of operation or business prospects of the Mortgagors as the Mortgagee may reasonably requests;

(4) Prompt notice of any material adverse change with respect to the business, assets, liabilities, financial condition or results of operation of the Mortgagor.

In connection with the delivery of the tax returns which is referred to in clause 1 above, the Mortgagors shall also obtain and deliver to the Mortgagee an acknowledgment of reliance, on the form approved by the Mortgagee from the independence certified public accountant, if any, which prepares such tax returns.

L. **FURTHER INDEBTEDNESS.**

1. The Mortgagors shall not create, assume, incur, guarantee or in any manner become liable, contingently or otherwise, in respect of any indebtedness for money borrowed.

2. The Mortgagors shall not sell, transfer, assign, lease or otherwise dispose of (whether in one transaction or a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired).

3. The Mortgagors shall not guarantee, endorse, become surety for, or otherwise in any way become or be responsible for, the obligations of any other person whether by agreement to purchase the indebtedness of any other person, or agreement for the furnishing of funds, directly or indirectly, for the purpose of payment of indebtedness of any

other person, other than endorsements of negotiable instruments for deposit or collection in the ordinary course of its business.

M. **LEASES**.

1. The Mortgagors shall not lease or sublease all or any portion of the Premises or consent to the leasing, subleasing or assignment of any lease by any tenant of all or any portion of the Premises, or consent to the amendment, modification or termination of any lease with respect to the Premises, except for increases in rent, without the prior review and express prior written consent, both as to the form and substance thereof, of the Mortgagee, which consent shall not be unreasonably withheld or delayed.

2. All present and future lease of the Premises, or any part thereof, shall be subordinate in all respects to the lien of this Mortgage.

3. On or before January 31 of each year, the Mortgagors shall provide to the Mortgagee a current, certified rent roll with respect to all tenants and other occupants of the Premises. In addition, the Mortgagors shall provide to the Mortgagee, promptly upon execution thereof, certified copies of all leases, and all amendments, modifications and supplements to existing leases, entered into with respect to the Premises from and after the date hereof.

N. **NO DEDUCTION**. The Mortgagors shall claim no deduction upon the assessed value of the Premises on account of the monies owing to Mortgagee.

III. INDEMNIFICATION

1. The Mortgagors hereby agrees to indemnify the Mortgagee, its directors, officers, employees, affiliates and agents from and against any and all liabilities, suits, obligations, fines, damages, penalties, claims, losses, costs, charges and expenses (including, without limitation, reasonable architect's, engineer's, accountant's, consultant's and attorneys' fees and disbursements) (collectively, the "Losses") which may be imposed upon, incurred or asserted against the Mortgagee, its directors, officers, employees, affiliates and agents by reason of: (a) any construction relating to the Premises; (b) any capital improvements, other work or thing done in, on or about the Premises; (c) any use, non-use, misuse, possession, occupation, alteration, repair, condition, operation, maintenance or management of the Premises or any street, drive, sidewalk, curb, passageway or space comprising a part thereof or adjacent thereto; (d) any negligence or willful act or omission on the part of the Mortgagors, any lessee or any other occupant of the Premises or any agent, contractor, servant, employee, licensee or invitee or any of them; (e) the claims of any lessee or any party acting through or under any such lessee or otherwise arising under or as a consequence of any lessee; (f) any accident, injury (including death) or damage to any person or property occurring in, on or about any sidewalks, drives, curbs, passageways, streets, spaces or alleys adjacent to or on the Premises; (g) any Event of Default; (h) any lien or claim which may be alleged to have arisen on or against the Premises under any law or any liability asserted against the Mortgagee with respect thereto; (i) any tax or other imposition,

including, but not limited to, any imposition attributable to the execution, delivery, filing or recording of this Mortgage or any other documents executed by the Mortgagors in connection herewith; (j) any contest permitted pursuant to the provisions of this Mortgage or the other Loan Documents; and (k) any and all violations of law, including, without limitation, any and all federal, state and local laws, rules and regulations relating to the environment, existing at the Premises. The foregoing indemnity shall not apply to Losses resulting or arising from the gross negligence or willful misconduct of the Mortgagee.

2. The obligations of the Mortgagors under this Article IV shall not in any way be affected or limited by the absence of any insurance, by the amount of any insurance policy or by the failure or refusal of any insurance carrier to perform any obligation on its part under any insurance policies. If any claim, action or proceeding is made or brought against the Mortgagee or any of its directors, officers, employees, affiliates and agents, by reason of any event as to which the Mortgagors are obligated to indemnify the Mortgagee or any of its directors, officers, employees, affiliates and agents, then, upon demand by the Mortgagee, the Mortgagors, at its sole cost and expense, shall resist or defend such claim, action or proceeding in the Mortgagee's, or any of its directors, officers, employees, affiliates and agents, name, if necessary, by the attorneys for the Mortgagor's insurance company or by such attorneys as the Mortgagee shall approve in writing, which approval shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, the Mortgagee or any of its directors, officers, affiliates, employees and agents may engage its own attorneys in its reasonable discretion to defend it or to assist in its defense and the Mortgagors shall pay the reasonable fees and disbursements of such attorneys.

IV. EVENTS OF DEFAULT.

The following shall constitute events of default under this Mortgage (each, an "Event of Default"):

A. If any Event of Default or default shall occur under the terms of any of the Secured Obligations.

B. If the Mortgagors shall default in the performance or observance of any covenant, agreement or condition contained in this Mortgage and such default shall continue for fifteen (15) days after notice thereof from the Mortgagee.

C. If any representation or warranty made by the Mortgagors in this Mortgage or in any other Loan Document shall prove to have been false, incorrect or misleading in any material respect on the date as of which made.

D. If the Premises shall be sold, transferred, assigned or otherwise conveyed, including without limitation, the entering into by the Mortgagors of a long-term lease of the Premises, or if title to the Premises or any part thereof shall be transferred or conveyed to any person, firm, corporation, trust, association or other entity, including without limitation, the passing of title to, or possession of the Premises by, a receiver, trustee or assignee for the benefit of creditors.

E. If any default shall occur under the terms of any of the Permitted Encumbrances.

F. If a default or event of default occurs under a mortgage that is prior or subordinate to the lien of this Mortgage, including without limitation, if any mortgagee claims a right to possession or commences a foreclosure action.

G. (i) The Mortgagors shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian or other similar official for all or any substantial part of its assets, or (ii) the Mortgagors shall make a general assignment for the benefit of creditors; or (iii) the Mortgagors shall commence, or there shall be commenced against the Mortgagors, any case, proceeding or other action of a nature referred to in clause (i) above which (A) results in the entry of an order for relief of any such adjudication or appointment or (B) remains undismissed, undischarged or unbonded for a period of sixty (60) days; or (iv) there shall be commenced against the Mortgagors any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets, which results in the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within sixty (60) days from the entry thereof; or (v) the Mortgagors shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clauses (i), (ii), (iii) or (iv) above; or (v) the Mortgagors shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due.

H. The Mortgagors shall (i) default in any payment with respect to any indebtedness for money borrowed, whether from the Mortgagee or any other lender, beyond the period of grace, if any, provided in the instrument or agreement under which such indebtedness was created; or (ii) default in the observance or performance of any other agreement or condition relating to any such indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur, the effect of which default or other event is to cause, or to permit the holder of such indebtedness (or a trustee or agent on behalf of such holder) to cause, with the giving of notice if required, such indebtedness to become due prior to its stated maturity. In addition, the Mortgagors acknowledges and agrees that any Event of Default hereunder or under any other Loan Document shall be an event of default under and with respect to all other indebtedness, whether actual or contingent, of the Mortgagors to the Mortgagee.

I. A final judgment shall be entered against the Mortgagors by any court for the payment of money which, together with all other outstanding judgments against the Mortgagors, exceeds fifty thousand dollars ($50,000) in the aggregate, which judgment is not fully covered by insurance, or a warrant of attachment or execution or similar process shall

be issued or levied against property of the Mortgagors which, together with such other property subject to such process, exceeds in value fifty thousand dollars ($50,000) in the aggregate and, if within sixty (60) days (ten (10) days if such aggregate amount exceeds one hundred thousand dollars ($100,000)) after the entry, issue or levy thereof, such judgment, warrant or process shall not have been discharged or stayed pending appeal, or, if within sixty (60) days (ten (10) days if such aggregate amount exceeds one hundred thousand dollars ($100,000)) after the expiration of any such stay, such judgment, warrant or process shall not have been discharged.

J. The Mortgagors shall enter into any junior financing of the Premises without the prior written consent of the Mortgagee.

V. **REMEDIES**.

In case one or more Events of Default shall have occurred, the Mortgagee shall have the following rights and remedies:

A. The Mortgagee may declare all amounts outstanding (with accrued interest thereon) and all other amounts owing to it under the Secured Obligations to be immediately due and payable, whereupon the same shall become due and payable forthwith without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Mortgagor.

B. To take any action at law or in equity to collect the payments due under the Secured Obligations secured hereby or to enforce the performance and observance of the obligations, agreements and covenants of the Mortgagors contained in this Mortgage and the other Loan Documents.

C. Enter into possession of the Premises and employ watchmen to protect the Premises from injury.

D. To institute an action of mortgage foreclosure, or take other action as the law may allow, at law or in equity, for the enforcement of this Mortgage, and proceed therein to final judgment and execution for the entire unpaid balance of the Secured Obligations, including costs of suit, interest and reasonable attorneys' fees. In case of any sale of the Premises by virtue of judicial proceedings, the Premises may be sold in one parcel and as an entirety or in such parcels, manner or order as the Mortgagee in its sole discretion may elect. The failure to make any tenants parties defendant to a foreclosure proceeding and to foreclose their rights will not be asserted by the Mortgagors as a defense in any proceeding instituted by the Mortgagee to collect the Secured Obligations secured hereby or any deficiency remaining unpaid after the foreclosure sale of the Premises. Notwithstanding anything herein to the contrary, the Mortgagors shall continue to be responsible for the payment of taxes, insurance and all other amounts payable with respect to the Premises until title to the Premises shall be conveyed at a sheriff's sale or other similar proceeding.

E. If the Event of Default relates to the payment of any tax, assessment, water or sewer rent or governmental charge, or the payment of a premium for insurance, or the obligation to keep the Premises in satisfactory repair and condition, or to otherwise preserve the security of this Mortgage, then the Mortgagee, in addition to or in lieu of exercising any other rights which it may have hereunder or under any other document executed in connection with any Secured Obligations secured hereby, may pay the tax, assessment, water or sewer rent, governmental charge, insurance premium, or the cost of placing the Premises in satisfactory repair and condition, or the cost of otherwise preserving the security of this Mortgage, and the amount so paid shall be added to the moneys owing on the Secured Obligations and shall be secured hereby and shall be due and payable on demand with interest equal to the prevailing interest rate under the Secured Obligations plus four percent (4%).

F. Upon the occurrence of any Event of Default, the Mortgagee is hereby empowered and appointed attorney-in-fact of the Mortgagors to enter upon and take possession of the Premises and rent the same, either in its name or in the name of the owner of such property, and to demand, collect and receive from the tenants, lessees or other occupants then in possession of the Premises or any part thereof, the rents, issues and profits as they become due as well as all past due rents, income or profits which have not been collected by the Mortgagors, to endorse the name of the Mortgagors or any subsequent owner of the Premises on any checks, notes or other instruments for the payment of money, to give any and all acquaintances or any other instrument in relation thereto in the name of the Mortgagors, and to institute, prosecute, settle or compromise any summary or legal proceedings in the name of the Mortgagors or in the name of the Mortgagee for the recovery of such rents, income or profits, or for the abatement of any nuisance thereon, and to defend, at the Mortgagee's option and sole discretion, any legal proceedings brought against the Mortgagors arising out of the operation of the Premises. All rents, issues and profits collected or received by the Mortgagors after an Event of Default shall be accepted and held for the Mortgagee in trust and shall not be commingled with the funds and property of the Mortgagors, but shall be promptly paid over to the Mortgagee; and the Mortgagors agrees to pay the Mortgagee, if demanded by it, a reasonable rental for the portion of the Premises occupied by the Mortgagors, monthly in advance as a tenant from month to month, and in default of any such payment the Mortgagors may be dispossessed by summary proceedings, such tenancy to expire upon delivery of deed in foreclosure; and the Mortgagee shall apply the rents, issues and profits, after the payment of the necessary charges and expenses, including management fees and commissions, on account of the Secured Obligations hereby secured, being accountable only for rents, issues and profits as are collected by it while in possession.

G. Upon the filing of a complaint to collect the amount due on any Secured Obligation, the Mortgagee shall be entitled to the appointment of a receiver of the rents, issues and profits of the Premises without the necessity of proving either inadequacy of the security or insolvency of the Mortgagors or any person who may be legally or equitably liable to pay moneys secured hereby, and the Mortgagors and each such person waive such proof and consent to the appointment of a receiver.

H. To exercise any and all rights and remedies conferred upon secured parties by the Uniform Commercial Code and other applicable laws.

In addition to the above remedies, if the Mortgagors commits a breach or threatens to commit a breach of this Mortgage, the Mortgagee shall have the right and remedy, without posting bond or other security, to have the provisions of this Mortgage specifically enforced by any court having equity jurisdiction, it being acknowledged and agreed that any such breach or threatened breach will cause immediate and irreparable injury to the Mortgagee and that the Mortgagee's rights in and to the Premises will not provide an adequate remedy therefor.

All proceeds received from the sale or other disposition of the whole or any part of the Premises shall be applied as follows: (i) first, to the payment of all fees, costs and expenses incurred by the Mortgagee in connection with such sale or disposition; (ii) second, to the payment in full of the Secured Obligations; and (iii) third, the balance, if any, of such proceeds remaining after payment in full of the foregoing, to the Mortgagors or as a court of competent jurisdiction may otherwise direct.

Without limiting the foregoing, in exercising its remedies upon the occurrence of an Event of Default, the Mortgagee (i) shall not be responsible nor liable for any shortage, discrepancy, damage, loss or destruction of any part of the Premises regardless of the cause thereof unless the same shall happen through its gross negligence or willful misconduct; (ii) shall be entitled to the appointment (without notice and without proof of diminution in value of the Premises) of a receiver to take possession of all or any portion of the Premises and to exercise such powers as the court shall confer upon the receiver; and (iii) generally may perform all acts necessary or proper to carry out the intention of this Mortgage, as fully and completely as though the Mortgagee were the absolute owner of the Premises for all purposes, and the Mortgagors hereby ratifies and confirms all that the Mortgagee shall do by virtue of this grant of power.

The rights and remedies of the Mortgagee hereunder shall be in addition to every other right and remedy now and hereafter provided by law; the rights and remedies of the Mortgagee shall be cumulative and not exclusive one of the other; the Mortgagee may exercise the same at such times, in such order, to such extent, and as often as Mortgagee deems advisable, and without regard to whether the exercise of one precedes, concurs with, or succeeds the exercise of another; no delay or omission by the Mortgagee in exercising a right or remedy shall exhaust or impair the same, or constitute a waiver of, or acquiescence in, the Event of Default; and no waiver of an Event of Default by the Mortgagee shall extend to or affect any other Event of Default or impair any right or remedy with respect thereto.

VI. **MISCELLANEOUS**.

A. **NOTICES**. All notices and other communications given to or made upon any party hereto in connection with this Mortgage shall, except as otherwise expressly herein provided, be in writing and hand delivered or sent by first class United States mail, postage

prepaid, return receipt requested, or by reputable overnight courier providing a receipt against delivery, to the respective parties, as follows:

Mortgagors: Mary Hanslovan
Edward Hanslovan
address

-with a copy to-
Carl Balan, Esq.
address

Mortgagee: General Electric Capital Corporation
Old Ridgebury Road
Danbury, Connecticut 06810
Att: Mark Skura

-with a copy to-

Oppenheimer Wolff & Donnelly LLP
The Chrysler East Building – Suite 1900
New York, New York 10017-4011
Att: Elena Lazarou, Esq.

or to such changed address as may be fixed by notice. All such notices and other communications shall, except as otherwise expressly herein provided, be effective when received by the party to whom properly addressed, the written receipt by any employee of any such party constituting sufficient evidence of such receipt.

B. **INDULGENCES; EXTENSIONS**. The Mortgagee, with respect to the Secured Obligations secured hereby, the Premises and the Mortgagor's obligations hereunder, may waive compliance with any of the provisions hereof, and may release all or any part of the Premises from any lien hereof, without affecting the priority or validity of the lien hereof upon the remainder of the Premises.

C. **INVALID PROVISIONS TO AFFECT NO OTHERS**. In case any one or more of the covenants, agreements, terms or provisions contained in this Mortgage shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms or provisions contained herein shall be in no way affected, prejudiced or disturbed thereby.

D. **SUCCESSORS AND ASSIGNS; PLURALS**. All of the grants, covenants, terms, provisions and conditions of this Mortgage shall run with the land and bind the Mortgagors, its legal representatives, heirs, successors and assigns, and shall inure to the benefit of the Mortgagee, the successors and assigns of the Mortgagee and all subsequent

holders of this Mortgage. As used herein the singular shall include the plural and vice versa as the context requires.

E. **CAPTIONS**. The captions herein are inserted only for convenience of reference and in no way define, limit or describe the scope or intent of this Mortgage or any particular paragraph or section hereof, nor the proper construction hereof.

F. **GOVERNING LAW**. This Mortgage is to be construed according to the laws of the State of Ohio.

H. **COUNTERPARTS. THIS MORTGAGE CANNOT BE CHANGED ORALLY**

I. WAIVER OF JURY TRIAL. THE MORTGAGORS HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN CONNECTION WITH ANY AND ALL LITIGATION INVOLVING THE SUBJECT MATTER OF THIS MORTGAGE.

J. RECEIPT OF MORTGAGE. THE MORTGAGORS HEREBY ACKNOWLEDGES RECEIPT OF A TRUE COPY OF THIS MORTGAGE, WITHOUT CHARGE.

IN WITNESS WHEREOF, the Mortgagors have caused this Mortgage to be executed and delivered as of the day and year first above written.

WITNESS:

_____

Mary Hanslovan

_____

Sworn to before me this
___st day of August, 2002.

_____
Notary Public

WITNESS:

_____

Edward Hanslovan

By:_____

Sworn to before me this
___st day of August, 2002.

_____
Notary Public

MORTGAGE AND SECURITY AGREEMENT

Dated: August __, 2002

From

Edward Hanslovan
and
Mary Hanslovan
address

To

General Electric Capital Corporation
44 Old Ridgebury Road
Danbury, Connecticut 06801

LOCATION OF PREMISES:

Street Address:

Town:
County: _____
State: Pennsylvania
Section: _____
Block: _____
Lot: _____

After recording, please return to:

OPPENHEIMER WOLFF & DONNELLY LLP
The Chrysler East Building
666 Third Avenue, Suite 1900
New York, New York 10017-4011
Attn: Elena Lazarou, Esq.

EXHIBIT C

HANSLOVAN COAL COMPANY MINERAL RESERVES AND SPECIFICATIONS

Location	Job Name	Mineable Acres	Mineral	Approx. Vein Height (in)	Approx. Vein Depth (ft)	Type of Vein	Approx. Amount (Tons)	Est. BTUs	Est. Sulfur (%)	Est. Ash (%)	Permit
Clover Run		480	Coal	50	90-95	U. Freeport	3,480,000	13.6-14.0k	1.20-1.80	8	Yes
			Limestone	264	95-100		38,776,320				
			Coal	35	110-115	L. Freeport	2,436,000	13.6-14.0k	1.20-1.80	8	
	Tower North	255	Coal	50	90-95	U. Freeport	1,848,750	13.6-14.0k	1.20-1.80	8	Yes
			Limestone	264	95-100		20,599,920				
			Coal	35	110-115	L. Freeport	1,294,125	13.6-14.0k	1.20-1.80	8	
Brockway	Buchanon	169	Coal	32	80-90	U. Freeport	784,160	13.6-14.0k	1.10-1.25	9-10	Yes
			Coal	40	130-140	L. Freeport	980,200	13.6-14.0k	1.10-1.25	9-10	
			Coal	192	350-400	Clarion	4,704,960	?	Low sulfur	?	No
	Sedlock	109	Coal	32	80-90	U. Freeport	505,760	13.6-14.0k	1.10-1.25	9-10	No
			Coal	40	130-140	L. Freeport	632,200	13.6-14.0k	1.10-1.25	9-10	
			Coal	192	350-400	Clarion	3,034,560	?	Low sulfur	?	No
	Kearney	100	Coal	32	80-90	U. Freeport	464,000	13.6-14.0k	1.10-1.25	9-10	No
			Coal	40	130-140	L. Freeport	580,000	13.6-14.0k	1.10-1.25	9-10	
			Coal	192	350-400	Clarion	2,784,000	?	Low sulfur	?	No
	Calhoun	153	Coal	192	350-400	Clarion	4,259,520	?	Low sulfur	?	No
	Deemer	97	Coal	192	350-400	Clarion	2,700,480	?	Low sulfur	?	No
	Gustafson	111	Coal	192	350-400	Clarion	3,090,240	?	Low sulfur	?	No
	James Patton	106	Coal	32	80-90	U. Freeport	491,840				
			Coal	192	350-400	Clarion	2,951,040	?	Low sulfur	?	No
	Ray Patton	81	Coal	192	350-400	Clarion	2,255,040	?	Low sulfur	?	No

	Smith	102	Coal	192	350-400	Clarion	2,839,680	?	Low sulfur	?	No
Location	**Job Name**	**Mineable Acres**	**Mineral**	**Approx. Vein Height (in)**	**Approx. Vein Depth (ft)**	**Type of Vein**	**Approx. Amount (Tons)**	**Est. BTUs**	**Est. Sulfur (%)**	**Est. Ash (%)**	**Permit**
Turkey Hil	I	370	Coal	20	20	C-prime	1,073,000	12.0-12.2k	0.6-0.8	9	Yes
			Coal	26	60	C	1,394,900	12.4-12.6k	0.6-0.8	10	
			Coal	24	105	B	1,287,600	13.8-14.0k	0.6-0.8	4	
	II	148	Coal	20	20	C-prime	429,200	12.0-12.2k	0.6-0.8	9	Yes
			Coal	26	60	C	557,960	12.4-12.6k	0.6-0.8	10	
			Coal	24	105	B	515,040	13.8-14.0k	0.6-0.8	4	
Morrisdale		100	Coal	36	80-85	B	522,000	13.0-13.5k	1.6-1.8	9	Yes

SUMMARY

Location	**Strip Mine Coal (Tons)**	**Strip Mine Limestone (Tons)**	**Deep Mine Coal (Tons)**
Clover Run	9,058,875	59,376,240	0
Brockway	3,946,320	0	29,111,360
Turkey Hil	5,257,700	0	0
Morrisdale	522,000	0	0
TOTAL	**18,784,895**	**59,376,240**	**29,111,360**

NOTES:

1) A density of 80 pounds per cubic foot = (145 * inch * acre) was used to compute coal reserves

2) A density of 169 pounds per cubic foot = (306 * inch * acre) was used to compute limestone reserves

3) Mineable acres represents the approximate amount of acres at each job location that have not been stripped											
Prepared by: Jim Davic (216) 977-1079 (7/8/02)											

EXHIBIT D

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT (the "Mortgage") is made this ____ day of August, 2002, by Edward Hanslovan and Mary Hanslovan (the "Mortgagors"), in favor of General Electric Capital Corporation, whose principal business address is 44 Old Ridgebury Road, Danbury, Connecticut 06801 ("GE Capital" or the "Mortgagee").

WITNESSETH:

WHEREAS, GE Capital has agreed to (i) amend and restructure the outstanding obligations of Ed Hanslovan Coal Company, Inc. ("Debtor") of which the Mortgagors are principals, under, among other things, that certain Master Lease Agreement dated April 5, 1996, that certain Installment Note dated October 10, 1997, and that certain Master Security Agreement, dated October 10, 1997, and (ii) forego immediate enforcement of those certain Individual Guaranties executed by each of the Mortgagors and dated March 7, 1996 (the foregoing instruments shall hereinafter be collectively referred to as the "Secured Obligations"). To secure performance of all obligations of the Mortgagors to the Mortgagee hereunder and under each of the Secured Obligations, the Mortgagors hereby mortgage to the Mortgagee:

ALL THAT CERTAIN plot, piece or parcel of land, with the buildings and improvements thereon erected, situated, lying and being known as _____, more particularly described in Exhibit "1" attached hereto and incorporated by reference;

TOGETHER with all and singular the tenements, hereditaments, and appurtenances thereunto belonging, or in any wise appertaining, and the reversion or reversions, remainder and remainders; and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, in law and in equity, of the Mortgagors, of, in and to the same and every part and parcel thereof, with appurtenances, including all fixtures affixed to the same or intended so to be, and also, all machinery, equipment, improvements and personal property now in or upon or which may hereinafter be installed in or affixed to the same, to the extent the foregoing relate to or are necessary for the complete and comfortable use, enjoyment, maintenance, operation or occupancy thereof, including, but not limited to, furnaces, boilers, oil burners, radiators and piping, heating system, electrical system, panel boards, plumbing and bathroom fixtures, air conditioning, sprinkler systems, wash tubs, sinks, gas and electric fixtures, stoves, ranges, awnings, screens, window shades, refrigerators, kitchen cabinets, plants and shrubbery, as to which this Mortgage constitutes a security agreement (the "Property");

TOGETHER with all the right, title and interest of the Mortgagors in and to all streets, roads and public places, opened or proposed, adjoining the Property, and all easements and rights-of-way, public or private, all sidewalks and alleys, and all strips and gores of land now or hereafter used in connection with the Property;

TOGETHER with the rents, issues and profits arising or issuing from the Property or the improvements thereon as further security for the payment of the Secured Obligations of the Mortgagors, and the Mortgagors grants to the Mortgagee the right to enter upon and to possession of the Property for the purpose of collecting the same and to let the Property or any part thereof, and to apply the rents, issues and profits, after payment of all necessary charges and expenses, on account of the Secured Obligations as hereinafter provided;

TOGETHER with any and all awards, damages, payments, judgments, settlements and other compensation, including without limitation, insurance proceeds, and any and all causes of action, claims therefor and rights thereto, which may result from (i) taking or injury by virtue of the exercise of the power of eminent domain, (ii) a lawsuit or other legal proceeding, or (iii) any damage, injury or destruction in any manner caused to the Property or the improvements thereon, or any part thereof;

TOGETHER with all the estate, right, title, interest, property, possession, claim and demand whatsoever of the Mortgagors, in law as well as in equity, of, in and to the same and every part and parcel thereof with the appurtenances;

TOGETHER with all other assets and personal property of the Mortgagors relating to, or used in the operation of, the Property, including without limitation, all accounts, goods, fixtures, inventory, equipment, chattel paper, documents instruments and general intangibles (as such terms are defined in the Uniform Commercial Code), whether now owned or hereafter acquired;

AND ALSO, all proceeds of the foregoing.

ALL of which property and rights therein described above being hereinafter collectively referred to as the "Premises".

TO HAVE AND TO HOLD, the above granted and described Premises unto the Mortgagee, its successors and assigns, to its and their own proper use, benefit and behoove forever.

This Mortgage further creates a security interest in the fixtures included in the Premises and constitutes a security agreement and financing statement under the Uniform Commercial Code. The Mortgagors shall execute, file and refile such financing statements or other security agreements as the Mortgagee shall require from time to time with respect to such fixtures and other personal property and assets included in the Premises. The Mortgagors hereby authorizes the Mortgagee to file such financing statement or statements and any amendments thereto pursuant to said Uniform Commercial Code, without the signature of the Mortgagors, as the Mortgagee may deem necessary to perfect such interest or right in its favor.

PROVIDED ALWAYS, and these presents are made upon this express condition, that if the Secured Obligations shall be duly paid or performed as and when the same shall

become due and payable or be required to be performed, then these presents and the estate hereby granted shall cease, terminate and be void.

I. REPRESENTATIONS AND WARRANTIES OF THE MORTGAGOR.

The Mortgagors hereby represent and warrant to the Mortgagee as follows:

A. ORGANIZATION, POWER AND QUALIFICATION; AUTHORIZATION OF AGREEMENT

(a) The Mortgagors have all requisite authority to own and operate their properties and assets.

(b) The Mortgagors have full power and authority to execute, deliver and perform any action or step which may be necessary to carry out the terms of this Mortgage and this Mortgage is legal, valid and binding obligations on the Mortgagors enforceable in accordance with its terms, subject to any applicable bankruptcy, insolvency, general equity principles or other similar laws affecting the enforcement of creditors' rights generally.

B. NO LEGAL BAR. The execution, delivery and performance of this Mortgage will not (i) violate any provision of any existing law, statute, rule, regulation or ordinance, (ii) conflict with, result in a breach of or constitute a default under (a) the certificate of formation or operating agreement of the Mortgagors, (b) any order, judgment, award or decree of any court, arbitrator, or governmental authority, bureau or agency, or (c) any mortgage, indenture, lease, contract or other agreement or undertaking to which the Mortgagors are a party or by which the Mortgagors or any of its properties or assets may be bound, or (iii) result in the creation or imposition of any mortgage, security interest, restriction, lien or other encumbrance upon or with respect to any property or asset now owned or hereafter acquired by the Mortgagors, other than in favor of the Mortgagee.

C. CONSENT. No consent, license, permit, approval or authorization of, exemption by, notice to, report to, or registration, filing or declaration with any person or governmental authority, bureau or agency is required in connection with the execution, delivery, performance or validity of the Mortgage or the transactions contemplated thereby.

D. COMPLIANCE WITH LAW. The Mortgagors are not in violation of any applicable law, rule, regulation, statute, ordinance, or any order, judgment, award or decree of any court, arbitrator, or governmental authority, bureau or agency, the violation of which would have a materially adverse effect on the business, assets, liabilities or financial condition of the Mortgagors.

E. NO DEFAULT. The Mortgagors are not in default in any material respect in the payment or performance of any of its obligations or in the performance of any mortgage, indenture, lease, contract or other agreement or undertaking to which it is a party or by which it or any of its properties or assets may be bound, and no default or event of default has occurred and is continuing. The Mortgagors are not in default under any order, award or

decree of any court, arbitrator or governmental authority, bureau or agency binding upon or affecting it or by which any of its properties or assets may be bound or affected, and no such order, award or decree, if any, materially adversely affects the ability of the Mortgagors to carry on its business as presently conducted or to perform its obligations hereunder.

F. **NO LITIGATION**. No litigation, investigation or proceeding of or before any court, arbitrator or governmental authority, bureau or agency is currently pending, nor, to the knowledge of the Mortgagors, threatened, against the Mortgagors or any of the Mortgagors' properties and revenues which, if adversely determined, would materially adversely affect the ability of the Mortgagors to carry on its business as presently conducted or to perform its obligations hereunder.

G. **NO BURDENSOME RESTRICTIONS**. The Mortgagors are not a party to nor is bound by any contract or agreement or instrument nor subject to any restriction materially and adversely affecting the business or financial condition of the Mortgagors.

H. **TAX RETURNS AND PAYMENTS; FINANCIAL STATEMENTS.**

1. All federal, state and other tax returns of the Mortgagors required by law to be filed have been duly filed or extensions obtained, and all federal, state and other taxes, assessments and governmental charges or levies upon the Mortgagors or any of its properties, income, profits or assets which are due and payable have been paid, except such tax returns the nonfiling of which, and such taxes the non-payment of which, would not have a material adverse effect upon the business, assets, liabilities or financial condition of the Mortgagors and except for such taxes and assessments which the Mortgagors are disputing in good faith and for which the Mortgagors has established adequate reserves on its books for the payment of such disputed taxes or assessments in accordance with generally accepted accounting principles.

2. All financial statements and financial information provided to the Mortgagee by or on behalf of the Mortgagors fairly present the financial position and results of operations of the Mortgagors on the dates and for the periods then ended and show all direct liabilities and all known contingent liabilities of a material nature.

3. Since the date of the most recent financial statement provided to the Mortgagee by or on behalf of the Mortgagors, no material adverse change has occurred in the business, assets, liabilities, financial condition, results of operations or business prospects of the Mortgagors, and no event has occurred or failed to occur which has had or is likely to have a material adverse effect on the business, assets, liabilities, financial condition, results of operations or business prospects of the Mortgagor.

I. FINANCIAL CONDITION.

1. The Mortgagors are now, and after giving effect to the transactions contemplated hereby will be in, a financially solvent condition; the execution and delivery of this Mortgage does not constitute a "fraudulent conveyance" or "fraudulent transfer" within

the meaning of any applicable federal or state statute; and no bankruptcy or insolvency proceedings are presently pending by or against the Mortgagors.

2. No fact is known to the Mortgagors which has had or is likely in the future to have (so far as Mortgagors can reasonably foresee) a materially adverse effect upon the Mortgagor's business, assets, liabilities, condition, financial or otherwise, or results of operations that has not been set forth in the financial statements furnished to the Mortgagee or other reports or other papers or data otherwise disclosed in writing to the Mortgagee.

3. The Mortgagors do not intend to, nor does the Mortgagors believe that it will incur debts beyond its ability to pay such debts as they mature. The cash available to the Mortgagors are anticipated to be sufficient to pay all amounts on or in respect of debt of the Mortgagors when such amounts are required to be paid.

4. The Mortgagors does not believe that final judgments against it in actions for money damages will be rendered at a time when, or in an amount such that, the Mortgagors will be unable to satisfy any such judgments promptly in accordance with their terms (taking into account the maximum reasonable amount of such judgments in any such actions and the earliest reasonable time at which such judgments might be rendered). The cash available to the Mortgagors after taking into account all other anticipated uses of the cash of the Mortgagors are anticipated to be sufficient to pay all such judgments promptly in accordance with their terms.

J. **WARRANTY OF TITLE**. The Mortgagors are lawfully seized of an indefeasible estate in fee simple in the Premises, subject only to those exceptions (the "Permitted Encumbrances") set forth in that certain Title Insurance Commitment issued in connection with this Mortgage, as delivered to the Mortgagee and endorsed on the date hereof, which is incorporated herein by reference, and the Mortgagors will warrant and forever defend the title thereof unto the Mortgagee against all lawful claims whatsoever.

K. **ACCURACY AND COMPLETENESS OF INFORMATION**. All written information, reports and other papers and data furnished to the Mortgagee by the Mortgagors were, at the time the same were so furnished and remain, as of the date hereof, complete and correct in all material respects and did not and do not contain any untrue statement of fact or omit to state any material fact necessary in order to make the statements and information contained therein not misleading.

II. COVENANTS OF THE MORTGAGOR.

The Mortgagors hereby covenant and agree with the Mortgagee, until the Secured Obligations are performed and paid in full, as follows:

A. **PAYMENT OF SUMS SECURED**. The Mortgagors will pay the indebtedness as herein before provided. This Mortgage shall remain in full force and effect until the Secured Obligations and all other obligations under this Mortgage are fully and

indefeasibly paid and the performance obligations of the Mortgagors to the Mortgagee under the Loan Documents and this Mortgage have been satisfied in full.

B. **INSURANCE.**

1. The Mortgagors shall (a) keep in effect or cause to be kept in effect upon the Premises for the benefit of the Mortgagee insurance against loss or damage by fire and all other risks embraced within "all risk" and "extended coverage" including, but not limited to, vandalism and malicious mischief endorsements, in such amount, by such insurers, and containing such provisions as the Mortgagee may reasonably require, but in no event less than the replacement value of all improvements on the Premises, and (b) obtain or cause to be obtained public liability insurance in such minimum amounts and with such insurance companies as are reasonably satisfactory to the Mortgagee, but in no event less than $1,000,000 per occurrence.

2. Any insurance required pursuant to this Mortgage shall be so written or endorsed as to (a) name the Mortgagee as an additional insured, (b) contain the standard (non-contributing) mortgagee endorsement in favor of the Mortgagee as second mortgagee, (c) shall not contain any "co-insurance provisions", (d) shall be obtained from insurers which are reasonably satisfactory to the Mortgagee, and (e) with respect to insurance against loss or damage to property, name the Mortgagee as a "loss payee" and make losses payable to the as Second Mortgagee. The Mortgagors shall pay the premiums on the policies of all insurance required pursuant to this Mortgage as they become payable and shall deliver to the Mortgagee certificates of insurance and evidence of payment of all premiums, and, if requested by the Mortgagee, the original policies of property insurance and, if required, flood insurance, and certificates evidencing public liability insurance. All insurance shall provide that the Mortgagee is the Certificate Holder and the Mortgagors shall provide all such Certificates to the Mortgagee. Notwithstanding the foregoing, a mortgagee with a lien against the Premises senior in priority to this Mortgage ("Senior Mortgagee") shall have superior rights to insurance up to the amount of the Senior Mortgagee's mortgage.

3. All renewal or replacement policies shall be delivered by the Mortgagors, premiums paid, to the Mortgagee at least thirty (30) days before the expiration of the expiring policies. Each insurance policy shall provide that the Mortgagee shall be furnished with not less than thirty (30) days' prior written notice before any termination, cancellation, non-renewal or reduction in scope becomes effective as to the Mortgagee. If the Mortgagee becomes the owner of the Premises or any part thereof by foreclosure or otherwise, such policies shall become the absolute property of the Mortgagee.

C. **DAMAGE, DESTRUCTION AND CONDEMNATION**. If the Premises or any part thereof shall be damaged or either partially or totally destroyed, or if title to or the temporary use of the whole or any part of the Premises shall be taken, condemned or purchased under threat of condemnation by a competent authority for a public use or purpose, the Mortgagee shall be entitled to receive and shall receive any and all insurance proceeds or condemnation awards with respect thereto (hereinafter, the "Proceeds"), subject,

however, to the rights of any Senior Mortgagee. The Mortgagee shall have the right to participate in the defense of any condemnation action and the valuation of the Premises in connection therewith. So long as no Event of Default shall have occurred and be continuing hereunder, the Mortgagee shall remit such Proceeds to the Mortgagors to restore, replace or repair the Premises; provided, however, that if an Event of Default shall have occurred and be continuing hereunder, the Mortgagee shall have the right, in its sole and absolute discretion, to determine whether to apply such Proceeds to prepay the principal, interest and other charges on the Secured Obligations or to remit such Proceeds to the Mortgagors to restore, replace or repair the Premises. In any case in which Proceeds (and such additional funds) are to be applied to restore, replace or repair any part of the Premises, such restoration, replacement or repair shall in any event be subject to the satisfaction of the following conditions:

1. The Mortgagors shall submit or cause to be submitted to the Mortgagee for its approval, an estimate of the cost of restoration, replacement or repair of the Premises, accompanied by an architect's certification as to such costs and final plans and specifications with respect thereto. All buildings and improvements so restored, replaced or repaired shall be of substantially the same character and value as the buildings and improvements prior to such damage or destruction and shall be suitable for the purposes for which they were originally erected. The Mortgagors shall furnish the Mortgagee with evidence reasonably satisfactory to the Mortgagee that all buildings and improvements so restored, replaced and/or repaired and their contemplated use fully comply with all zoning and building laws, ordinances and regulations, and with all other applicable federal, state or local laws and requirements.

2. If at any time the estimated cost of restoration, replacement or repair shall exceed the Proceeds available therefor, the Mortgagors shall escrow additional monies with the Mortgagee in an amount equal to such excess estimated cost.

3. Each disbursement of the Proceeds during the course of restoration, replacement or repair shall be subject to receipt by the Mortgagee of a requisition signed by the Mortgagors stating (a) the requisition number, (b) the name and address of the person or entity to whom payment is to be made, or if the payment is to be made to the Mortgagors for a reimbursable advance, the name and address of the person or entity to whom the advance was made together with proof of payment by the Mortgagors, and (c) that each obligation for which payment is sought is unpaid or unreimbursed and has not been the basis of any previously paid requisition. Each requisition shall be accompanied by (i) an approved certification by a licensed A.I.A. architect reasonably acceptable to the Mortgagee as to the cost of materials furnished and work done and evidence that such work and materials are free and clear of liens, (ii) if requested by the Mortgagee, an updated title insurance endorsement as of the date of each such disbursement insuring the continued validity and priority of this Mortgage and (iii) such other documents, certificates or instruments as the Mortgagee shall reasonably require. No payment made prior to the final completion of work shall exceed 90% of the value of the work performed or materials furnished and incorporated into the Premises from time to time, and at all times the undisbursed balance of said Proceeds

(together with the additional security referred to in the preceding paragraph) shall be at least sufficient to pay for the cost of completion of the work, free and clear of liens. Said Proceeds are to be released not more than once a month, and the disbursement of said Proceeds shall be subject to such other provisions and safeguards as the Mortgagee then requires in connection with construction loans for similar projects. The administration of such provisions shall be at the sole cost and expense of the Mortgagor.

4. Final payment shall be made upon receipt by the Mortgagee of a certification by a licensed A.I.A. architect reasonably acceptable to the Mortgagee as to completion in accordance with the approved plans and specifications and, if requested by the Mortgagee, the issuance to the Mortgagee of a title policy endorsement reasonably satisfactory to the Mortgagee insuring the continued validity and priority of this Mortgage as a mortgage lien.

5. All costs and expenses incurred by the Mortgagee in disbursing said funds shall be paid for by the Mortgagors and may be deducted by the Mortgagee from the funds to be so advanced for such restoration, replacement or repair.

6. Nothing herein shall be construed to require the Mortgagee to advance any sums for any such restoration, replacement or repair beyond the amount of the Proceeds actually received by the Mortgagee and set aside for such purpose less the amount of the Mortgagee's costs and expenses referred to above.

7. The Mortgagors shall promptly notify the Mortgagee of any damage, destruction or institution of any proceedings for the condemnation or taking, by powers of eminent domain or purchase under threat thereof, of the whole or any part of the Premises.

8. Prior to an Event of Default, the Mortgagors shall adjust any insurable loss and settle any condemnation proceedings, provided the Mortgagors shall have obtained the prior written consent of the Mortgagee thereto which shall not be unreasonably withheld or delayed. Following the occurrence of an Event of Default, the Mortgagee shall have the exclusive right to adjust any insurable loss and settle any condemnation proceedings.

9. Any moneys released to the Mortgagors or paid or applied to the cost of restoration, replacement or repair shall in no event be deemed a payment of the Secured Obligations. The Mortgagee shall be under no obligation to question the amount of the Proceeds and may accept the same in the amount in which the same shall be paid.

10. Anything to the contrary herein contained notwithstanding, any Proceeds paid over to the Mortgagee and not used for repair, replacement or restoration shall be applied to pay any sums then due and owing to the Mortgagee with respect to the Secured Obligations, and, subject to the rights of the holders (including the Mortgagee) of any Permitted Encumbrances, any excess shall be paid over to the Mortgagor.

D. COMPLIANCE WITH LAWS. The Mortgagors shall comply in all material respects with all applicable federal, state and local laws, rules, regulations, ordinances,

building codes and orders in effect from time to time including, but not limited to, those relating to the environment, the payment of taxes, assessments and other governmental charges, zoning, and the use, occupancy, transfer or encumbrancing of the Premises the failure to comply with which would result in a lien upon the Premises or otherwise impair the value of the Premises. The Mortgagors additionally agrees to pay all costs required to comply with any of the above conditions, and to indemnify and hold the Mortgagee harmless against any loss, liability, cost or expense (including attorneys' fees) arising out of or relating to any proceeding instituted in connection with any alleged or actual violation of any of the foregoing not caused by the Mortgagee.

E. **TAXES AND OTHER CHARGES; MECHANICS' LIENS.** Except as otherwise provided in this Section II(E), the Mortgagors shall pay all taxes, water and sewer rents, fines, impositions and other similar claims, liens and encumbrances assessed, or which may be assessed, against the Premises or any part thereof, without any deduction or abatement, not later than five (5) days before the same shall become due and payable and shall simultaneously with each such payment, furnish to the Mortgagee receipts for the payment thereof in full. The Mortgagors will pay, from time to time when the same shall become due, all lawful claims and demands of mechanics, materialmen, laborers, and others, which, if unpaid, might result in, or permit the creation of, a lien on the Premises or any part thereof, or on the revenues, rents, issues, income and profits arising therefrom, and will do or cause to be done everything necessary so that the lien hereof shall be fully preserved, at the cost of the Mortgagors and without expense to the Mortgagee. If the Mortgagors shall in good faith, and by proper legal action, contest any taxes, assessments, fines, impositions, claims, liens, encumbrances or other charges, or the validity thereof, and provided no Event of Default is then existing and continuing, then the Mortgagors shall not be required to pay the same or to produce such receipts as long as such contest operates to prevent collections, and is maintained and prosecuted with diligence and shall not have been terminated or discontinued adversely to the Mortgagor. In addition to the foregoing, the Mortgagors will pay when due and will not suffer to remain outstanding, any charges for utilities, whether public or private, with respect to the Premises.

F. **FURTHER ASSURANCES; FILING AND RECORDING.**

1. The Mortgagors will, at its sole cost and expense, perform, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, security agreements, assignments, notices of assignment, financing statements, transfers and assurances as the Mortgagee shall from time to time reasonably require, for the better assuring, conveying, assigning, transferring and confirming unto the Mortgagee the property and rights hereby conveyed or assigned or intended now or hereafter so to be, or which the Mortgagors may be or may hereafter become bound to convey or assign to the Mortgagee, for carrying out the intention or facilitating the performance of the terms of this Mortgage or for filing, registering or recording this Mortgage and, on demand, will execute and deliver, and hereby authorizes the Mortgagee and irrevocably appoints the Mortgagee as the agent and attorney-in-fact of the Mortgagors to execute and file in its own name or in the

Mortgagor's name, to the extent it may lawfully do so, all such documents, instruments, certificates and financing statements.

2. The Mortgagors, forthwith upon the execution and delivery of this Mortgage, and thereafter from time to time upon request by the Mortgagee, and as may be required by law, will cause this Mortgage and any security instrument creating a lien or evidencing the lien hereof upon the Premises and the fixtures thereon and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect the lien hereof upon, and the interest of the Mortgagee in, the Premises and the fixtures thereon.

3. The Mortgagors will pay all filing, registration or recording fees, and all expenses incident to the execution and acknowledgment of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Premises and the fixtures thereon, and any instrument of further assurance, and all federal, state, county and municipal stamp taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Premises and the fixtures thereon or any instrument of further assurance.

G. **RIGHT TO REMEDY DEFECTS; INDEMNIFICATION.** If the Mortgagors shall at any time fail to pay any amount payable by it hereunder or fails to comply with any provision of this Mortgage, the Mortgagee may, after reasonable notice to the Mortgagors, pay such amount or comply with such provision and make such expenditures, including reasonable counsel fees, in connection therewith and with enforcing this Mortgage and for repairing, maintaining and preserving the Premises, for establishing, preserving, protecting and restoring the validity and priority of the lien hereof, for obtaining official tax searches of the Premises, for protecting and preserving any use being made of the Premises now or hereafter and for advances to any trustee or receiver of the Premises, as the Mortgagee deems advisable; each amount so paid or expended, with interest at the rate then in effect under the Secured Obligations plus four percent (4%) shall become part of the Secured Obligations and be secured hereby; and the Mortgagors shall pay to the Mortgagee, on demand, the amount of each payment or expenditure, with such aforesaid interest, but no such payment or compliance by the Mortgagee shall constitute a waiver of the Mortgagor's failure so to do or affect any right or remedy of the Mortgagee with respect thereto. The Mortgagors agrees to and does hereby indemnify the Mortgagee, its officers, directors, employees, agents, affiliates and assigns and the Mortgagors shall hold the Mortgagee, its officers, directors, employees, agents, affiliates and assigns harmless from and against any and all losses, claims, damages or liabilities (including all costs, expenses and reasonable counsel fees incurred in investigating or defending such claim) suffered by the Mortgagee, its directors, officers, employees, affiliates and agents and caused by, relating to, arising out of, resulting from or in any way connected with any of the items enumerated in the immediately preceding sentence, except to the extent resulting from the gross negligence or willful misconduct of the Mortgagee or its agents.

H. **PRESERVATION OF THE PREMISES; LIENS AND ENCUMBRANCES**

1. The Mortgagors shall keep the improvements now or hereafter on the Premises in good repair and condition, ordinary wear and tear excepted, and, with reasonable diligence, shall repair, replace or rebuild any material part of the Premises which may be destroyed by any casualty or become damaged, worn or dilapidated. The Mortgagors shall make any repairs needed to immediately preserve the value of the Premises within thirty (30) days after written notice thereof from the Mortgagee; provided, however, that in the event the Mortgagors are diligently undertaking such repairs but same cannot be completed within said 30-day period, the Mortgagee shall extend said 30-day period for as long as the Mortgagors and the Mortgagee shall agree is reasonably necessary in order to complete such repairs; provided further, however, that the Mortgagee shall be under no obligation to extend said period beyond ninety (90) days after the aforementioned written notice.

2. The Mortgagors shall not remove or demolish nor alter the design or structural character of any building now or hereafter erected upon the Premises without the prior written consent of the Mortgagee which consent shall not be unreasonably withheld or delayed. The Mortgagee shall consent to such proposed structural change or alteration upon receipt of (i) a certificate of the Mortgagors stating that no Event of Default then exists and is continuing and (ii) evidence reasonably satisfactory to the Mortgagee to the effect that the proposed structural change or alteration (upon completion) shall not diminish the value of the Premises.

3. The Mortgagors shall not suffer or permit waste of the Premises and shall cause the Premises to comply with all applicable building codes, ordinances, statutes and regulations of all federal, state and municipal governmental authorities and agencies having jurisdiction thereof, including but not limited to, all fire and safety codes.

4. The Mortgagors shall keep the Premises free of all mortgages, liens, charges, encumbrances, attachments, levies, distraints, other judicial process and burdens of every nature, except for Permitted Encumbrances.

I. **NOTIFICATION**. The Mortgagors shall notify the Mortgagee immediately of (a) the occurrence or existence of any Event of Default, (b) the inception of any action, suit, proceeding, inquiry or investigation at law or in equity before any court, public board or body wherein an unfavorable decision, ruling or finding would, to the extent not covered by insurance, have a material adverse effect upon the Premises, and (c) the occurrence of any substantial loss, substantial damage, destruction, condemnation or taking of the whole or any part of the Premises.

J. **RIGHT TO INSPECT PREMISES AND BOOKS AND RECORDS; APPRAISAL**

The Mortgagors shall permit the Mortgagee, by its duly authorized officers and agents during normal business hours and upon reasonable written notice, to enter upon and inspect the Premises and, to the extent and with such frequency as is reasonably required by the Mortgagee, the books and records of the Mortgagor. The Mortgagee shall also have the right, from time to time, upon reasonable notice to the Mortgagors, to conduct or cause to be conducted an appraisal or appraisals of the Premises, the cost of which shall be paid by the Mortgagor.

K. **FINANCIAL STATEMENTS.**

The Mortgagors will furnish the following information to the Mortgagee:

(1) Within 90 days after the end of each fiscal year of the Mortgagors, financial statements on the form approved by Mortgagee and true, correct and complete copies of the Mortgagors federal tax returns as filed;

(2) Within 30 days after the end of each fiscal year of the Mortgagors, an operating statement with respect to the Premises, on the form approved by the Mortgagee;

(3) From time to time and promptly upon each request, such other reports and information regarding the business, assets, liabilities, financial condition, results of operation or business prospects of the Mortgagors as the Mortgagee may reasonably requests;

(4) Prompt notice of any material adverse change with respect to the business, assets, liabilities, financial condition or results of operation of the Mortgagor.

In connection with the delivery of the tax returns which is referred to in clause 1 above, the Mortgagors shall also obtain and deliver to the Mortgagee an acknowledgment of reliance, on the form approved by the Mortgagee from the independence certified public accountant, if any, which prepares such tax returns.

L. **FURTHER INDEBTEDNESS.**

1. The Mortgagors shall not create, assume, incur, guarantee or in any manner become liable, contingently or otherwise, in respect of any indebtedness for money borrowed.

2. The Mortgagors shall not sell, transfer, assign, lease or otherwise dispose of (whether in one transaction or a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired).

3. The Mortgagors shall not guarantee, endorse, become surety for, or otherwise in any way become or be responsible for, the obligations of any other person whether by agreement to purchase the indebtedness of any other person, or agreement for the furnishing of funds, directly or indirectly, for the purpose of payment of indebtedness of any

other person, other than endorsements of negotiable instruments for deposit or collection in the ordinary course of its business.

M. **LEASES**.

1. The Mortgagors shall not lease or sublease all or any portion of the Premises or consent to the leasing, subleasing or assignment of any lease by any tenant of all or any portion of the Premises, or consent to the amendment, modification or termination of any lease with respect to the Premises, except for increases in rent, without the prior review and express prior written consent, both as to the form and substance thereof, of the Mortgagee, which consent shall not be unreasonably withheld or delayed.

2. All present and future lease of the Premises, or any part thereof, shall be subordinate in all respects to the lien of this Mortgage.

3. On or before January 31 of each year, the Mortgagors shall provide to the Mortgagee a current, certified rent roll with respect to all tenants and other occupants of the Premises. In addition, the Mortgagors shall provide to the Mortgagee, promptly upon execution thereof, certified copies of all leases, and all amendments, modifications and supplements to existing leases, entered into with respect to the Premises from and after the date hereof.

N. **NO DEDUCTION**. The Mortgagors shall claim no deduction upon the assessed value of the Premises on account of the monies owing to Mortgagee.

III. **INDEMNIFICATION**

1. The Mortgagors hereby agrees to indemnify the Mortgagee, its directors, officers, employees, affiliates and agents from and against any and all liabilities, suits, obligations, fines, damages, penalties, claims, losses, costs, charges and expenses (including, without limitation, reasonable architect's, engineer's, accountant's, consultant's and attorneys' fees and disbursements) (collectively, the "Losses") which may be imposed upon, incurred or asserted against the Mortgagee, its directors, officers, employees, affiliates and agents by reason of: (a) any construction relating to the Premises; (b) any capital improvements, other work or thing done in, on or about the Premises; (c) any use, non-use, misuse, possession, occupation, alteration, repair, condition, operation, maintenance or management of the Premises or any street, drive, sidewalk, curb, passageway or space comprising a part thereof or adjacent thereto; (d) any negligence or willful act or omission on the part of the Mortgagors, any lessee or any other occupant of the Premises or any agent, contractor, servant, employee, licensee or invitee or any of them; (e) the claims of any lessee or any party acting through or under any such lessee or otherwise arising under or as a consequence of any lessee; (f) any accident, injury (including death) or damage to any person or property occurring in, on or about any sidewalks, drives, curbs, passageways, streets, spaces or alleys adjacent to or on the Premises; (g) any Event of Default; (h) any lien or claim which may be alleged to have arisen on or against the Premises under any law or any liability asserted against the Mortgagee with respect thereto; (i) any tax or other imposition,

including, but not limited to, any imposition attributable to the execution, delivery, filing or recording of this Mortgage or any other documents executed by the Mortgagors in connection herewith; (j) any contest permitted pursuant to the provisions of this Mortgage or the other Loan Documents; and (k) any and all violations of law, including, without limitation, any and all federal, state and local laws, rules and regulations relating to the environment, existing at the Premises. The foregoing indemnity shall not apply to Losses resulting or arising from the gross negligence or willful misconduct of the Mortgagee.

2. The obligations of the Mortgagors under this Article IV shall not in any way be affected or limited by the absence of any insurance, by the amount of any insurance policy or by the failure or refusal of any insurance carrier to perform any obligation on its part under any insurance policies. If any claim, action or proceeding is made or brought against the Mortgagee or any of its directors, officers, employees, affiliates and agents, by reason of any event as to which the Mortgagors are obligated to indemnify the Mortgagee or any of its directors, officers, employees, affiliates and agents, then, upon demand by the Mortgagee, the Mortgagors, at its sole cost and expense, shall resist or defend such claim, action or proceeding in the Mortgagee's, or any of its directors, officers, employees, affiliates and agents, name, if necessary, by the attorneys for the Mortgagor's insurance company or by such attorneys as the Mortgagee shall approve in writing, which approval shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, the Mortgagee or any of its directors, officers, affiliates, employees and agents may engage its own attorneys in its reasonable discretion to defend it or to assist in its defense and the Mortgagors shall pay the reasonable fees and disbursements of such attorneys.

IV. EVENTS OF DEFAULT.

The following shall constitute events of default under this Mortgage (each, an "Event of Default"):

A. If any Event of Default or default shall occur under the terms of any of the Secured Obligations.

B. If the Mortgagors shall default in the performance or observance of any covenant, agreement or condition contained in this Mortgage and such default shall continue for fifteen (15) days after notice thereof from the Mortgagee.

C. If any representation or warranty made by the Mortgagors in this Mortgage or in any other Loan Document shall prove to have been false, incorrect or misleading in any material respect on the date as of which made.

D. If the Premises shall be sold, transferred, assigned or otherwise conveyed, including without limitation, the entering into by the Mortgagors of a long-term lease of the Premises, or if title to the Premises or any part thereof shall be transferred or conveyed to any person, firm, corporation, trust, association or other entity, including without limitation, the passing of title to, or possession of the Premises by, a receiver, trustee or assignee for the benefit of creditors.

E. If any default shall occur under the terms of any of the Permitted Encumbrances.

F. If a default or event of default occurs under a mortgage that is prior or subordinate to the lien of this Mortgage, including without limitation, if any mortgagee claims a right to possession or commences a foreclosure action.

G. (i) The Mortgagors shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian or other similar official for all or any substantial part of its assets, or (ii) the Mortgagors shall make a general assignment for the benefit of creditors; or (iii) the Mortgagors shall commence, or there shall be commenced against the Mortgagors, any case, proceeding or other action of a nature referred to in clause (i) above which (A) results in the entry of an order for relief of any such adjudication or appointment or (B) remains undismissed, undischarged or unbonded for a period of sixty (60) days; or (iv) there shall be commenced against the Mortgagors any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets, which results in the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within sixty (60) days from the entry thereof; or (v) the Mortgagors shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clauses (i), (ii), (iii) or (iv) above; or (v) the Mortgagors shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due.

H. The Mortgagors shall (i) default in any payment with respect to any indebtedness for money borrowed, whether from the Mortgagee or any other lender, beyond the period of grace, if any, provided in the instrument or agreement under which such indebtedness was created; or (ii) default in the observance or performance of any other agreement or condition relating to any such indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur, the effect of which default or other event is to cause, or to permit the holder of such indebtedness (or a trustee or agent on behalf of such holder) to cause, with the giving of notice if required, such indebtedness to become due prior to its stated maturity. In addition, the Mortgagors acknowledges and agrees that any Event of Default hereunder or under any other Loan Document shall be an event of default under and with respect to all other indebtedness, whether actual or contingent, of the Mortgagors to the Mortgagee.

I. A final judgment shall be entered against the Mortgagors by any court for the payment of money which, together with all other outstanding judgments against the Mortgagors, exceeds fifty thousand dollars ($50,000) in the aggregate, which judgment is not fully covered by insurance, or a warrant of attachment or execution or similar process shall

be issued or levied against property of the Mortgagors which, together with such other property subject to such process, exceeds in value fifty thousand dollars ($50,000) in the aggregate and, if within sixty (60) days (ten (10) days if such aggregate amount exceeds one hundred thousand dollars ($100,000)) after the entry, issue or levy thereof, such judgment, warrant or process shall not have been discharged or stayed pending appeal, or, if within sixty (60) days (ten (10) days if such aggregate amount exceeds one hundred thousand dollars ($100,000)) after the expiration of any such stay, such judgment, warrant or process shall not have been discharged.

J. The Mortgagors shall enter into any junior financing of the Premises without the prior written consent of the Mortgagee.

V. **REMEDIES**.

In case one or more Events of Default shall have occurred, the Mortgagee shall have the following rights and remedies:

A. The Mortgagee may declare all amounts outstanding (with accrued interest thereon) and all other amounts owing to it under the Secured Obligations to be immediately due and payable, whereupon the same shall become due and payable forthwith without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Mortgagor.

B. To take any action at law or in equity to collect the payments due under the Secured Obligations secured hereby or to enforce the performance and observance of the obligations, agreements and covenants of the Mortgagors contained in this Mortgage and the other Loan Documents.

C. Enter into possession of the Premises and employ watchmen to protect the Premises from injury.

D. To institute an action of mortgage foreclosure, or take other action as the law may allow, at law or in equity, for the enforcement of this Mortgage, and proceed therein to final judgment and execution for the entire unpaid balance of the Secured Obligations, including costs of suit, interest and reasonable attorneys' fees. In case of any sale of the Premises by virtue of judicial proceedings, the Premises may be sold in one parcel and as an entirety or in such parcels, manner or order as the Mortgagee in its sole discretion may elect. The failure to make any tenants parties defendant to a foreclosure proceeding and to foreclose their rights will not be asserted by the Mortgagors as a defense in any proceeding instituted by the Mortgagee to collect the Secured Obligations secured hereby or any deficiency remaining unpaid after the foreclosure sale of the Premises. Notwithstanding anything herein to the contrary, the Mortgagors shall continue to be responsible for the payment of taxes, insurance and all other amounts payable with respect to the Premises until title to the Premises shall be conveyed at a sheriff's sale or other similar proceeding.

E. If the Event of Default relates to the payment of any tax, assessment, water or sewer rent or governmental charge, or the payment of a premium for insurance, or the obligation to keep the Premises in satisfactory repair and condition, or to otherwise preserve the security of this Mortgage, then the Mortgagee, in addition to or in lieu of exercising any other rights which it may have hereunder or under any other document executed in connection with any Secured Obligations secured hereby, may pay the tax, assessment, water or sewer rent, governmental charge, insurance premium, or the cost of placing the Premises in satisfactory repair and condition, or the cost of otherwise preserving the security of this Mortgage, and the amount so paid shall be added to the moneys owing on the Secured Obligations and shall be secured hereby and shall be due and payable on demand with interest equal to the prevailing interest rate under the Secured Obligations plus four percent (4%).

F. Upon the occurrence of any Event of Default, the Mortgagee is hereby empowered and appointed attorney-in-fact of the Mortgagors to enter upon and take possession of the Premises and rent the same, either in its name or in the name of the owner of such property, and to demand, collect and receive from the tenants, lessees or other occupants then in possession of the Premises or any part thereof, the rents, issues and profits as they become due as well as all past due rents, income or profits which have not been collected by the Mortgagors, to endorse the name of the Mortgagors or any subsequent owner of the Premises on any checks, notes or other instruments for the payment of money, to give any and all acquaintances or any other instrument in relation thereto in the name of the Mortgagors, and to institute, prosecute, settle or compromise any summary or legal proceedings in the name of the Mortgagors or in the name of the Mortgagee for the recovery of such rents, income or profits, or for the abatement of any nuisance thereon, and to defend, at the Mortgagee's option and sole discretion, any legal proceedings brought against the Mortgagors arising out of the operation of the Premises. All rents, issues and profits collected or received by the Mortgagors after an Event of Default shall be accepted and held for the Mortgagee in trust and shall not be commingled with the funds and property of the Mortgagors, but shall be promptly paid over to the Mortgagee; and the Mortgagors agrees to pay the Mortgagee, if demanded by it, a reasonable rental for the portion of the Premises occupied by the Mortgagors, monthly in advance as a tenant from month to month, and in default of any such payment the Mortgagors may be dispossessed by summary proceedings, such tenancy to expire upon delivery of deed in foreclosure; and the Mortgagee shall apply the rents, issues and profits, after the payment of the necessary charges and expenses, including management fees and commissions, on account of the Secured Obligations hereby secured, being accountable only for rents, issues and profits as are collected by it while in possession.

G. Upon the filing of a complaint to collect the amount due on any Secured Obligation, the Mortgagee shall be entitled to the appointment of a receiver of the rents, issues and profits of the Premises without the necessity of proving either inadequacy of the security or insolvency of the Mortgagors or any person who may be legally or equitably liable to pay moneys secured hereby, and the Mortgagors and each such person waive such proof and consent to the appointment of a receiver.

H. To exercise any and all rights and remedies conferred upon secured parties by the Uniform Commercial Code and other applicable laws.

In addition to the above remedies, if the Mortgagors commits a breach or threatens to commit a breach of this Mortgage, the Mortgagee shall have the right and remedy, without posting bond or other security, to have the provisions of this Mortgage specifically enforced by any court having equity jurisdiction, it being acknowledged and agreed that any such breach or threatened breach will cause immediate and irreparable injury to the Mortgagee and that the Mortgagee's rights in and to the Premises will not provide an adequate remedy therefor.

All proceeds received from the sale or other disposition of the whole or any part of the Premises shall be applied as follows: (i) first, to the payment of all fees, costs and expenses incurred by the Mortgagee in connection with such sale or disposition; (ii) second, to the payment in full of the Secured Obligations; and (iii) third, the balance, if any, of such proceeds remaining after payment in full of the foregoing, to the Mortgagors or as a court of competent jurisdiction may otherwise direct.

Without limiting the foregoing, in exercising its remedies upon the occurrence of an Event of Default, the Mortgagee (i) shall not be responsible nor liable for any shortage, discrepancy, damage, loss or destruction of any part of the Premises regardless of the cause thereof unless the same shall happen through its gross negligence or willful misconduct; (ii) shall be entitled to the appointment (without notice and without proof of diminution in value of the Premises) of a receiver to take possession of all or any portion of the Premises and to exercise such powers as the court shall confer upon the receiver; and (iii) generally may perform all acts necessary or proper to carry out the intention of this Mortgage, as fully and completely as though the Mortgagee were the absolute owner of the Premises for all purposes, and the Mortgagors hereby ratifies and confirms all that the Mortgagee shall do by virtue of this grant of power.

The rights and remedies of the Mortgagee hereunder shall be in addition to every other right and remedy now and hereafter provided by law; the rights and remedies of the Mortgagee shall be cumulative and not exclusive one of the other; the Mortgagee may exercise the same at such times, in such order, to such extent, and as often as Mortgagee deems advisable, and without regard to whether the exercise of one precedes, concurs with, or succeeds the exercise of another; no delay or omission by the Mortgagee in exercising a right or remedy shall exhaust or impair the same, or constitute a waiver of, or acquiescence in, the Event of Default; and no waiver of an Event of Default by the Mortgagee shall extend to or affect any other Event of Default or impair any right or remedy with respect thereto.

VI. MISCELLANEOUS.

A. NOTICES. All notices and other communications given to or made upon any party hereto in connection with this Mortgage shall, except as otherwise expressly herein provided, be in writing and hand delivered or sent by first class United States mail, postage

prepaid, return receipt requested, or by reputable overnight courier providing a receipt against delivery, to the respective parties, as follows:

Mortgagors: Mary Hanslovan
Edward Hanslovan
address

-with a copy to-
Carl Balan, Esq.
address

Mortgagee: General Electric Capital Corporation
Old Ridgebury Road
Danbury, Connecticut 06810
Att: Mark Skura

-with a copy to-

Oppenheimer Wolff & Donnelly LLP
The Chrysler East Building – Suite 1900
New York, New York 10017-4011
Att: Elena Lazarou, Esq.

or to such changed address as may be fixed by notice. All such notices and other communications shall, except as otherwise expressly herein provided, be effective when received by the party to whom properly addressed, the written receipt by any employee of any such party constituting sufficient evidence of such receipt.

B. **INDULGENCES; EXTENSIONS**. The Mortgagee, with respect to the Secured Obligations secured hereby, the Premises and the Mortgagor's obligations hereunder, may waive compliance with any of the provisions hereof, and may release all or any part of the Premises from any lien hereof, without affecting the priority or validity of the lien hereof upon the remainder of the Premises.

C. **INVALID PROVISIONS TO AFFECT NO OTHERS**. In case any one or more of the covenants, agreements, terms or provisions contained in this Mortgage shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms or provisions contained herein shall be in no way affected, prejudiced or disturbed thereby.

D. **SUCCESSORS AND ASSIGNS; PLURALS**. All of the grants, covenants, terms, provisions and conditions of this Mortgage shall run with the land and bind the Mortgagors, its legal representatives, heirs, successors and assigns, and shall inure to the benefit of the Mortgagee, the successors and assigns of the Mortgagee and all subsequent

holders of this Mortgage. As used herein the singular shall include the plural and vice versa as the context requires.

E. **CAPTIONS**. The captions herein are inserted only for convenience of reference and in no way define, limit or describe the scope or intent of this Mortgage or any particular paragraph or section hereof, nor the proper construction hereof.

F. **GOVERNING LAW.** This Mortgage is to be construed according to the laws of the State of Ohio.

H. **COUNTERPARTS. THIS MORTGAGE CANNOT BE CHANGED ORALLY**

I. WAIVER OF JURY TRIAL. THE MORTGAGORS HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN CONNECTION WITH ANY AND ALL LITIGATION INVOLVING THE SUBJECT MATTER OF THIS MORTGAGE.

J. RECEIPT OF MORTGAGE. THE MORTGAGORS HEREBY ACKNOWLEDGES RECEIPT OF A TRUE COPY OF THIS MORTGAGE, WITHOUT CHARGE.

IN WITNESS WHEREOF, the Mortgagors have caused this Mortgage to be executed and delivered as of the day and year first above written.

WITNESS:

_____

Mary Hanslovan

_____

Sworn to before me this
___st day of August, 2002.

_____
Notary Public

WITNESS:

_____

Edward Hanslovan

By:_____

Sworn to before me this
___st day of August, 2002.

_____
Notary Public

MORTGAGE AND SECURITY AGREEMENT

Dated: August __, 2002

From

Edward Hanslovan
and
Mary Hanslovan
address

To

General Electric Capital Corporation
44 Old Ridgebury Road
Danbury, Connecticut 06801

LOCATION OF PREMISES:

Street Address:

Town:
County: _____
State: Pennsylvania
Section: _____
Block: _____
Lot: _____

After recording, please return to:

OPPENHEIMER WOLFF & DONNELLY LLP
The Chrysler East Building
666 Third Avenue, Suite 1900
New York, New York 10017-4011
Attn: Elena Lazarou, Esq.

ReedSmith

Elena Lazarou
Direct Phone: 212.549.0288
Email: elazarou@reedsmith.com

599 Lexington Avenue
New York, NY 10022-7650
212.521.5400
Fax 212.521.5450

July 7, 2003

Via Overnight Mail and First Class Mail

Edward Hanslovan, President
Ed Hanslovan Coal Company, Inc.
Route 2, P.O. Box 230
Morrisdale, PA 16858

Re: Modification Agreement, GE Account No. 6048055-003 dated 8/02
Modification Agreement, GE Account No. 6048055-004 dated 8/02
Mortgage and Security Agreements dated 8/02

Dear Mr. Hanslovan:

This office has been retained to represent General Electric Capital Corporation ("GE Capital") with respect to the obligations owing to GE Capital, by Ed Hanslovan Coal Co., Inc. ("Ed Hanslovan") under (1) a Modification Agreement, GE Account No. 6048055-003 dated 8/02 (the "Lease"), (2) a Modification Agreement, GE Account No. 6048055-003 dated 8/02 (the "Note"), and (3) two Mortgage and Security Agreements dated 8/02 (collectively the "Obligations").

Ed Hanslovan has defaulted under the Obligations, having failed, among other things, to make required payments thereunder. As a result of the default, and in accordance with the terms of the Obligations, GE Capital has accelerated the amounts due under the Obligations and declared the entire balance to be immediately due and payable plus accruing interest, costs, expenses, attorney's fees, and all other amounts owing to GE Capital, under the Obligations.

Demand is hereby made that by no later than Thursday, July 10, 2003 Ed Hanslovan contact me to confirm delivery to this office, to the attention of the undersigned, a check for the total accelerated amount due under the Obligations. The check should be made payable to "General Electric Capital Corporation." Please contact the undersigned to obtain the exact amount of the indebtedness, as of the date of payment.

In the event payment in full is not received by July 10, 2003, GE Capital will exercise any and all rights and remedies under the Obligations, related documents and/or applicable law, including, but not limited to, the commencement of an action against Ed Hanslovan, to among other things, recover all amounts due under the Obligations and foreclosure under, among other things the two Mortgage and Security Agreements.

ReedSmith

GE Capital reserves all rights and remedies under the Obligations and applicable law, and any elections or enforcement of its rights under the Obligations herein does not in any way limit any other rights or remedies of GE Capital thereunder or constitute a waiver thereof, all of which rights and remedies are hereby expressly preserved.

Please guide yourself accordingly.

Sincerely,

Elena Lazarou

ReedSmith

Joseph F. Rodkey, Jr. • 412.288.7206 • jrodkey@reedsmith.com

October 31, 2003

Edward Hanslovan, President
Ed Hanslovan Coal Company, Inc.
Route 2, Box 230
Morrisdale, PA 16858

Re: Ed Hanslovan Coal Company, Inc.

Dear Mr. Hanslovan:

This office has been retained to represent General Electric Capital Corporation ("GE Capital") with respect to Ed Hanslovan Coal Company, Inc.'s ("Hanslovan Coal") default under the Modification Agreement, GE Account No. 60048055-003 and Modification Agreement, GE Account No. 6048055-004 dated August 2002 (the "Obligations"), having failed, among other things, to make required payments thereunder. As a result of the default, and in accordance with the terms of the Obligations, GE Capital has accelerated the obligations under the Obligations and declared the entire balance to be immediately due and payable plus accruing interest, costs, expenses, attorney's fees, and all other amounts owing to GE Capital, under the Obligations. As of October 1, 2003, the past due payments, fees and late charges exceed $162,031.82.

Demand is hereby made that by no later than Monday, November 3, 2003, payment be made in full or Hanslovan Coal contact GE Capital to make arrangements for the consensual turnover of the secured equipment to one of GE Capital's agents or representatives.

GE Capital reserves all rights and remedies under the Obligations and applicable law, and any elections or enforcement of its rights under the Obligations herein does not in any way limit any other rights or remedies of GE Capital thereunder or constitute a waiver thereof, all of which rights and remedies are hereby expressly preserved.

Please govern yourself accordingly,

Very truly yours,

REED SMITH LLP

By: Joseph F. Rodkey, Jr.

JFR,Jr./klc

LONDON
NEW YORK
LOS ANGELES
SAN FRANCISCO
WASHINGTON, D.C.
PHILADELPHIA
PITTSBURGH
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435 Sixth Avenue
Pittsburgh, PA 15219-1886
412.288.3131
Fax 412.288.3063

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EXPRESS MAIL
UNITED STATES POSTAL SERVICE®

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Customer Copy
Label 11-B June 2002

SEE REVERSE SIDE FOR SERVICE GUARANTEE AND INSURANCE COVERAGE LIMITS

ORIGIN (POSTAL USE ONLY)			
PO ZIP Code	Day of Delivery ☐ Next ☐ Second	Flat Rate Envelope ☐	
Date In Mo. Day Year	☐ 12 Noon ☐ 3 PM	Postage $	
Time In ☐ AM ☐ PM	Military ☐ 2nd Day ☐ 3rd Day	Return Receipt Fee	
Weight lbs. ozs.	Int'l Alpha Country Code	COD Fee	Insurance Fee
No Delivery ☐ Weekend ☐ Holiday	Acceptance Clerk Initials	Total Postage & Fees $	

☐ **WAIVER OF SIGNATURE** *(Domestic Only)* **Additional merchandise insurance is void if waiver of signature is requested.** I wish delivery to be made without obtaining signature of addressee or addressee's agent (if delivery employee judges that article can be left in secure location) and I authorize that delivery employee's signature constitutes valid proof of delivery.

NO DELIVERY ☐ Weekend ☐ Holiday _____ Customer Signature

CUSTOMER USE ONLY

METHOD OF PAYMENT
Express Mail Corporate Acct. No. 515998.60110.1274

Federal Agency Acct. No. or Postal Service Acct. No.

FROM: (PLEASE PRINT) PHONE (412) 288-7206

Joseph F. Rodkey, Jr., Esq.
Reed Smith LLP
435 Sixth Avenue
Pittsburgh, PA 15219

TO: (PLEASE PRINT) PHONE (_____)

Edward Hanslovan, President
Ed Hanslovan Coal Company, Inc.
Route 2, Box 230
Morrisdale, PA 16858

ZIP + 4 16758 + _____

FOR PICKUP OR TRACKING CALL 1-800-222-1811 **www.usps.com** EMS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware Corporation,	)	**Civil Action No.**
Plaintiff,	)	
v.	)	
ED HANSLOVAN COAL COMPANY, INC.,	)	
Defendant.	)	

ORDER SETTING HEARING DATE ON PLAINTIFF'S MOTION FOR WRIT OF SEIZURE OF PROPERTY

AND NOW to wit this ___ day of November 2003, Plaintiff, having filed a Verified Complaint For Replevin and a Motion For Writ of Seizure Of Property ("Motion"), it is hereby ORDERED that pursuant to the Pennsylvania Rules of Civil Procedure, Rule 1075.2 a hearing shall be held within seventy-two hours after seizure of the property by the Sheriff on the merits of Plaintiff's Motion at the Clearfield County Courthouse, Pennsylvania. Plaintiff's Counsel shall provide the Court with notice of the Sheriff's seizure by letter on the day the Sheriff seizes the Property and the Court will thereafter issue an order scheduling the hearing.

BY THE COURT

_____
J.

Dated: November __, 2003

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware Corporation,	)	**Civil Action No.**
Plaintiff,	)	
v.	)	
ED HANSLOVAN COAL COMPANY, INC.,	)	
Defendant.	)	

ORDER FOR WRIT OF SEIZURE PURSUANT TO PA.R.C.P. 1075.2

AND NOW to wit this ___ day of November 2003, upon consideration of Plaintiff's Motion for Writ of Seizure Pursuant to Pennsylvania Rule of Civil Procedure 1075.2 ("Motion") and the allegations set forth in Plaintiff's Verified Complaint For Replevin and Other Relief ("Verified Complaint") the Court finds that Plaintiff has established the probable validity of its claim for replevin.

Additionally, based on the Verified Complaint and exhibits attached thereto, the Court finds that there is probable cause to believe that before a hearing can be held the value of the Collateral (as defined in the Verified Complaint to include any attachments, fixtures and/or accessories affixed thereto) and Plaintiff's interest therein will be adversely affected by the continued possession and use by Defendant and also that the Defendant or others in possession will conceal, dispose, encumber, waste said tractors or the revenues therefrom or remove the same from the county.

Accordingly, the Court Orders that Plaintiff's Motion be and hereby is GRANTED. It is further ORDERED, ADJUDGED and DECREED that a Writ of Seizure of Property issue forthwith in the form attached as Exhibit D to Plaintiff's Motion and that the Clearfield County Sheriff expeditiously and forthwith comply therewith.

It is further ORDERED, ADJUDGED and DECREED that pursuant to Pennsylvania Rule of Civil Procedure 1075.3, Plaintiff is ordered to post a bond with the Prothonotary in the amount of $800,000 which is double the value of the Collateral, believed to be in possession of Defendant as averred in the Motion. The bond for said amount attached as Exhibit E to the Motion is hereby accepted and approved.

It is further ORDERED, ADJUDGED and DECREED that Defendant be and hereby is enjoined and restrained from the use, sale and/or disposition of the Collateral (as defined in the Verified Complaint to include all attachments, fixtures and/or accessories attached thereto) as well as rents, proceeds or other sums derived therefrom, in a manner inconsistent with the terms of the Modification Agreements for wholesale financing. Defendant is further ordered and directed to immediately disclose to the Clearfield County Sheriff and/or Plaintiff the present location of the Collateral and is further Ordered to forthwith supply Plaintiff, with a full and complete detailed accounting to identify all proceeds from any sales of Collateral inconsistent with the terms of the Agreement. Defendant shall be and hereby is enjoined and restrained from removing any parts, accessories, attachments, fixtures or any other item of any kind from the said Collateral.

Defendant is further ordered to forthwith take all measures necessary to facilitate the transfer of the said Collateral to the Clearfield County Sheriff and/or Plaintiff's agents or contractors.

BY THE COURT

_____

J.

Dated: November ____, 2003

Exhibit D

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware Corporation,	)	**Civil Action No.**
Plaintiff,	)	
v.	)	
ED HANSLOVAN COAL COMPANY, INC.,	)	
Defendant.	)	

WRIT OF SEIZURE OF PROPERTY

TO: CLEARFIELD COUNTY SHERIFF

An Order of the Honorable _____, Judge of the Court of Common Pleas for Clearfield County, has been filed in this Court on November __, 2003, directing the Prothonotary hereof to issue a Writ for the seizure of all the Property as defined in the Verified Complaint For Replevin and Other Relief ("Verified Complaint") and in the possession of Defendant, Ed Hanslovan Coal Company, Inc. ("Hanslovan") located at Route 2, Box 230, Morrisdale, Pennsylvania 16858.

IT IS HEREBY DIRECTED:

a. That you and/or persons acting under your supervision forthwith immediately seize, using such force as may be reasonably necessary in the premises, the items identified on Schedule A attached hereto, including any fixtures, attachments, or accessories affixed thereto (collectively the "Collateral") as described in the Verified Complaint and in the possession, custody or control of Defendant at Route 2, Box 230, Morrisdale, Pennsylvania 16858, where said Defendant may be found in the county in which you can serve this Writ; to deliver all such seized items to the care and custody of Plaintiff, and/or its agents;

b. That you attach to all Collateral so seized, which are unable to be removed from the place of seizure, a tag or label stating the fact of such seizure, identifying the person from whom the good, material or record was seized, and warning all persons that the goods, materials or records are under Court Order not to be moved or interfered with in any way;

c. That you permit Plaintiff's attorneys and agents to accompany you for the purpose of inspecting, identifying and/or removing the Collateral;

d. That you require Defendant to disclose to Plaintiff's attorneys or agents at the time of such seizure all locations and sources known to Defendant of the Collateral, described in the Order submitted herewith;

e. That the seizure under this Order shall continue, if necessary, beyond the end of normal working hours of the Clearfield County Sheriff's Office, with Plaintiff reimbursing the Sheriff for all additional costs and expenses of his employees, including overtime and mileage, incurred related to any such extended seizure;

f. That you serve upon Defendant a copy of this Writ of Seizure, and of the aforesaid Order of this Court, and of the Verified Complaint and Bond, upon which said Order was based, as recited in such Order, by delivering the same to any agent of Defendant, if one can be found within the territory in which you act, but if no such agent can be found within such territory, by leaving such copies at the place of business of Defendant or agent, or at the place or places where any such goods as aforesaid are found, with any person of suitable age and discretion;

g. That you also serve a copy of this Writ of Seizure, and the aforesaid Order of this Court and of the Verified Complaint and Bond attached hereto, upon any such person in whose possession any such Collateral as aforesaid are found, and seize such Collateral as aforesaid as you may then and thereafter find in the possession of said persons and deliver the same to the care and custody of Plaintiff or its agents; and

h. That you make an immediate return of such service or attempted service and such seizure or attempted seizure to this Court.

Dated: November ___, 2003

SHEDULE A

One (1) 1996 Euclid End Dump Truck Model R90 S/N 75512

One (1) EX1800 LD-2 Hitachi Shovel S/N 182-0296

AND THE FOLLOWING:

Equipment Description (including quantity)	Year and Model No.	Serial No.
One (1) Hitachi Hydraulic Track Shovel, 14' rock bucket, automatic lube fire suppression system	EX1800LD-2	182-0296
One (1) Michigan Front End Loader	1983 275C	492B-135
One (1) Michigan Front End Loader	1984 275C	492B337CAC
One (1) Komatsu Crawler Tractor	1984 D455	1606
One (1) Euclid Off Road End Dump	1978 R-50	68 362
One (1) Euclid Off Road End Dump	1980 R-50	69 920
One (1) Euclid Off Road End Dump	1981 R-50	69 994
One (1) Euclid Off Road End Dump	1980 R-50	68 986
One (1) Euclid Off road End Dump	1980 R-50	68 989
One (1) Kolberg Rotary Breaker	2600 series	
One (1) International Truck mounted with Keich Model F2574 Drill model T-650-C	1995	AHTGGGCT5LH 240596 650TWCH0090

Equipment Description (including quantity)	Year and Model No.	Serial No.
One (1) Hough Front End Loader	1978 400	2693
One (1) Hough Front End Loader	1978 400	2617
One (1) Hough Front End Loader	1976 400	2410
One (1) Hough Front End Loader	1975 400	2302
One (1) Hough Front End Loader	400	
One (1) Michigan Front End Loader	1976 275B	425C-517
One (1) Michigan Front End Loader	1976 275B	425C-531
One (1) Komatsu Crawler Tractor	1978 D355	1077
One (1) Komatsu Crawler Tractor	1975 D355	1790
One (1) Komatsu Crawler Tractor	1976 D355	2100
One (1) Komatsu Crawler Tractor	1978 D455	1048
One (1) Komatsu Crawler Tractor	1978 D455	1048
One (1) Kolberg Crush & Conveyor, 90ft. radial stacker	1981	6486163615088
One (1) Kolberg Crush & Conveyor, 150 ft. radial stacker	1988	6486163615088
One (1) Ford Mechanics truck	1985 F600	1FDXR80UXFVA 03713
One (1) Ford Mechanics truck	1995 F600	1FDXF80C4SVA7 7476
One (1) Ford Utility truck	1979 F400	V90LVDC9777

Equipment Description (including quantity)	Year and Model No.	Serial No.
One (1) Davey Drill	1979	1881233
One (1) International Water truck	1975	DC0202A0FD862 580
One (1) Chevrolet Pick-up truck		2GECK14H9E117 7602
One (1) Viking pump		19001
One (1) Army Surplus Fertilizer truck		640942

Bond No. 104060011043

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware Corporation,	)	Civil Action No. _____
Plaintiff,	)	
v.	)	
ED HANSLOVAN COAL COMPANY, INC.,	)	
Defendant.	)	

BOND

KNOW ALL MEN BY THESE PRESENTS, that General Electric Capital Corporation ("G.E. Capital") a corporation with a place of business located at 44 Old Ridgeburry Road, Danbury, Connecticut as principal, and Travelers Casualty and Surety Company of America as surety, are held and firmly bound unto the Commonwealth of Pennsylvania, Clearfield County Court of Common Pleas in the sum of $800,000 (Eight Hundred Thousand Dollars), lawful money of the United States of America, to be paid to the said Court, its attorneys or assigns; to which payment, well and truly to be made, conditioned that if plaintiff fails to maintain the right to possession of the Collateral at issue in this action, whereupon the plaintiff shall pay to the party entitled thereto the value of the Collateral and all legal costs, fees and damages sustained by reason of the issuance of the Writ of Seizure. We do jointly and severally bind ourselves, the heirs, executors and administrators of us and each of us by these presents.

SEALED with our seals, dated this 13th day of November, 2003.

General Electric Capital Corporation

By _____
Joseph E. Rodkey, Jr. Counsel for G.E. Capital

Travelers Casualty and Surety Company of America

By _____
Jeffrey M Leadley, Attorney in Fact

STATE OF **ILLINOIS**
COUNTY OF **COOK**

On this 13th day of November, 2003, before me personally appeared Jeffrey M Leadley, known to me to be the Attorney-in-Fact of Travelers Casualty and Surety Company of America, the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in the aforesaid county, the day and year in this certificate first written above.

Karen E. Bogard
(Notary Public)

"OFFICIAL SEAL"
KAREN E. BOGARD
Notary Public, State of Illinois
My Commission Expires 5/18/04

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA
TRAVELERS CASUALTY AND SURETY COMPANY
FARMINGTON CASUALTY COMPANY
Hartford, Connecticut 06183-9062

POWER OF ATTORNEY AND CERTIFICATE OF AUTHORITY OF ATTORNEY(S)-IN-FACT

KNOW ALL PERSONS BY THESE PRESENTS, THAT TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and **FARMINGTON CASUALTY COMPANY,** corporations duly organized under the laws of the State of Connecticut, and having their principal offices in the City of Hartford, County of Hartford, State of Connecticut, (hereinafter the "Companies") hath made, constituted and appointed, and do by these presents make, constitute and appoint: **William Reidinger, Jeffrey M. Leadley, Brian Passolt, Diane O'Leary, Donna Wright, Steven B. Cade, Karen E. Bogard,** of **Chicago, Illinois,** their true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred to sign, execute and acknowledge, at any place within the United States, the following instrument(s): by his/her sole signature and act, any and all bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking and any and all consents incident thereto and to bind the Companies, thereby as fully and to the same extent as if the same were signed by the duly authorized officers of the Companies, and all the acts of said Attorney(s)-in-Fact, pursuant to the authority herein given, are hereby ratified and confirmed.

This appointment is made under and by authority of the following Standing Resolutions of said Companies, which Resolutions are now in full force and effect:

VOTED: That the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her.

VOTED: That the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary.

VOTED: That any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary, or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority.

This Power of Attorney and Certificate of Authority is signed and sealed by facsimile (mechanical or printed) under and by authority of the following Standing Resolution voted by the Boards of Directors of TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY, which Resolution is now in full force and effect:

VOTED: That the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY have caused this instrument to be signed by their **Senior Vice President** and their corporate seals to be hereto affixed this 8th day of October, 2003.

STATE OF CONNECTICUT

}SS. Hartford

COUNTY OF HARTFORD

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA
TRAVELERS CASUALTY AND SURETY COMPANY
FARMINGTON CASUALTY COMPANY

By _____

George W. Thompson
Senior Vice President

On this 8th day of October, 2003 before me personally came **GEORGE W. THOMPSON** to me known, who, being by me duly sworn, did depose and say: that he/she is **Senior Vice President** of **TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY**, the corporations described in and which executed the above instrument; that he/she knows the seals of said corporations; that the seals affixed to the said instrument are such corporate seals; and that he/she executed the said instrument on behalf of the corporations by authority of his/her office under the Standing Resolutions thereof.

Marie C Tetreault

My commission expires June 30, 2006 Notary Public
Marie C. Tetreault

CERTIFICATE

I, the undersigned, **Assistant Secretary** of **TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY,** stock corporations of the State of Connecticut, DO HEREBY CERTIFY that the foregoing and attached Power of Attorney and Certificate of Authority remains in full force and has not been revoked; and furthermore, that the Standing Resolutions of the Boards of Directors, as set forth in the Certificate of Authority, are now in force.

Signed and Sealed at the Home Office of the Company, in the City of Hartford, State of Connecticut. Dated this 13th day of November , 20 03.

By _____

Kori M. Johanson
Assistant Secretary, Bond

FILED 1cc
$ 011:25BL Shff
NOV 18 2003

William A. Shaw
Prothonotary/Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware Corporation,	)	**Civil Action No.** 03-1721-CD
Plaintiff,	)	
v.	)	
ED HANSLOVAN COAL COMPANY, INC.,	)	
Defendant.	)	

ORDER SETTING HEARING DATE ON PLAINTIFF'S MOTION FOR WRIT OF SEIZURE OF PROPERTY

AND NOW to wit this 17 day of November 2003, Plaintiff, having filed a Verified Complaint For Replevin and a Motion For Writ of Seizure Of Property ("Motion"), it is hereby ORDERED that pursuant to the Pennsylvania Rules of Civil Procedure, Rule 1075.2 a hearing shall be held within seventy-two hours after seizure of the property by the Sheriff on the merits of Plaintiff's Motion at the Clearfield County Courthouse, Pennsylvania. Plaintiff's Counsel shall provide the Court with notice of the Sheriff's seizure by letter on the day the Sheriff seizes the Property and the Court will thereafter issue an order scheduling the hearing.

BY THE COURT

J.

Dated: November 18, 2003

FILED

NOV 18 2003

William A. Shaw
Prothonotary/Clerk of Courts

FILED 3cc Atty Rodkey
01 2:35 BH
NOV 18 2003

William A. Shaw
Prothonotary/Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware Corporation,	)	**Civil Action No.** 03-1721-CD
Plaintiff,	)	
v.	)	
ED HANSLOVAN COAL COMPANY, INC.,	)	
Defendant.	)	

FILED

NOV 18 2003

William A. Shaw
Prothonotary/Clerk of Courts

ORDER FOR WRIT OF SEIZURE PURSUANT TO PA.R.C.P. 1075.2

AND NOW to wit this 18 day of November 2003, upon consideration of Plaintiff's Motion for Writ of Seizure Pursuant to Pennsylvania Rule of Civil Procedure 1075.2 ("Motion") and the allegations set forth in Plaintiff's Verified Complaint For Replevin and Other Relief ("Verified Complaint") the Court finds that Plaintiff has established the probable validity of its claim for replevin.

Additionally, based on the Verified Complaint and exhibits attached thereto, the Court finds that there is probable cause to believe that before a hearing can be held the value of the Collateral (as defined in the Verified Complaint to include any attachments, fixtures and/or accessories affixed thereto) and Plaintiff's interest therein will be adversely affected by the continued possession and use by Defendant and also that the Defendant or others in possession will conceal, dispose, encumber, waste said tractors or the revenues therefrom or remove the same from the county.

Accordingly, the Court Orders that Plaintiff's Motion be and hereby is GRANTED. It is further ORDERED, ADJUDGED and DECREED that a Writ of Seizure of Property issue forthwith in the form attached as Exhibit D to Plaintiff's Motion and that the Clearfield County Sheriff expeditiously and forthwith comply therewith.

It is further ORDERED, ADJUDGED and DECREED that pursuant to Pennsylvania Rule of Civil Procedure 1075.3, Plaintiff is ordered to post a bond with the Prothonotary in the amount of $800,000 which is double the value of the Collateral, believed to be in possession of Defendant as averred in the Motion. The bond for said amount attached as Exhibit E to the Motion is hereby accepted and approved.

It is further ORDERED, ADJUDGED and DECREED that Defendant be and hereby is enjoined and restrained from the use, sale and/or disposition of the Collateral (as defined in the Verified Complaint to include all attachments, fixtures and/or accessories attached thereto) as well as rents, proceeds or other sums derived therefrom, in a manner inconsistent with the terms of the Modification Agreements for wholesale financing. Defendant is further ordered and directed to immediately disclose to the Clearfield County Sheriff and/or Plaintiff the present location of the Collateral and is further Ordered to forthwith supply Plaintiff, with a full and complete detailed accounting to identify all proceeds from any sales of Collateral inconsistent with the terms of the Agreement. Defendant shall be and hereby is enjoined and restrained from removing any parts, accessories, attachments, fixtures or any other item of any kind from the said Collateral.

Defendant is further ordered to forthwith take all measures necessary to facilitate the transfer of the said Collateral to the Clearfield County Sheriff and/or Plaintiff's agents or contractors.

BY THE COURT

J.

Dated: November 18, 2003

FILED 3cc.
01 2:36 BH Atty Rodkey
NOV 18 2003

William A. Shaw
Prothonotary/Clerk of Courts

3 writs issued to Atty Rodkey

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware Corporation,	)	**Civil Action No.** 03-1721-CD
Plaintiff,	)	
v.	)	
ED HANSLOVAN COAL COMPANY, INC.,	)	
Defendant.	)	

WRIT OF SEIZURE OF PROPERTY

TO: CLEARFIELD COUNTY SHERIFF

An Order of the Honorable John K. Reilly, Jr., Judge of the Court of Common Pleas for Clearfield County, has been filed in this Court on November 18, 2003, directing the Prothonotary hereof to issue a Writ for the seizure of all the Property as defined in the Verified Complaint For Replevin and Other Relief ("Verified Complaint") and in the possession of Defendant, Ed Hanslovan Coal Company, Inc. ("Hanslovan") located at Route 2, Box 230, Morrisdale, Pennsylvania 16858.

IT IS HEREBY DIRECTED:

a. That you and/or persons acting under your supervision forthwith immediately seize, using such force as may be reasonably necessary in the premises, the items identified on Schedule A attached hereto, including any fixtures, attachments, or accessories affixed thereto (collectively the "Collateral") as described in the Verified Complaint and in the possession, custody or control of Defendant at Route 2, Box 230, Morrisdale, Pennsylvania 16858, where said Defendant may be found in the county in which you can serve this Writ; to deliver all such seized items to the care and custody of Plaintiff, and/or its agents;

b. That you attach to all Collateral so seized, which are unable to be removed from the place of seizure, a tag or label stating the fact of such seizure, identifying the person from whom the good, material or record was seized, and warning all persons that the goods, materials or records are under Court Order not to be moved or interfered with in any way;

c. That you permit Plaintiff's attorneys and agents to accompany you for the purpose of inspecting, identifying and/or removing the Collateral;

d. That you require Defendant to disclose to Plaintiff's attorneys or agents at the time of such seizure all locations and sources known to Defendant of the Collateral, described in the Order submitted herewith;

e. That the seizure under this Order shall continue, if necessary, beyond the end of normal working hours of the Clearfield County Sheriff's Office, with Plaintiff reimbursing the Sheriff for all additional costs and expenses of his employees, including overtime and mileage, incurred related to any such extended seizure;

f. That you serve upon Defendant a copy of this Writ of Seizure, and of the aforesaid Order of this Court, and of the Verified Complaint and Bond, upon which said Order was based, as recited in such Order, by delivering the same to any agent of Defendant, if one can be found within the territory in which you act, but if no such agent can be found within such territory, by leaving such copies at the place of business of Defendant or agent, or at the place or places where any such goods as aforesaid are found, with any person of suitable age and discretion;

g. That you also serve a copy of this Writ of Seizure, and the aforesaid Order of this Court and of the Verified Complaint and Bond attached hereto, upon any such person in whose possession any such Collateral as aforesaid are found, and seize such Collateral as aforesaid as you may then and thereafter find in the possession of said persons and deliver the same to the care and custody of Plaintiff or its agents; and

h. That you make an immediate return of such service or attempted service and such seizure or attempted seizure to this Court.

Dated: November 18, 2003

SHEDULE A

One (1) 1996 Euclid End Dump Truck Model R90 S/N 75512

One (1) EX1800 LD-2 Hitachi Shovel S/N 182-0296

AND THE FOLLOWING:

Equipment Description (including quantity)	Year and Model No.	Serial No.
One (1) Hitachi Hydraulic Track Shovel, 14' rock bucket, automatic lube fire suppression system	EX1800LD-2	182-0296
One (1) Michigan Front End Loader	1983 275C	492B-135
One (1) Michigan Front End Loader	1984 275C	492B337CAC
One (1) Komatsu Crawler Tractor	1984 D455	1606
One (1) Euclid Off Road End Dump	1978 R-50	68 362
One (1) Euclid Off Road End Dump	1980 R-50	69 920
One (1) Euclid Off Road End Dump	1981 R-50	69 994
One (1) Euclid Off Road End Dump	1980 R-50	68 986
One (1) Euclid Off road End Dump	1980 R-50	68 989
One (1) Kolberg Rotary Breaker	2600 series	
One (1) International Truck mounted with Keich Model F2574 Drill model T-650-C	1995	AHTGGGCT5LH 240596 650TWCH0090

Equipment Description (including quantity)	Year and Model No.	Serial No.
One (1) Hough Front End Loader	1978 400	2693
One (1) Hough Front End Loader	1978 400	2617
One (1) Hough Front End Loader	1976 400	2410
One (1) Hough Front End Loader	1975 400	2302
One (1) Hough Front End Loader	400	
One (1) Michigan Front End Loader	1976 275B	425C-517
One (1) Michigan Front End Loader	1976 275B	425C-531
One (1) Komatsu Crawler Tractor	1978 D355	1077
One (1) Komatsu Crawler Tractor	1975 D355	1790
One (1) Komatsu Crawler Tractor	1976 D355	2100
One (1) Komatsu Crawler Tractor	1978 D455	1048
One (1) Komatsu Crawler Tractor	1978 D455	1048
One (1) Kolberg Crush & Conveyor, 90ft. radial stacker	1981	6486163615088
One (1) Kolberg Crush & Conveyor, 150 ft. radial stacker	1988	6486163615088
One (1) Ford Mechanics truck	1985 F600	1FDXR80UXFVA 03713
One (1) Ford Mechanics truck	1995 F600	1FDXF80C4SVA7 7476
One (1) Ford Utility truck	1979 F400	V90LVDC9777

Equipment Description (including quantity)	Year and Model No.	Serial No.
One (1) Davey Drill	1979	1881233
One (1) International Water truck	1975	DC0202A0FD862 580
One (1) Chevrolet Pick-up truck		2GECK14H9E117 7602
One (1) Viking pump		19001
One (1) Army Surplus Fertilizer truck		640942

Bond No. 104060011043

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware Corporation, Plaintiff, v. ED HANSLOVAN COAL COMPANY, INC., Defendant.	Civil Action No. 03-1721-CD

FILED
NOV 18 2003 2cc Atty Rodkey
William A. Shaw
Prothonotary/Clerk of Courts

BOND

KNOW ALL MEN BY THESE PRESENTS, that General Electric Capital Corporation ("G.E. Capital") a corporation with a place of business located at 44 Old Ridgebury Road, Danbury, Connecticut as principal, and Travelers Casualty and Surety Company of America as surety, are held and firmly bound unto the Commonwealth of Pennsylvania, Clearfield County Court of Common Pleas in the sum of $800,000 (Eight Hundred Thousand Dollars), lawful money of the United States of America, to be paid to the said Court, its attorneys or assigns; to which payment, well and truly to be made, conditioned that if plaintiff fails to maintain the right to possession of the Collateral at issue in this action, whereupon the plaintiff shall pay to the party entitled thereto the value of the Collateral and all legal costs, fees and damages sustained by reason of the issuance of the Writ of Seizure. We do jointly and severally bind ourselves, the heirs, executors and administrators of us and each of us by these presents.

SEALED with our seals, dated this 13th day of November, 2003.

General Electric Capital Corporation

By _____
Joseph E. Rodkey, Jr. Counsel for G.E. Capital

Travelers Casualty and Surety Company of America

By _____
Jeffrey M Leadley, Attorney in Fact

PGHLIB-1242090.01-NRPAGLIA
November 13, 2003 4:08 PM

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA
TRAVELERS CASUALTY AND SURETY COMPANY
FARMINGTON CASUALTY COMPANY
Hartford, Connecticut 06183-9062

POWER OF ATTORNEY AND CERTIFICATE OF AUTHORITY OF ATTORNEY(S)-IN-FACT

KNOW ALL PERSONS BY THESE PRESENTS, THAT TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and **FARMINGTON CASUALTY COMPANY**, corporations duly organized under the laws of the State of Connecticut, and having their principal offices in the City of Hartford, County of Hartford, State of Connecticut, (hereinafter the "Companies") hath made, constituted and appointed, and do by these presents make, constitute and appoint: **William Reidinger, Jeffrey M. Leadley, Brian Passolt, Diane O'Leary, Donna Wright, Steven B. Cade, Karen E. Bogard, of Chicago, Illinois,** their true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred to sign, execute and acknowledge, at any place within the United States, the following instrument(s): by his/her sole signature and act, any and all bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking and any and all consents incident thereto and to bind the Companies, thereby as fully and to the same extent as if the same were signed by the duly authorized officers of the Companies, and all the acts of said Attorney(s)-in-Fact, pursuant to the authority herein given, are hereby ratified and confirmed.

This appointment is made under and by authority of the following Standing Resolutions of said Companies, which Resolutions are now in full force and effect:

VOTED: That the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her.

VOTED: That the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary.

VOTED: That any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary, or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority.

This Power of Attorney and Certificate of Authority is signed and sealed by facsimile (mechanical or printed) under and by authority of the following Standing Resolution voted by the Boards of Directors of TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY, which Resolution is now in full force and effect:

VOTED: That the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY have caused this instrument to be signed by their **Senior Vice President** and their corporate seals to be hereto affixed this 8th day of October, 2003.

STATE OF CONNECTICUT

}SS. Hartford

COUNTY OF HARTFORD

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA
TRAVELERS CASUALTY AND SURETY COMPANY
FARMINGTON CASUALTY COMPANY

By _____
George W. Thompson
Senior Vice President

On this 8th day of October, 2003 before me personally came **GEORGE W. THOMPSON** to me known, who, being by me duly sworn, did depose and say: that he/she is **Senior Vice President** of **TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY**, the corporations described in and which executed the above instrument; that he/she knows the seals of said corporations; that the seals affixed to the said instrument are such corporate seals; and that he/she executed the said instrument on behalf of the corporations by authority of his/her office under the Standing Resolutions thereof.

Marie C Tetreault

My commission expires June 30, 2006 Notary Public
Marie C. Tetreault

CERTIFICATE

I, the undersigned, **Assistant Secretary** of **TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY,** stock corporations of the State of Connecticut, DO HEREBY CERTIFY that the foregoing and attached Power of Attorney and Certificate of Authority remains in full force and has not been revoked; and furthermore, that the Standing Resolutions of the Boards of Directors, as set forth in the Certificate of Authority, are now in force.

Signed and Sealed at the Home Office of the Company, in the City of Hartford, State of Connecticut. Dated this 13th day of November , 20 03.

By _____
Kori M. Johanson
Assistant Secretary, Bond

In The Court of Common Pleas of Clearfield County, Pennsylvania

GENERAL ELECTRIC CAPITAL CORPORATION

VS.

ED HANSLOVAN COAL COMPANY, INC.

Sheriff Docket # 14827

03-1721-CD

VERIFIED COMPLAINT FOR REPLEVIN & OTHER RELIEF;MOTIO PROPERTY; ORDER FOR WRIT OF SEIZURE; ORDER SETTING HE

SHERIFF RETURNS

NOW NOVEMBER 21, 2003 AT 10:00 AM SERVED THE WITHIN VERIFIED COMPLAINT FOR REPLEVIN & OTHER RELIEF; MOTION FOR WRIT OF SEIZURE OF PROPERTY; ORDER FOR WRIT OF SEIZURE; ORDER SETTING HEARING DATE ON ED HANSLOVAN COAL COMPANY INC., DEFENDANT AT RESIDENCE, RT #2 BOX 230, MORRISDALE, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO MARY HANSLOVAN, WIFE OF OWNER A TRUE AND ATTESTED COPY OF THE ORIGINAL VERIFIED COMPLAINT FOR REPLEVIN etc. AND MADE KNOWN TO HER THE CONTENTS THEREOF.
SERVED BY: COUDRIET/RYEN

Return Costs

Cost	Description
27.73	SHERIFF HAWKINS PAID BY: ATTY
10.00	SURCHARGE PAID BY: ATTY

Sworn to Before Me This

26 Day Of November 2003

William A. Shaw

So Answers,

Chester A. Hawkins by Marilyn Hamm

Chester A. Hawkins
Sheriff

FILED
o 9:52 BA
NOV 26 2003

William A. Shaw
Prothonotary

Notice of Proposed Termination of Court Case

November 5, 2007

RE: 2003-01721-CD

General Electric Capital Corporation

Vs.

Ed Hanslovan Coal Company, Inc.

FILED

NOV 05 2007

William A. Shaw
Prothonotary/Clerk of Courts

Dear Joseph F. Rodkey, Jr., Esq.:

Please be advised that the Court intends to terminate the above captioned case without notice, because the Court records show no activity in the case for a period of at least two years.

You may stop the Court terminating the case by filing a Statement of Intention to Proceed. The Statement of Intention to Proceed must be filed with the **Prothonotary of Clearfield County, PO Box 549, Clearfield, Pennsylvania 16830**. The Statement of Intention to Proceed must be filed on or before **January 4, 2008**.

If you fail to file the required statement of intention to proceed within the required time period, the case will be terminated.

By the Court,

Daniel J. Nelson
Court Administrator

Notice of Proposed Termination of Court Case

November 5, 2007

RE: 2003-01721-CD

General Electric Capital Corporation

Vs.

Ed Hanslovan Coal Company, Inc.

Dear Ed Hanslovan Coal Company, Inc.:

Please be advised that the Court intends to terminate the above captioned case without notice, because the Court records show no activity in the case for a period of at least two years.

You may stop the Court terminating the case by filing a Statement of Intention to Proceed. The Statement of Intention to Proceed must be filed with the **Prothonotary of Clearfield County, PO Box 549, Clearfield, Pennsylvania 16830**. The Statement of Intention to Proceed must be filed on or before **January 4, 2008**.

If you fail to file the required statement of intention to proceed within the required time period, the case will be terminated.

By the Court,

Daniel J. Nelson

Daniel J. Nelson
Court Administrator

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware Corporation, Plaintiff, v. HANSOLVAN TRUCKING COMPANY, INC., Defendant.	Civil Action No. 2003-01721-CD **STATEMENT OF INTENTION TO PROCEED**

Filed on behalf of Plaintiff:
General Electric Capital Corporation

Joseph F. Rodkey, Jr.
Pa. I.D. #66757

Reed Smith LLP
Firm No. 234
435 Sixth Avenue
Pittsburgh, PA 15219
Telephone: (412) 288-7206
Facsimile: (412) 288-3063

FILED 1cc Atty
m/11:15cm
DEC 24 2007
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware Corporation,	)	Civil Action No. 2003-01721-CD
Plaintiff,	)	
v.	)	
HANSOLVAN TRUCKING COMPANY, INC.,	)	
Defendant.	)	

STATEMENT OF INTENTION TO PROCEED

To the Court:

Plaintiff, General Electric Capital Corporation intends to proceed with the above-captioned matter.

Joseph F. Rodkey, Jr.
PA I.D. No. 66757

REED SMITH LLP
435 Sixth Avenue
Pittsburgh, PA 15219
(412) 288-3131
Firm No. 234

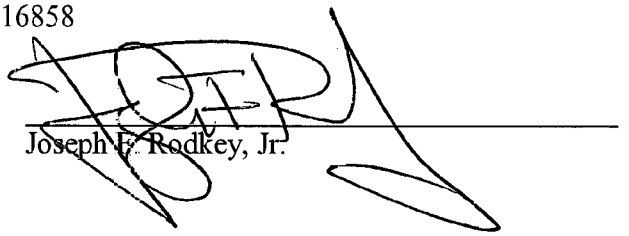
Counsel for Plaintiff
General Electric Capital Corporation

Dated: December 21, 2007

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the Statement of Intention to Proceed was served this date upon Defendant, by first class U.S. Mail, postage prepaid, addressed as follows:

Edward Hanslovan
Route 2, Box 230
Morrisdale, PA 16858



Joseph F. Rodkey, Jr.

December 21, 2007

FILED
JUN 14 2004
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PENNSYLVANIA

GENERAL ELECTRIC CAPITAL CORPORATION, a Delaware Corporation,

Plaintiff,

v.

ED HANSLOVAN COAL COMPANY INC,

Defendant.

Civil Action No. 03-1721-CD

PRAECIPE TO DISCONTINUE

Filed on behalf of Plaintiff General Electric Capital Corporation.

Counsel of Record on Behalf of This Party:

Gregory L. Taddonio (SBN 88564)
Melissa M. Taylor (SBN 209278)
REED SMITH LLP
Firm No. 234
Reed Smith Centre
225 Fifth Avenue
Suite 1200
Pittsburgh, PA 15222-2716
Telephone: +1 412 288 3131
Facsimile: +1 412 288 3063

IN THE COURT OF COMMON PLEAS
ALLEGHENY COUNTY, PENNSYLVANIA

GENERAL ELECTRIC CAPITAL CORPORATION,	)	
Plaintiff,	)	
	)	Civil Action No. 03-1721-CD
v.	)	
ED HANSLOVAN COAL COMPANY, INC.,	)	
Defendant.	)	

PRAECIPE TO DISCONTINUE

To: William A. Shaw
Clearfield County Office of the Prothonotary
P.O. Box 549
Clearfield, PA 16830

Please enter Plaintiff's voluntary discontinuance of the within action pursuant to Pennsylvania Rule of Civil Procedure 229. Kindly discontinue all claims against the Defendant with prejudice.

Respectfully submitted,

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Counsel for Plaintiff General Electric Capital Corporation

Dated: June 10, 2010

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 10th day of June 2010, a copy of the foregoing was sent by first class U.S. mail, postage prepaid, to the following:

Ed Hanslovan Coal Company
Route 2, Box 230
Morrisdale, PA 16858

Melissa M. Taylor

Attorney for Plaintiff