

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re:) **Chapter 11**
) **Case No. 12-51502-659**
PATRIOT COAL CORPORATION, et al.,) **(Jointly Administered)**
)
Debtors.) Hearing Date: May 20, 2014
) Hearing Time: 10:00 a.m. Central
) Location: Courtroom 7-N

**RUDD EQUIPMENT COMPANY, INC.'S RESPONSE TO REORGANIZED
DEBTORS' THIRTY-THIRD OMNIBUS OBJECTION TO CLAIMS**

COMES NOW Rudd Equipment Company, Inc. ("Rudd"), by and through its undersigned counsel, and hereby files its *Response to Reorganized Debtors' Thirty-Third Omnibus Objection to Claims* (Doc. 5465).

I. INTRODUCTION

1. Rudd filed two proof of claims against Patriot Coal Corporation ("Patriot Coal") for charges arising out of two Patriot Coal contracts for equipment rented from Rudd (hereafter, collectively the "Equipment Rental Agreements"). E.D. Mo. Claim Nos. 4152 and 4154 (GCG Claim Nos. 4229 and 4231).

2. Rudd also filed two proof of claims against Grand Eagle Mining, LLC ("Grand Eagle") for the same charges arising out of the Equipment Rental Agreements. E.D. Mo. Claim Nos. 4151 and 4153 (GCG Claim Nos. 4228 and 4230).

3. On April 21, 2014, the Debtors filed their Thirty-Third Omnibus Objection to Claims (Doc. No. 5465) (the “33rd Omnibus Objection”). The Thirty-Third Omnibus Objection sought to disallow and modify Rudd’s claims, as well as claims asserted by Kevin Lee and Eva Miller.¹

4. By a courteous agreement from the Reorganized Debtors’ counsel, Rudd was allowed an extension to May 15, 2014, to file this Response.

II. RESPONSE TO OBJECTIONS

5. In response to Paragraphs 3 – 4 of the 33rd Omnibus Objection , Rudd admits this Court has jurisdiction over the 33rd Omnibus Objection, venue for this matter is proper, and this is a core proceeding.

A. FACTUAL BACKGROUND

The ‘1011 Hauler:

6. On or about August 22, 2011, Patriot Coal and Grand Eagle executed a rental agreement with Rudd for the rental of the Euclid-Hitachi EH1700-3 Rigid Hauler, Serial No. 8R6BAN001011 (the “1011 Hauler”). See Exhibit AA (White Declaration), at 2 (¶¶ 5-7); & Exhibit AA-1 (*Rental Agreement for Hauler 1011*), at 1. The 1011 Hauler’s rental agreement will hereafter be called the “1011 Hauler Rental Agreement.”

¹ This Response does not address Reorganized Debtors’ objections to claims filed by Kevin Lee and Eva Miller.

7. The 1011 Hauler Rental Agreement was signed by Ms. Marilyn Perry, who is the Purchasing Director of Patriot Coal. See Exhibit AA (White Declaration), at 2 (¶¶ 7-11); & Exhibit AA-1 (*Rental Agreement for Hauler 1011*), at 2.

8. The 1011 Hauler Rental Agreement required Patriot Coal and Grand Eagle to pay Rudd \$39,000 per month in exchange for use of the 1011 Hauler - up to 400 hours per month. Exhibit AA-1 (*Rental Agreement for Hauler 1011*), at 1. Under the terms of the 1011 Hauler Rental Agreement, Patriot Coal and Grand Eagle were to pay Rudd an additional \$97.50 per hour for each hour the 1011 Hauler was used over 400 hours per month (overtime hours). *Id.*

9. Rudd's business records indicate the 1011 Hauler was used a total of 493 hours for the period of August 2012 – September 2012. See Exhibit AA (White Declaration), at 2-3 (¶¶ 12-19); & Exhibit AA-2 (Invoice 103910000020), at 1.

10. Rudd's business records indicate the 1011 Hauler was used a total of 674 hours for the period of September 2012 – October 2012. See Exhibit AA (White Declaration), at 2-3 (¶¶ 12-19); & Exhibit AA-3 (Invoice 103910000026), at 1.

11. Patriot Coal or Grand Eagle, or both, used the 1011 Hauler a total of 367 overtime hours during the period of August 2012 - October 2012, as reflected in Rudd's invoices filed with E.D. Mo. Claim Nos. 4153 and 4154 (GCG Claim Nos. 4230 and 4231). See Exhibit AA (White Declaration), 2-3 (¶¶ 12-19); Exhibit AA-2 (Invoice 103910000020), at 1; & Exhibit AA-3 (Invoice 103910000026), at 1.

12. The charges for the overtime hours, plus interest per the 1011 Hauler Rental Agreement, total \$36,363.97. E.D. Mo. Claim Nos. 4153 and 4154 (GCG Claim Nos. 4230 and 4231).

The '1013 Hauler:

13. On or about August 22, 2011, Patriot Coal and Grand Eagle executed another rental agreement with Rudd for the rental of the Euclid-Hitachi EH1700-3 Rigid Hauler, Serial No. 8R6BAN001013 (the "1013 Hauler"). See Exhibit AA (White Declaration), at 4 (¶¶ 20-22); & Exhibit AA-4 (*Rental Agreement for Hauler 1013*), at 1. The 1013 Hauler's rental agreement will hereafter be called the "1013 Hauler Rental Agreement."

14. The 1011 Hauler Rental Agreement was signed by Ms. Marilyn Perry, who is the Purchasing Director of Patriot Coal. See Exhibit AA (White Declaration), at 4-5 (¶¶ 22-26).

15. The terms of the 1013 Hauler Rental Agreement required Patriot Coal and Grand Eagle to pay Rudd \$39,000 per month in exchange for use of the 1013 Hauler - up to 400 hours per month. Exhibit AA-4 (*Rental Agreement for Hauler 1013*), 1. Under the terms of the 1013 Hauler Rental Agreement, Patriot Coal and Grand Eagle were to pay Rudd an additional \$97.50 per hour for each hour the 1013 Hauler was used over 400 hours per month (overtime hours). *Id.*

16. Rudd's business records indicate the 1013 Hauler was used a total of 547 hours for the period of August 2012 – September 2012. *See* Exhibit AA (White Declaration), at 5 (¶¶ 27-33); & Exhibit AA-5 (Invoice 103910000019), at 1.

17. Rudd's business records indicate the 1013 Hauler was used a total of 601 hours for the period of September 2012 – October 2012. Exhibit AA (White Declaration), at 5 (¶¶ 27-33); & Exhibit AA-5 (Invoice 103910000025), at 1.

18. Rudd's business records indicate the 1013 Hauler was used a total of 488 hours for the period of October 2012 – November 2012. Exhibit AA (White Declaration), at 5 (¶¶ 27-33); & Exhibit AA-5 (Invoice 103910000049), at 1.

19. Patriot Coal or Grand Eagle, or both, used the 1013 Hauler a total of 436 overtime hours during the period of August 2012 - November 2012, as reflected in Rudd's invoices filed with E.D. Mo. Claim Nos. 4151 and 4152 (GCG Claim Nos. 4228 and 4229). *See* Exhibit D *Invoices for the 1013 Hauler*.

20. The charges for these overtime hours, with interest per the 1013 Hauler Rental Agreement, total \$43,190.06. E.D. Mo. Claim Nos. 4151 and 4152 (GCG Claim Nos. 4228 and 4229).

B. ARGUMENT

Patriot Coal was a party to the Equipment Rental Agreements.

21. The 33rd Omnibus Objection requested Rudd's claims against Patriot Coal (E.D. Mo. Claim Nos. 4152 and 4154 (GCG Claim Nos. 4229 and 4231)) be disallowed

because the invoices for these charges referred to Grand Eagle and not Patriot Coal.

Doc. 5465 at 3 – 4 (¶ 12).

22. Patriot Coal, however, was identified as one of the parties on the first page of each contract – the 1011 Hauler Rental Agreement and 1013 Hauler Rental Agreement (the Equipment Rental Agreements). See Exhibit AA-1 (*Rental Agreement for Hauler 1011*), at 1 (“THIS RENTAL AGREEMENT is made by and between RUDD EQUIPMENT COMPANY (hereafter ‘RUDD’) and Patriot Coal Corporation,”); & Exhibit AA-4 (*Rental Agreement for Hauler 1013*), at 1 (“THIS RENTAL AGREEMENT is made by and between RUDD EQUIPMENT COMPANY (hereafter ‘RUDD’) and Patriot Coal Corporation,”).

23. Ms. Marilyn Perry, who is the Purchasing Director of Patriot Coal, signed the Equipment Rental Agreements. See Exhibits AA (White Declaration), at 2 (¶¶ 7-11) & 4-5 (¶¶ 22-26); Exhibit AA-1 (*Rental Agreement for Hauler 1011*), at 2; Exhibit AA-4 (*Rental Agreement for Hauler 1013*), at 2.

24. Under Indiana law², the law of contracts applies to leases. See *Murat Temple Assoc. v. Live Nation Worldwide, Inc.*, 953 N.E.2d 1125, 1130 (Ind. App. 2011). A

² The terms of the Equipment Rental Agreements indicate the parties agreed Indiana law would govern the agreements. See Exhibit AA-1 (*Rental Agreement for Hauler 1011*), at 2 (§ 16); & Exhibit AA-4 (*Rental Agreement for Hauler 1013*), at 2 (§ 16).

court is instructed to “read the contract as a whole and construe the language so as not to render any words, phrases, or terms ineffective or meaningless.” *Id.*

25. “Clear, plain, and unambiguous contract terms are conclusive of the parties’ intent, and a court will not construe the contract or consider extrinsic evidence, but will merely apply the contractual provisions as they are written.” *Roche Diagnostics Operations, Inc. v. Marsh Supermarkets, LLC*, 987 N.E.2d 72, 79 (Ind. App. 2013). Under Indiana law, a contract will not be considered ambiguous simply because the parties disagree about the meaning of a term. Instead, “[a] contract is ambiguous only if a reasonable person could find its terms susceptible to more than one interpretation.” *Id.*

26. In this matter, the clear and unambiguous terms of the Equipment Rental Agreements indicate Patriot Coal was a party to the agreement. First, Patriot Coal was identified as a party on the first page of each Agreement. Second, Patriot Coal’s Purchasing Director, Ms. Perry, signed both Agreements on behalf of “Patriot Coal Corporation.” See Exhibit AA-1 (*Rental Agreement for Hauler 1011*), at 2; & Exhibit AA-4 (*Rental Agreement for Hauler 1013*), at 2.

27. In order to construe the Equipment Rental Agreements to only concern Grand Eagle, a reasonable person must ignore the terms of the Agreements as written. Such a construction is against Indiana law and, for this reason, cannot be followed.

28. Therefore, because “Patriot Coal Corporation” was identified as a party to the Equipment Rental Agreements and its Purchasing Director signed the Agreements,

the objection to Rudd's claims (E.D. Mo. Claim Nos. 4152 and 4154 (GCG Claim Nos. 4229 and 4231)) should be overruled.

The Debtors' objection to Claim Nos. 4151 & 4153

relied upon inadmissible statements.

29. The 33rd Omnibus Objection requested Rudd's claims (E.D. Mo. Claim Nos. 4152 and 4154 (GCG Claim Nos. 4229 and 4231)) against Grand Eagle be modified because the Reorganized Debtors' records indicated different usage for the leased equipment. Doc. 5465 at 4 (¶ 13).

30. In support this Objection, the Reorganized Debtors relied only on the Declaration of Eddie Snell, Grand Eagle's Operations Manager (the "Snell Declaration").³

31. According to the Snell Declaration, Grand Eagle's business records indicated Grand Eagle's overtime use of the 1011 Hauler totaled only 80 hours for the

³ The 33rd Omnibus Objection actually referred to the Declaration of Jennifer Tally to support its objections to Rudd's claims. However, the Snell Declaration appears to have taken the place of the Declaration of Jennifer Tally. In any event, the Declaration of Jennifer Tally was not attached to the 33rd Omnibus Objection.

period of August 2012 – October 2012.⁴ Grand Eagle’s business records that purportedly showed this usage were not attached to the Snell Declaration.

32. Similarly, the Snell Declaration claimed Grand Eagle’s business records showed overtime use of the 1013 Hauler totaled only 26 hours for the period of August 2012 - November 2012.⁵ Again, however, the business records referenced in the Snell Declaration were not attached to the Declaration.

33. Federal Rule of Evidence 1002, which applies “in cases under the Code,”⁶ provides “[a]n original writing, recording, or photograph is required in order to prove its content unless these rules or a federal statute provides otherwise.” Fed. R. Evid. 1002 (2012).

34. It is well-settled that affidavits are not admissible to prove the contents of business records. *See, e.g., Whiting-Turner/A.L. Johnson v. P.D.H. Development, Inc.*, 184 F. Supp. 2d 1368, 1372 (M.D. Ga., 2000) (refusing to consider certain statements in an

⁴ The Snell Declaration provided a serial number of 8R6BAN0012011, which does not match the serial number for the 1011 Hauler (there is no “2” in the serial number). Rudd presumes this is merely a typographical error.

⁵ The Snell Declaration provided a serial number of 8R6BAN0012013, which does not match the serial number for the 1013 Hauler (there is no “2” in the serial number). Rudd presumes this is merely another typographical error.

⁶ Bankruptcy Rule 9017.

affidavit on a motion for summary judgment, where the affidavit referenced information from an IRS application for employer identification number, in lieu of producing the document itself); & *O'Bannon v. Union Pac. RR Co.*, 960 F. Supp. 1411, 1418 (W.D. Mo., 1997) (noting Fed. R. Civ. P. 56 requires documentary evidence be authenticated by, and attached to, an evidentiary affidavit). Instead, the business records must be attached to the affidavit. *O'Bannon*, 960 F. Supp. at 1418.

35. In this case, the Debtors attempted to rely upon purported business records maintained by the Reorganized Debtors. Those records, though, were not attached to the Snell Declaration and have, otherwise, not been provided to the Court or Rudd. Therefore, Rudd objects – on hearsay grounds - to the Reorganized Debtors' attempt to have the Court rely on the Snell Declaration to prove the contents of Grand Eagle's business records.

36. The Debtors might argue they do not need to attach the Reorganized Debtors' business records to the Snell Declaration because the Declaration indicated the statements therein were based upon Mr. Snell's "personal knowledge."

37. Such a "personal knowledge" argument, if made, will be misplaced. An affidavit asserting that it is made upon personal knowledge "must include enough factual support to show that the affiant possesses that knowledge." *O'Bannon*, 960 F. Supp. at 1418. Mr. Snell's Declaration indicated he is "Operations Manager" of Grand Eagle, but there were no statements with facts to show what that means. *See Henggeler*

v. Brumbaugh & Quandahl, P.C., 894 F. Supp.2d 1180, 1188 (D. Neb., 2012). It is improper to consider Mr. Snell's statements without detailed facts to support that such were made upon his personal knowledge. *O'Bannon*, 960 F. Supp. at 1418.

38. Mr. Snell's statement that he has personal knowledge about the usage of the equipment is not accompanied by any facts to show he possessed such knowledge. Therefore, Rudd objects – on foundation grounds - to the Reorganized Debtors' attempt to have the Court rely on Mr. Snell's unsupported statements within his Declaration.

39. At this time, other than a conclusory statement based upon missing records, it is not clear from the 33rd Omnibus Objection what evidence supports the Debtors' objection to Rudd's claims.

40. In contrast, Rudd's business records indicate the overtime hours used for each month. Those records, as reflected in Exhibits AA-2, AA-3, AA-5, AA-6, and AA-7, prove the following:

- a. The 1011 Hauler was used during the period of August 2012 – September 2012, for 493 hours;
- b. The 1011 Hauler was used during the period of September 2012 – October 2012, for 674 hours;
- c. The 1013 Hauler was used during the period of August 2012 – September 2012, for 547 hours;

d. The 1013 Hauler was used during the period of September 2012 – October 2012, for 601 hours; and

e. The 1013 Hauler was used during the period of October 2012 – November 2012, for 488 hours.

41. Hence, the Reorganized Debtors have not produced evidence of a probative force equal to that of Rudd's supporting evidence. *See Robinson v. Hinkley (In re: Hinkley)*, 58 B.R. 339, 348 (Bankr. S.D. Tex. 1986), *aff'd* 875 F.2d 859 (5th Cir. 1989) ("A party objecting to a claim has the initial burden of presenting a substantial factual basis to overcome the prima facie validity of a proof of claim. This evidence must be of a probative force equal to that of the creditor's proof of claim.") (internal citations omitted).

42. Therefore, the Reorganized Debtors' request to modify Claim Nos. 4151 and 4153 (GCG Claim Nos. 4228 and 4230) should be denied.

WHEREFORE, Rudd Equipment Company, Inc., prays the Court:

(a) Overrule the Reorganized Debtors' request to disallow and modify Rudd Equipment Company, Inc.'s Claim Nos. 4152 – 4154 (GCG Claim Nos. 4228 – 4231); and

(b) Grant such other and further relief the Court deems just and proper.

Respectfully submitted,

BROWN & JAMES, P.C.

/s/ Matt G. Koehler

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CERTIFICATE OF SERVICE

This is to certify that on May 12, 2014, the attached document was filed with the Clerk of Court using the CM/ECF System, which will send notification to all counsel of record, and also delivered via email, facsimile, and U.S. Mail to the following:

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/s/ Matt Koehler

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re:) Chapter 11
) Case No. 12-51502-659
PATRIOT COAL CORPORATION, *et al.*,) (Jointly Administered)
)
Debtors.) Hearing Date: May 20, 2014
) Hearing Time: 10:00 a.m. Central
) Location: Courtroom 7-N

TERRI WHITE
DECLARATION PURSUANT TO 28 U.S.C. § 1746

I, Terr White, state the following:

1. I am over the age of eighteen, of sound mind, capable of making this declaration, and personally acquainted with the facts stated in this declaration.
2. I am a Sales Assistant employed by Rudd Equipment Company, Inc. ("Rudd"), at its Evansville (Indiana) Office.
3. One of the accounts assigned to me is Patriot Coal-Grand Eagle, which is Rudd Account No. 1004542.
4. During the course of Rudd's business, two haulers were rented to Patriot Coal Corporation ("Patriot Coal") and Grand Eagle Surface Mining ("Grand Eagle") pursuant to two separate written agreements.



A. The '1011 Hauler

5. First, a Euclid-Hitachi Rigid Hauler, Model No. EH1700-3 and Serial Number 8R6BAN001011, was rented to Patriot Coal and Grand Eagle on or around September of 2011 (the "1011 Hauler").

6. The 1011 Hauler was rented to Patriot Coal and Grand Eagle pursuant to a written rental agreement. A true and accurate copy of the Rental Agreement in Rudd's file is attached hereto as Exhibit AA-1. This Rental Agreement will hereafter be referred to as the "1011 Hauler Rental Agreement."

7. The 1011 Hauler Rental Agreement indicates that it was signed on behalf of "Patriot Coal Corporation" as the "CUSTOMER."

8. For the signature on behalf of "Patriot Coal Corporation" on the 1011 Hauler Rental Agreement, I recognize the signature to be from Marilyn Perry.

9. The signature for Ms. Perry on the 1011 Hauler Rental Agreement is similar to signatures by Ms. Perry on other documents in Rudd's files, including other contracts.

10. Ms. Perry's signature indicates she is the "Purchasing Manager."

11. Based on my work as a Sales Assistant, including communications with Ms. Perry, I understand Ms. Perry's title is Purchasing Director of Patriot Coal.

12. The terms of the 1011 Hauler Rental Agreement allowed Patriot Coal or Grand Eagle to use the 1011 Hauler for 400 hours each month at a cost of \$39,000.

13. Under the terms of the 1011 Hauler Rental Agreement, if Patriot Coal or Grand Eagle exceeded 400 hours of use of the 1011 Hauler during any month, then there is an additional charge of \$97.50 for each hour of use.

14. Section 16 of the 1011 Hauler Rental Agreement indicates it is to be governed by the law of the location of Rudd's office identified in Paragraph "3C." The office identified in Section (or Paragraph) "3C" was "Evansville, IN."

15. One of my duties as Sales Assistant is to manage Rudd's electronic records regarding a customer's use of rental equipment.

16. Rudd's electronic accounting records indicate the 1011 Hauler was used by Patriot Coal or Grand Eagle as follows:

- a. For the period of August 1, 2012 – August 31, 2012, 493 hours; and
- b. For the period of September 1, 2012 – September 30, 2012, 674 hours.

17. Rudd's electronic records are kept by Rudd in the regular course of its business. It was in the regular course of business of Rudd that someone input hour-usage information into Rudd's accounting computer-software based upon information provided by a person with first-hand knowledge of the hours reflected on the equipment's meter. The electronic records were completed near the time the hour usage information was obtained from a piece of equipment's meter.

18. Rudd's paper invoices are generated directly from the information in Rudd's electronic records. A true and accurate copy of Invoice 103910000020 is attached hereto as Exhibit AA-2. A true and accurate copy of Invoice 103910000026 is attached hereto as Exhibit AA-3.

19. I have verified the information in Exhibit AA-2 and Exhibit AA-2, including the hours reported to have been used each month, accurately reflects the hour usage in Rudd's electronic records.

B. The '1013 Hauler

20. The second piece of equipment rented to Patriot Coal and Grand Eagle was a Euclid-Hitachi Rigid Hauler, Model No. EH1700-3 and Serial Number 8R6BAN001013 (the "1013 Hauler").

21. The 1013 Hauler was rented to Patriot Coal and Grand Eagle on or around September of 2011 pursuant to a written rental agreement. A true and accurate copy of the Rental Agreement in Rudd's file is attached hereto as Exhibit AA-4. This Rental Agreement will hereafter be referred to as the "1013 Hauler Rental Agreement."

22. The 1013 Hauler Rental Agreement indicates that it was signed on behalf of "Patriot Coal Corporation" as the "CUSTOMER."

23. For the signature on behalf of "Patriot Coal Corporation" on the 1013 Hauler Rental Agreement, I recognize the signature to be from Marilyn Perry.

24. The signature for Ms. Perry on the 1013 Hauler Rental Agreement is similar to signatures by Ms. Perry on other documents in Rudd's files, including other contracts.

25. Ms. Perry's signature indicates she is the "Purchasing Manager."

26. Based on my work as Sales Assistant, including communications with Ms. Perry, I understand Ms. Perry's title is Purchasing Director of Patriot Coal.

27. The terms of the 1013 Hauler Rental Agreement allowed Patriot Coal or Grand Eagle to use the 1013 Hauler for 400 hours each month at a cost of \$39,000.

28. Under the terms of the 1013 Hauler Rental Agreement, if Patriot Coal or Grand Eagle exceeded 400 hours of use of the 1013 Hauler during any month, then there is an additional charge of \$97.50 per hour.

29. Section 16 of the 1011 Hauler Rental Agreement indicates it is to be governed by the law of the location of Rudd's office identified in Paragraph "3C." The office identified in Section (or Paragraph) "3C" was "Evansville, IN."

30. Rudd's electronic accounting records indicate the 1013 Hauler was used by Patriot Coal or Grand Eagle as follows:

- a. For the period of August 1, 2012 – August 31, 2012, 547 hours;
- b. For the period of September 1, 2012 – September 30, 2012, 601 hours; and
- c. For the period of October 1, 2012 – October 31, 2012, 488 hours.

31. Rudd's electronic records are kept by Rudd in the regular course of its business. It was in the regular course of business of Rudd that someone input hour-usage information into Rudd's accounting computer-software based upon information provided by a person with first-hand knowledge of the hours reflected on the equipment's meter. The electronic records were completed near the time the hour usage information was obtained from a piece of equipment's meter.

32. Rudd's paper invoices are generated directly from the information in Rudd's electronic records. A true and accurate copy of Invoice 103910000019 is attached hereto as Exhibit AA-5. A true and accurate copy of Invoice 103910000025 is attached hereto as Exhibit AA-6. A true and accurate copy of Invoice 103910000049 is attached hereto as Exhibit AA-7.

33. I have verified the information in Exhibit AA-5, Exhibit AA-6, and Exhibit AA-7, including the hours reported to have been used each month, accurately reflects the hour usage in Rudd's electronic records.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May (month) 15 (day), 2014, in
Evansville (city), IN (state),

United States of America.

TERRI WHITE

TERRI WHITE

RUDD EQUIPMENT COMPANY - RENTAL AGREEMENT

White - Original
 Green - Customer Copy
 Yellow - Salesman's Copy

THIS RENTAL AGREEMENT is made by and between RUDD EQUIPMENT COMPANY (hereinafter "RUDD") and Patriot Coal Corporation,
Grand Eagle Surface Mining, P. O. Box 66823, St. Louis, MO 63166

The parties agree as follows:

1. GRANT. Subject to the terms set out below, RUDD rents to CUSTOMER, and CUSTOMER rents from RUDD, all machinery, equipment and other property described in paragraph 2, including all component parts and accessory items (the "Equipment").

2. SCHEDULE OF EQUIPMENT.

Manufacturer	Model	Description	Serial Number	Replacement Value
Euclid-Hitachi	EH1700-3	Rigid Hauler	BRGBAN001011	\$1,087,677.00

3. SCHEDULE OF TERMS:

Via: Best Way
 Shipping Date: ASAP
 Freight Charges: customer pay freight/ assembly
 C. RUDD's Designated Receiving Point: Evansville, IN
 D. Rental Rate: Weekly @ \$ ----- per week
 Monthly @ \$ 39,000.00 per month.
 Monthly Rate Shown for 400 Hours/Month.
 Hourly Charge for Excess Hours \$ 97.50
 Single Shift Double Shift X
 \$ Deposit payable on execution, applicable
 to First month's rental
 to First month's rental

E. Mail Invoice to: Same as Above
 (Name) (Street) (City, State, Zip)

F. Minimum Rental Period: 6 Months Weeks 2011. If this blank is not filled in, rental shall commence on the date CUSTOMER receives possession of the Equipment. Upon expiration of the Minimum Rental Period, the term hereof shall, at RUDD's discretion, continue for an indefinite period, and either RUDD or CUSTOMER may terminate this Rental Agreement upon five (5) days prior notice to the other. If CUSTOMER terminates this Rental Agreement prior to expiration of the Minimum Rental Period, it shall pay RUDD all the agreed-upon remaining rental due during the Minimum Rental Period.
 CUSTOMER shall be liable for all transportation charges of returning the Equipment to RUDD.

4. CALCULATION OF RENTAL PERIOD. The rental period shall begin on and include the date of shipment to CUSTOMER and shall end on and include the date of return to RUDD's Designated Receiving Point. If the Equipment is kept longer than the specified Minimum Rental Period, the rental shall be included to and paid by CUSTOMER on a pro rata basis.

5. RATES AND OVERTIME RATES. The rates provided for in this Rental Agreement are straight time rates based on eight (8) hours per day, five (5) days per week, or twenty-four (24) hours (8) hour days per month for a total of one hundred seventy-six (176) hours in any one thirty (30) consecutive day period. CUSTOMER shall receive no credit or offset against the monthly rate due hereunder if the Equipment is in actual use for less than one hundred seventy-six (176) hours in any one thirty (30) consecutive day period. Should the Equipment be used longer than the above specified hours in any specific period, the overtime rate shall be based on the figure in the blank above, or if it is not filled in, then on 1/176th of the monthly rate for each hour in excess of one hundred seventy-six (176) hours worked in any one thirty (30) consecutive day period (or if the specified rate is weekly, 1/40 of the weekly rate).

6. TITLE. A. TRUE LEASE. Title to the Equipment (and to all replacements thereof or substitutions therefor) is and shall remain in RUDD. RUDD and CUSTOMER further acknowledge and agree that this Rental Agreement is intended as a lease and shall lease between the parties and does not constitute a so-called "caption" lease or as a "financing lease" under KRS 355.2A-103. If intended as security, the filing by RUDD under the Uniform Commercial Code of one or more UCC forms evidencing the relationship hereby created shall not render this Rental Agreement a lease intended as security.

B. NO PURCHASE OPTION. This Rental Agreement contains no purchase option, if at any time during the Rental Period, CUSTOMER desires to purchase the Equipment, RUDD will enter into good faith negotiations, but neither party shall have any obligation to agree to a purchase.

7. RISK OF LOSS; SHIPMENT AND RECEIPT OF EQUIPMENT. Risk of loss shall pass to CUSTOMER upon the delivery of the Equipment to a carrier for delivery to CUSTOMER or upon delivery to CUSTOMER at RUDD's facility. Should the Equipment be damaged in transit, it shall be the obligation of CUSTOMER to have such repairs or replacements made to the Equipment as necessary to bring the Equipment to its condition when the risk of loss passed to CUSTOMER. The receipt and assumption of possession by CUSTOMER of this Equipment shall constitute acknowledgment that the Equipment has been accepted and found in proper working condition. Any use of the Equipment shall constitute a full, complete and irrevocable acceptance by CUSTOMER.

8. CUSTOMER'S OBLIGATIONS. A. TIRE CLAUSE. During the rental period all repairs to tires or replacement of tires shall be the sole responsibility of CUSTOMER. Notwithstanding the condition of any tire on the Equipment at the time this Rental Agreement was executed, CUSTOMER agrees, as additional rent, to pay, upon return of the Equipment, the replacement value of any tire which RUDD, in its sole opinion, determines cannot be used again, and, CUSTOMER also agrees to pay upon return of the Equipment the entire recapping charge for any tire which RUDD determines, in its sole opinion, to be in need of recapping.

B. INSTRUCTION MANUAL AND OPERATION OF THE EQUIPMENT. CUSTOMER acknowledges being furnished with an instruction manual governing safe operation of the Equipment and warrants that any person who uses the Equipment will operate the Equipment in accordance with the instruction manual. CUSTOMER agrees to use the Equipment only for its intended purpose and CUSTOMER agrees to comply with and conform to all municipal, state and federal laws relating to the use and operation of the Equipment.

G. REPAIRS. CUSTOMER agrees, during the rental period, at its own cost and expense, to operate and maintain the Equipment with factory authorized parts and to make all necessary repairs to the Equipment. CUSTOMER agrees to return the Equipment to RUDD in the same condition as received by CUSTOMER, reasonable wear and tear excepted. RUDD reserves the right to inspect the Equipment upon return, and CUSTOMER agrees to pay all costs and expenses of making all necessary repairs to the Equipment upon its return to RUDD. At CUSTOMER's request, RUDD may repair the Equipment for CUSTOMER, using reasonable diligence to make such repairs, and CUSTOMER shall pay RUDD its regular charges for any material or labor furnished in making such repairs.

H. CASUALTY TO EQUIPMENT; IDENTIFICATION. CUSTOMER hereby agrees to indemnify RUDD for all losses and damages to the Equipment which are the result of any casualty or which may be an act of God, said indemnification to continue until the Equipment has been returned to the possession of RUDD and accepted by it. For the purpose of fixing the value of the Equipment in order to determine the loss, damage, or liability therefor, the Replacement Value, as stated in Paragraph 2 hereof, shall be deemed a fair and just value, forming a basis for such valuation. In making such valuation, no rentals thereon paid or due shall apply toward the payment of such loss.

I. SEIZURE OF THE EQUIPMENT. CUSTOMER represents and warrants to RUDD that the Equipment is not being rented for the purpose of and shall not, during the Rental Period, be used for any purpose or in any manner which would violate any provision of any law which would allow the Equipment to be seized by any governmental agency. If the Equipment is used within the Commonwealth of Kentucky, CUSTOMER represents and agrees the Equipment will be used in compliance with any and all applicable laws and regulations, including, but not limited to, the provisions of Chapter 350 of the Kentucky Revised Statutes. Failure to fulfil this obligation on the part of CUSTOMER shall be deemed a default under this Rental Agreement.

J. LOCATION OF EQUIPMENT; LEVY; INSPECTION. CUSTOMER shall, whenever requested by RUDD, give RUDD the exact location of the Equipment and shall further give RUDD immediate notice if any levy is asserted upon the Equipment, or if the Equipment from any cause becomes liable to seizure, and shall indemnify RUDD against all loss and damages caused by any such action. RUDD shall have the privilege at all times of entering, for the purpose of inspection, any job, building, or location where the Equipment is being used, and reserve the privilege of removing the Equipment on twenty-four (24) hours notice if it is being operated or used beyond its capacity or in any manner abused, neglected or misused.

K. NO ENCUMBRANCE. CUSTOMER agrees that it will not allow the Equipment to be lien, encumbrance, security interest or debt of any kind other than the rights reserved to RUDD pursuant to this Rental Agreement or under law.

L. PUBLIC LIABILITY; IDENTIFICATION. CUSTOMER hereby agrees to indemnify RUDD against all loss, damage, expense, and pecuniary injury from any action on account of any death or injury to person or property of any character whatsoever occasioned by the operation, handling, or transportation of the Equipment during the rental period or while the Equipment is in the possession or under the custody and control of CUSTOMER, including without limitation, the death or injury to any employee of CUSTOMER.

M. INSURANCE. CUSTOMER further agrees to protect RUDD with all risk insurance (coverage of loss - special form) naming RUDD as an additional insured and loss payee covering all losses and damages listed in the preceding paragraph and shall agree to furnish to RUDD a copy of the Certificate of Insurance demonstrating it has complied with this subparagraph. Each party shall agree, by endorsement upon the policy or policies issued by it or by

EXHIBIT

AA-1

Independent instrument furnished to RUDD, that it will give RUDD sixty (60) days written notice before the policy in question shall be amended or canceled. CUSTOMER hereby assigns to RUDD all proceeds from such insurance, conveys an equitable title in said proceeds, directs any insurer to pay said proceeds to RUDD, and appoints RUDD its attorney-in-fact to make claims for, receive payment of, and execute and endorse all documents, checks or drafts for, less or charges under said insurance policy. RUDD may at its option and at its own expense issue its own interest in the Equipment. If RUDD does obtain its own insurance, CUSTOMER shall have no interest whatsoever in such insurance. In addition, CUSTOMER shall maintain comprehensive public liability insurance in an amount of not less than One Million Dollars (\$1,000,000) for occurrences naming RUDD as an additional insured.

J. TAXES. CUSTOMER shall pay all local, state, or federal taxes, sales or use taxes or public charges, either local, municipal, state, or federal, which may be levied on the Equipment while in the possession of CUSTOMER. Nothing in this paragraph is to be construed as meaning that CUSTOMER is to pay the personal property tax levied against the Equipment rented when said Equipment is located within the home state of RUDD. Any and all taxes assessed against the Equipment, including personal property taxes, while the Equipment is outside of the home state of RUDD, are to be paid by CUSTOMER. The term "home state" means any state in which the RUDD has its home office or branch.

K. FAILURE TO PAY INSURANCE OR TAXES. If CUSTOMER fails to procure and maintain insurance under Paragraph E above or to pay taxes under Paragraph J above, RUDD shall have the right, but not the obligation, to effect such insurance or pay such taxes and the cost thereof shall be reimbursed to RUDD by CUSTOMER with the next installment of rent.

L. LABOR UNIONS AND FORCE MAJEURE. CUSTOMER shall pay any charges for work or inspection required by any labor union. RUDD may, at its option, refuse to do any repair work on Equipment in time of strike or in violation of any union or governmental rule affecting the Equipment or in the event RUDD is prevented from doing so by a cause beyond its control. RUDD reserves the right to remove the Equipment from a job site at any time when, in RUDD's opinion, the Equipment is in danger because of strikes or any other condition.

9. RUDD'S OBLIGATIONS.

A. NO WARRANTY GIVEN. RUDD IS NOT THE MANUFACTURER OF THE EQUIPMENT HEREIN RENTED, NOR THE AGENT OF THE MANUFACTURER OF SAID EQUIPMENT, AND RUDD GIVES NO EXPRESS WARRANTY AGAINST PATENT OR LATENT DEFECTS IN MATERIAL, WORKMANSHIP, OR CAPACITY, OR THAT SAID EQUIPMENT WILL MEET THE REQUIREMENTS OF ANY LAW, RULES, SPECIFICATIONS, OR CONTRACTS WHICH PROVIDE FOR SPECIFIC MACHINERY OR APPARATUS OR SPECIAL METHODS. THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE ARE HEREBY EXCLUDED. THE EQUIPMENT SHALL BE DEEMED USE EQUIPMENT AND IS RENTED ON AN "AS IS - WHERE IS" BASIS. RUDD SHALL NOT BE LIABLE IN ANY EVENT TO CUSTOMER FOR ANY LOSS, DELAY OR DAMAGE OF ANY KIND OR CHARACTER RESULTING FROM DEFECTS IN, OR INEFFICIENCY OF, THE EQUIPMENT, NOR SHALL RUDD BE LIABLE FOR ACCIDENTAL BREAKAGE THEREOF, NOR SHALL CUSTOMER BE ENTITLED TO RECOVER CONSEQUENTIAL OR INCIDENTAL DAMAGES.

B. EXCLUSIVE REMEDY AGAINST RUDD. IN THE EVENT CUSTOMER ACCEPTS THE EQUIPMENT, AS HEREIN PROVIDED, AND THEREAFTER THE EQUIPMENT PROVES DEFECTIVE IN DESIGN, MATERIALS, WORKMANSHIP, CAPACITY OR FOR ANY OTHER REASON, OR IS UNFIT FOR USE BECAUSE OF ANY ACCIDENT OR OTHERWISE, CUSTOMER'S EXCLUSIVE REMEDY SHALL BE TO RETURN THE EQUIPMENT TO RUDD AND TERMINATE THIS RENTAL AGREEMENT; PROVIDED, HOWEVER, CUSTOMER SHALL BE LIABLE FOR THE TRANSPORTATION CHARGES ON RETURNING THE EQUIPMENT.

C. CONDITION AND INSPECTION OF EQUIPMENT. RUDD shall use reasonable care to see that the Equipment is in proper working condition before shipment to CUSTOMER. CUSTOMER acknowledges that it has inspected the Equipment prior to executing this Rental Agreement.

10. DEFAULT. Should any of the provisions of this Rental Agreement, including the payment of rent, be violated by CUSTOMER, the remaining rental for the Minimum Rental Period shall become forthwith due and payable, and RUDD or its agents may, without notice, enter the premises occupied by CUSTOMER without being a trespasser thereon and take possession of and remove the Equipment. All freight, demurrage, storage, labor, or other charges required to return the Equipment to RUDD's Designated Receiving Point shall be borne by the CUSTOMER. In the event RUDD incurs reasonable attorney's fees or other costs due to CUSTOMER's default, CUSTOMER agrees to pay same to RUDD, in addition to all other costs, charges and damage.

11. TERMINATION. After the expiration of the Minimum Rental Period this Rental Agreement may be terminated:

A. by RUDD, by making demand for the return of the Equipment which CUSTOMER, at its expense, shall forthwith return to RUDD's Designated Receiving Point set forth in Paragraph 3C hereof.

B. by CUSTOMER, in accordance with Paragraph 2F hereof and by returning the Equipment to RUDD's Designated Receiving Point set forth in Paragraph 3C hereof.

12. BANKRUPTCY. Neither this Rental Agreement nor any interest herein is assignable or transferable by operation of law. If any proceeding under the Bankruptcy Code, Title 11 of U.S.C., as amended, is commenced by or against CUSTOMER, or if CUSTOMER is adjudged insolvent, or if CUSTOMER makes any assignment for the benefit of its creditors, or if a receiver is appointed in any proceeding or action to which CUSTOMER is a party, this Rental Agreement shall, at the option of RUDD, without notice, immediately terminate and shall not be treated as an asset of CUSTOMER.

13. MODIFICATION OF RENTAL AGREEMENT. No modification of this Rental Agreement shall be binding upon the parties or either of them unless such modification is in writing and duly accepted in writing.

14. RELATIONSHIP OF PARTIES. Nothing in this Rental Agreement shall render RUDD in any manner a partner, agent, joint venturer, or associate of CUSTOMER in the operation and use of the Equipment or subject RUDD to any obligation, loss, charge or expense in connection with or arising from the operation or use of the Equipment.

15. PLACE OF MAKING. RUDD's location set forth in Paragraph 3C shall be the place of making of this Rental Agreement, and any and all disputes arising hereunder shall be settled at RUDD's location, whether such settlement be arbitrated or be attempted, by negotiation, litigation, or otherwise.

16. APPLICABLE LAW; SEVERABILITY. The law of the state of RUDD's location set forth in Paragraph 3C hereof shall apply to this Rental Agreement and the construction thereof. To the extent any provision or clause in this Rental Agreement is prohibited by any law or is deemed unenforceable, such prohibition or unenforceability shall not invalidate any of the remaining provisions or clauses hereof.

17. MISCELLANEOUS. No waiver of a breach of any provision of this Rental Agreement shall constitute a waiver of any other breach of the same or any other provision. Time is of the essence of this Rental Agreement.

18. NO ASSIGNMENT OR SUBLETTING BY CUSTOMER. CUSTOMER shall not assign, sell, sublet, encumber or otherwise transfer this Rental Agreement or the Equipment or any right therein without the prior written consent of RUDD.

19. ASSIGNMENT BY RUDD. RUDD may assign its rights hereunder to any person, partnership or corporation, with or without recourse, and upon receipt of notice of any such assignment, CUSTOMER shall be obligated to RUDD's assignee to the same extent that it is obligated to RUDD, and the assignee, other in its own name or in RUDD's name, shall have the full and complete right to assert all of the rights granted RUDD hereunder. All representations, warranties and agreements of CUSTOMER set forth herein shall be deemed made to the assignee with the same force and effect as if said assignee were RUDD. Further, upon assignment of this Rental Agreement by RUDD, RUDD will not be assignee's agent for any purpose, and CUSTOMER'S obligations and liabilities hereunder to the assignee will be absolute and unconditional and will not be subject to any abatement, reduction, recoupment, defense, setoff or counterclaim available to CUSTOMER against RUDD.

20. SUBJECT TO RUDD'S ACCEPTANCE. This Rental Agreement is subject to acceptance by RUDD and shall not be binding upon RUDD until signed by RUDD's authorized representative. Acceptance shall be executed by RUDD on the attached Acknowledgment Copy which shall be returned to CUSTOMER by United States Mail.

21. UCC-1. CUSTOMER appoints RUDD as its attorney in fact to execute and file any UCC-1 financing statements deemed appropriate by RUDD to protect its ownership or other interests hereunder.

22. ENTIRE UNDERSTANDING. RUDD'S SALESMEN AND/OR OTHER EMPLOYEES MAY HAVE MADE ORAL OR WRITTEN STATEMENTS ABOUT THE EQUIPMENT. SUCH STATEMENTS DO NOT CONSTITUTE WARRANTIES, SHALL NOT BE RELIED UPON BY CUSTOMER AND ARE NOT A PART OF THIS RENTAL AGREEMENT. THE ENTIRE UNDERSTANDING OF THE PARTIES IS EMBODIED IN THIS RENTAL AGREEMENT. THIS RENTAL AGREEMENT, SIGNED AND DATED BY BOTH PARTIES, CONSTITUTES A FINAL WRITTEN EXPRESSION OF TERMS OF THIS AGREEMENT AND IS A COMPLETE AND EXCLUSIVE STATEMENT OF THOSE TERMS. EVIDENCE OF COURSE OF DEALING, USAGE OF TRADE OR COURSE OF PERFORMANCE SHALL NOT BE ADMITTED INTO EVIDENCE IN ANY LAWSUIT IN AN ATTEMPT TO EXPLAIN THE MEANING OF ANY TERM IN THE RENTAL AGREEMENT.

ALL THE ABOVE TERMS AND CONDITIONS HAVE BEEN READ AND ARE THOROUGHLY UNDERSTOOD. THIS RENTAL AGREEMENT DOES NOT CONTAIN A PURCHASE OPTION UNLESS SET FORTH IN A SEPARATE WRITTEN AMENDMENT. CUSTOMER ACKNOWLEDGES RECEIPT OF A COPY OF THIS RENTAL AGREEMENT.

RUDD-EQUIPMENT COMPANY

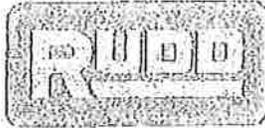
By: [Signature]
 Title: Vice President
 Date: 7/19/11

CUSTOMER: Pahist Coal Corporation

Check Type: Corporate Partnership Individual
 By: [Signature]
 Title: Asst. Vice President
 Date: August 22nd, 2011
 Witness: [Signature]
 (Signature must be in ink)

Performance and payment of CUSTOMER'S obligations up to a maximum of \$ _____, or the total amount which is payable by CUSTOMER under this Rental Agreement (whichever is greater) is personally guaranteed by:

By: _____
 Title: _____
 Date: _____



EQUIPMENT COMPANY
 4344 POPLAR LEVEL ROAD P.O. BOX 32427
 LOUISVILLE, KY 40213-1811 LOUISVILLE, KY 40232-2427
 (502) 458-4050 FAX (502) 458-8935

INVOICE

PAGE 1(1)

// COPY //

TIN 61-0446955

Invoice no	Customer no	Inv date	Due date
103910000020	1004542	11/26/12	11/26/12

Sold to

Grand Eagle Mining Inc
 Po Box 66823
 St Louis, MO - 63166-6823

Ship to

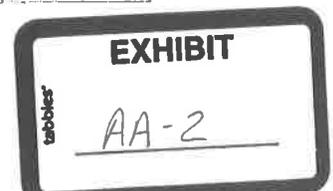
Grand Eagle Mining Inc
 Po Box 66823
 St Louis, MO - 63166-6823

Payment terms	
Cash on Delivery	

Description	Qty	U/M	Price	Amount
A000144 (s/n 8R6BAN001011) OT Billing Meter Hours Aug 2012-Sept 2012 400 hours Overusage Aug 2012-Sept 2012 93hours @ \$97.50				9,067.50

SEND PAYMENT TO: RUDD EQUIPMENT COMPANY Dept 77432, P.O. BOX 77000 Detroit, MI 48277	TOTAL	9,067.50
	SALES TAX	0.00
INTEREST AT THE RATE OF 1.5% PER MONTH WILL BE CHARGED ON THE UNPAID BALANCE. INTEREST IS CALCULATED ON THE BASIS OF 18% PER ANNUM SIMPLE INTEREST.	INVOICE TOTAL	9,067.50

111587630239113055ARS121PF





EQUIPMENT COMPANY
 4344 POPLAR LEVEL ROAD P.O. BOX 32127
 LOUISVILLE, KY 40213-1041 LOUISVILLE, KY 40232-2427
 (502) 450-4050 FAX (502) 459-8595

INVOICE

// COPY //

PAGE 1(1)

TIN 61-0448955

Invoice no	Customer no	Inv date	Due date
103910000026	1004542	11/27/12	11/27/12

Sold to

Grand Eagle Mining Inc
 Po Box 66823
 St Louis, MO - 63166-6823

Ship to

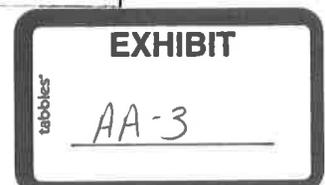
Grand Eagle Mining Inc
 Po Box 66823
 St Louis, MO - 63166-6823

Payment terms	
Cash on Delivery	

Description	Qty	U/M	Price	Amount
A000144 (s/n BR6BAN001011) OT Billing Meter Hours Sept 2012 - Oct 2012 400 Hours Overusage Sept 2012-Oct 2012 274 Hours@\$97.50				26,715.00

SEND PAYMENT TO: RUDD EQUIPMENT COMPANY Dept 77432, P.O. BOX 77000 Detroit, MI 48277 INTEREST AT THE RATE OF 1.5% PER MONTH WILL BE CHARGED ON THE UNPAID BALANCE. INTEREST IS CALCULATED ON THE BASIS OF 10% PER ANNUM SIMPLE INTEREST.	TOTAL	26,715.00
	SALES TAX	0.00
INVOICE TOTAL		26,715.00

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RUDD EQUIPMENT COMPANY - RENTAL AGREEMENT

White - Original
 Green - Customer Copy
 Yellow - Salesman's Copy

THIS RENTAL AGREEMENT is made by and between RUDD EQUIPMENT COMPANY (hereinafter "RUDD") and Patriot Coal Corporation,
Grand Eagle Surface Mining, P. O. Box 66823, St. Louis, MO 63166

The parties agree as follows:

- GRANT. Subject to the terms set out below, RUDD rents to CUSTOMER, and CUSTOMER rents from RUDD, all machinery, equipment and other property described in paragraph 2, including all component parts and accessory items (the "Equipment").
- SCHEDULE OF EQUIPMENT.

Manufacturer	Model	Description	Serial Number	Replacement Value
Euclid-Hitachi	EH1700-3	Rigid Hauler	8R6BAN001013	\$1,087,677.00

3. SCHEDULE OF TERMS:

A. F. O. B.: Corbin, KY

B. Ship for use in following Operations: Mining Construction
 Other (Describe) _____ Job Site: _____
 Name of Job or Project (at or near) _____
19060 Hwy 1078 So., Henderson, KY 42420

 _____ (Street)
 _____ (City, County, State, Zip)

Via: Best Way

Shipping Date: ASAP

Freight Charges: customer pay freight/ assembly

C. RUDD's Designated Receiving Point: Evansville, TN

D. Rental Rate: Weekly @ \$ _____ per week
 Monthly @ \$39,000.00 per month,
 Monthly Rate Shown for 400 Hours/Month.
 Hourly Charge for Excess Hours \$97.50
 Single Shift _____ Double Shift X

\$ _____ Deposit payable on execution, applicable
 to First month's rental
 to First month's rental

E. Mail Invoice to: Some as Above

(Name) _____ (Street) _____ (City, State, Zip) _____

F. Minimum Rental Period: 6 Months _____ Weeks _____ 2011. If this blank is not filled in, rental shall commence on the date CUSTOMER receives possession of the Equipment. Upon expiration of the Minimum Rental Period, the term hereof shall be at RUDD's discretion. Continue for an indefinite period, and either RUDD or CUSTOMER may terminate this Rental Agreement upon five (5) days prior notice to the other. If CUSTOMER terminates this Rental Agreement prior to expiration of the Minimum Rental Period, it shall pay RUDD all the aggregated remaining rent due during the Minimum Rental Period.
 CUSTOMER shall be liable for all transportation charges of returning the Equipment to RUDD.

4. CALCULATION OF RENTAL PERIOD. The rental period shall begin on and include the date of shipment to CUSTOMER and shall end on and include the date of return to RUDD's Designated Receiving Point. If the Equipment is kept longer than the specified Minimum Rental Period, the rental shall be invoiced to and paid by CUSTOMER on a pro rata basis.

5. RATES AND OVERTIME RATES. The rates provided for in this Rental Agreement are a straight time rates based on eight (8) hours per day, five (5) days (40) hours per week, or twenty-two (22) eight (8) hour days per month for a total of one hundred seventy-six (176) hours in any one thirty (30) consecutive day period. CUSTOMER shall receive no credit or offset against the monthly rent due hereunder if the Equipment is in actual use for less than one hundred seventy-six (176) hours in any one thirty (30) consecutive day period. Should the Equipment be used longer than the above specified hours in any specific period, the overtime rate shall be based on the figure in the blank above, or if it is not filled in, then on 1/170th of the monthly rate for each hour in excess of one hundred seventy-six (176) hours worked in any one thirty (30) consecutive day period (or if the specified rate is weekly, 1/60 of the weekly rate).

6. TITLE.

A. TRUE LEASE. Title to the Equipment (and to all replacements thereof or substitute thereof) is and shall remain in RUDD. RUDD and CUSTOMER further acknowledge and agree that this Rental Agreement is intended as a true and actual lease between the parties and does not constitute a so-called "capital lease" or as a "finance lease" under KRS 365.2A-103, intended as security. The filing by RUDD under the Uniform Commercial Code of one or more UCC forms notwithstanding the relationship hereby created shall not render this Rental Agreement a lease intended as security.

B. NO PURCHASE OPTION. This Rental Agreement contains no purchase option. If at any time during the Rental Period, CUSTOMER desires to purchase the Equipment, RUDD will enter into good faith negotiations, but neither party shall have any obligation to agree to a purchase.

7. RISK OF LOSS; SHIPMENT AND RECEIPT OF EQUIPMENT. Risk of loss shall pass to CUSTOMER upon the delivery of the Equipment to a carrier for delivery to CUSTOMER or upon delivery to CUSTOMER at RUDD's facility. Should the Equipment be damaged in transit, it shall be the obligation of CUSTOMER to have such repairs or replacements made to the Equipment as necessary to bring the Equipment to its condition when the risk of loss passed to CUSTOMER. The receipt and assumption of possession by CUSTOMER of the Equipment shall constitute acknowledgment that the Equipment has been accepted and found in proper working condition. Any use of the Equipment that constitutes a full, complete and irrevocable acceptance by CUSTOMER.

8. CUSTOMER'S OBLIGATIONS.

A. TIRE CLAUSE. During the rental period all repairs to tires or replacement of tires shall be the sole responsibility of CUSTOMER. Notwithstanding the condition of any tire on the Equipment at the time this Rental Agreement was executed, CUSTOMER agrees, as additional rent, to pay, upon return of the Equipment, the replacement value of any tire which RUDD, in its sole opinion, determines cannot be used again; and, CUSTOMER also agrees to pay upon return of the Equipment the entire recapping charge for any tire which RUDD determines, in its sole opinion, to be in need of recapping.

B. INSTRUCTION MANUAL AND OPERATION OF THE EQUIPMENT.

CUSTOMER acknowledges being furnished with an instruction manual governing safe operation of the Equipment and warrants that any person who uses the Equipment will operate the Equipment in accordance with the instruction manual. CUSTOMER agrees to use the Equipment only for its intended purpose and CUSTOMER agrees to comply with and conform to all municipal, state and federal

laws relating to the use and operation of the Equipment.

C. REPAIRS. CUSTOMER agrees, during the rental period, at its own cost and expense, to operate and maintain the Equipment with factory authorized parts and to make all necessary repairs to the Equipment. CUSTOMER agrees to return the Equipment to RUDD in the same condition as received by CUSTOMER, reasonable wear and tear excepted. RUDD reserves the right to inspect the Equipment upon return, and CUSTOMER agrees to pay all costs and expenses of making all necessary repairs to the Equipment upon its return to RUDD. At CUSTOMER's request, RUDD may repair the Equipment for CUSTOMER, using reasonable diligence to make such repairs, and CUSTOMER shall pay RUDD its regular charges for any material or labor furnished in making such repairs.

D. CASUALTY TO EQUIPMENT; INDEMNIFICATION. CUSTOMER hereby agrees to indemnify RUDD for all losses and damages to the Equipment which are the result of any casualty or which may be an act of God, and indemnification to continue until the Equipment has been returned to the possession of RUDD and accepted by it. For the purpose of fixing the valuation of the Equipment in order to determine the loss, damage, or injury thereon, the Replacement Value, as stated in Paragraph 2 hereof, shall be deemed a fair and just value, forming a basis for such adjustment. In making such adjustment, no rental therefor paid or due shall apply toward the payment of such loss.

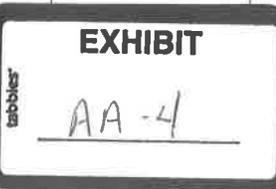
E. SEIZURE OF THE EQUIPMENT. CUSTOMER represents and warrants to RUDD that the Equipment is not being rented for the purpose of and will not, during the Rental Period, be used for any purpose or in any manner which would violate any provision of any law which would allow the Equipment to be seized by any governmental agency. If the Equipment is used within the Commonwealth of Kentucky, CUSTOMER represents and agrees that the Equipment will be used in compliance with any and all applicable laws and regulations, including, but not limited to, the provisions of Chapter 350 of the Kentucky Revised Statutes. Failure to comply with the obligation on the part of CUSTOMER shall be deemed a default under the Rental Agreement.

F. LOCATION OF EQUIPMENT; LEVY; INSPECTION. CUSTOMER shall, whenever requested by RUDD, give RUDD the exact location of the Equipment and shall further give RUDD immediate notice if any levy is attempted upon the Equipment, or if the Equipment from any cause becomes liable to seizure, and shall indemnify RUDD against all loss and damages caused by any such action. RUDD shall have the privilege at all times of entering, for the purpose of inspection, any job, building, or location where the Equipment is being used, and reserves the privilege of removing the Equipment on twenty-four (24) hours notice if it is being overloaded or taxed beyond its capacity or in any manner abused, neglected or misused.

G. NO ENCUMBRANCE. CUSTOMER agrees that it will not subject the Equipment to any lien, encumbrance, security interest or claim of any kind other than the rights reserved to RUDD pursuant to this Rental Agreement or under law.

H. PUBLIC LIABILITY; INDEMNIFICATION. CUSTOMER hereby agrees to indemnify RUDD against all loss, damage, expense, and penalty arising from any action on account of any death or injury to person or property of any character whatsoever occasioned by the operation, handling, or transportation of the Equipment during the rental period or while the Equipment is in the possession or under the custody and control of CUSTOMER, including without limitation, the death or injury, to any employee of CUSTOMER.

I. INSURANCE. CUSTOMER further agrees to protect RUDD with all risk insurance (causes of loss - special form) naming RUDD as an additional insured and loss payee covering all losses and damages listed in the previous Paragraphs H and I hereof and agrees to submit to RUDD a copy of the Certificate of Insurance demonstrating it has complied with this subparagraph. Each insurer shall agree, by endorsement upon the policy or policies issued by it or by



body rental instrument furnished to RUDD, that it will give RUDD 60 days (60) days within which to file the policy in question that is extended or renewed. CUSTOMER hereby agrees to RUDD to provide from such insurance, as an agent, that the said proceeds, checks or money to pay such proceeds to RUDD, and appoints RUDD its attorney in fact to make the said for, receive payment of, and to take and enforce all decrees, orders or checks for, loss or damage under said insurance policy. RUDD may at its option and at its own expense insure its own liability in the Equipment. If RUDD does obtain its own insurance, CUSTOMER shall have no interest whatsoever in such insurance. In addition, CUSTOMER shall maintain comprehensive public liability insurance in an amount of not less than One Million Dollars (\$1,000,000) per occurrence covering RUDD as an AGENT hereunder.

J. TAXES. CUSTOMER shall pay all legal and reasonable, taxes, fees, or use taxes or public charges, either local, municipal, state, or federal, which may be levied on the Equipment while in the possession of CUSTOMER. Nothing in this paragraph is to be construed as meaning that CUSTOMER is to pay the personal property tax levied against the Equipment rented when said Equipment is located within the home state of RUDD. Any and all taxes assessed against the Equipment, including personal property taxes, when the Equipment is outside of the home state of RUDD, are to be paid by CUSTOMER. The term "home state" means any state in which the RUDD has its home office or branch.

K. FAILURE TO PAY INSURANCE OR TAXES. IF CUSTOMER fails to procure and maintain insurance under Paragraph H above or to pay taxes under Paragraph J above, RUDD shall have the right, but not the obligation, to effect such insurance or pay such taxes and the cost thereof shall be reimbursed to RUDD by CUSTOMER with the next installment of rent.

L. LABOR UNIONS AND FORCE MAJEURE. CUSTOMER shall pay any charges for work or inspection required by any labor union. RUDD may, at its option, refuse to do any repair work on Equipment in the event of a violation of any union or governmental rule affecting the Equipment or in the event RUDD is prevented from doing so by a cause beyond its control. RUDD reserves the right to remove the Equipment from a job site at any time when, in RUDD's opinion, the Equipment is in danger because of strikes or any other condition.

B. RUDD'S OBLIGATIONS. A. NO WARRANTY GIVEN. RUDD IS NOT THE MANUFACTURER OF THE EQUIPMENT HEREIN RENTED, NOR THE AGENT OF THE MANUFACTURER OF SAID EQUIPMENT, AND RUDD GIVES NO EXPRESS WARRANTY AGAINST PATENT OR LATENT DEFECTS IN MATERIAL, WORKMANSHIP, OR CAPACITY, OR THAT SAID EQUIPMENT WILL MEET THE REQUIREMENTS OF ANY LAW, RULES, SPECIFICATIONS, OR CONTRACTS WHICH PROVIDE FOR SPECIFIC MACHINERY OR APPARATUS OR SPECIAL METHODS. THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE ARE HEREBY EXCLUDED. THE EQUIPMENT SHALL BE DEEMED USED EQUIPMENT AND IS RENTED ON AN "AS IS - WHERE IS" BASIS. RUDD SHALL NOT BE LIABLE IN ANY EVENT TO CUSTOMER FOR ANY LOSS, DELAY OR DAMAGE OF ANY KIND OR CHARACTER RESULTING FROM DEFECTS IN, OR INEFFICIENCY OF, THE EQUIPMENT, NOR SHALL RUDD BE LIABLE FOR ACCIDENTAL BREAKAGE THEREOF, NOR SHALL CUSTOMER BE ENTITLED TO RECOVER CONSEQUENTIAL OR INCIDENTAL DAMAGES.

B. EXCLUSIVE REMEDY AGAINST RUDD. IN THE EVENT CUSTOMER ACCEPTS THE EQUIPMENT, AS HEREIN PROVIDED, AND THEREAFTER THE EQUIPMENT PROVES DEFECTIVE IN DESIGN, MATERIALS, WORKMANSHIP, CAPACITY OR FOR ANY OTHER REASON, OR IS UNFIT FOR USE BECAUSE OF ANY ACCIDENT OR OTHERWISE, CUSTOMER'S EXCLUSIVE REMEDY SHALL BE TO RETURN THE EQUIPMENT TO RUDD AND TERMINATE THIS RENTAL AGREEMENT; PROVIDED, HOWEVER, CUSTOMER SHALL BE LIABLE FOR THE TRANSPORTATION CHARGES ON RETURNING THE EQUIPMENT.

C. CONDITION AND INSPECTION OF EQUIPMENT. RUDD shall use reasonable care to see that the Equipment is in proper working condition before shipment to CUSTOMER. CUSTOMER acknowledges that it has inspected the Equipment prior to accepting this Rental Agreement.

10. DEFAULT. Should any of the provisions of this Rental Agreement, including the payment of rent, be violated by CUSTOMER, the remaining rental for the Minimum Rental Period shall become forthwith due and payable, and RUDD or its agents may, without notice, enter the premises occupied by CUSTOMER without being a trespasser thereon and take possession of and remove the Equipment. All freight, demurrage, storage, labor, or other charges required to return the Equipment to RUDD's Designated Receiving Point shall be borne by the CUSTOMER. In the event RUDD incurs reasonable attorney's fees or other costs due to CUSTOMER's default, CUSTOMER agrees to pay same to RUDD, in addition to all other costs, charges and damage.

11. TERMINATION. After the expiration of the Minimum Rental Period this Rental Agreement may be terminated:

ALL THE ABOVE TERMS AND CONDITIONS HAVE BEEN READ AND ARE THOROUGHLY UNDERSTOOD. THIS RENTAL AGREEMENT DOES NOT CONTAIN A PURCHASE OPTION UNLESS SET FORTH IN A SEPARATE WRITTEN AMENDMENT. CUSTOMER ACKNOWLEDGES RECEIPT OF A COPY OF THIS RENTAL AGREEMENT.

RUDD EQUIPMENT COMPANY

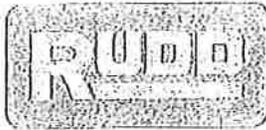
By: [Signature]
Title: Vice President
Date: 5/14/14

CUSTOMER:

Circle One: Corporation Partnership Individual
By: [Signature]
Title: [Signature]
Date: [Signature]
Witness: [Signature]
(Salesman or here as witness)

Performance and payment of CUSTOMER's obligations up to a maximum of \$ _____, or the total amount which is payable by CUSTOMER under this Rental Agreement (whichever is greater) is personally guaranteed by:

By: _____
Title: _____
Date: _____



EQUIPMENT COMPANY
 4344 POPLAR LEVEL ROAD P.O. BOX 32427
 LOUISVILLE, KY 40213-1841 LOUISVILLE, KY 40232-2427
 (602) 460-4050 FAX (502) 459-8595

INVOICE

// COPY //

PAGE 1(1)

TIN 61-0445956

Invoice no	Customer no	Inv date	Due date
103910000019	1004542	11/26/12	11/26/12

Sold to
 Grand Eagle Mining Inc
 Po Box 66823
 St Louis, MO - 63166-6823

Ship to
 Grand Eagle Mining Inc
 Po Box 66823
 St Louis, MO - 63166-6823

Payment terms	
Cash on Delivery	

Description	Qty	U/M	Price	Amount
A000142 (s/n 8R6BAN001013) OT Billing Meter Hours Aug 2012-Sept 2012 400 hours Overusage Aug 2012-Sept 2012 147hours@\$97.50				14,332.50

SEND PAYMENT TO: RUDD EQUIPMENT COMPANY Dept 77432, P.O. BOX 77000 Detroit, MI 48277 INTEREST AT THE RATE OF 1.6% PER MONTH WILL BE CHARGED ON THE UNPAID BALANCE. INTEREST IS CALCULATED ON THE BASIS OF 18% PER ANNUM SIMPLE INTEREST.	TOTAL	14,332.50
	SALES TAX	0.00
	INVOICE TOTAL	14,332.50

110260630238845389ARS121PF

EXHIBIT
 AA-5



EQUIPMENT COMPANY
 4344 POPLAR LEVEL ROAD P.O. BOX 32427
 LOUISVILLE, KY 40213-1041 LOUISVILLE, KY 40232-2427
 (602) 459-4050 FAX (502) 459-6595

INVOICE

PAGE 1(1)

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TIN 61-0446955

Invoice no	Customer no	Inv date	Due date
103910000025	1004542	11/27/12	11/27/12

Sold to

Grand Eagle Mining Inc
 Po Box 66823
 St Louis, MO - 63166-8823

Ship to

Grand Eagle Mining Inc
 Po Box 66823
 St Louis, MO - 63166-8823

Payment terms	
Cash on Delivery	

Description	Qty	U/M	Price	Amount
A000142 (s/n 8R6BAN001013) OT Billing Meter Hours Sept 2012 - Oct 2012 400Hours Overusage Sept 2012-Oct 2012 201 Hours@\$97.50				19,597.50

SEND PAYMENT TO: RUDD EQUIPMENT COMPANY Dept 77432, P.O. BOX 77000 Detroit, MI 48277	TOTAL	19,597.50
	SALES TAX	0.00
INTEREST AT THE RATE OF 1.6% PER MONTH WILL BE CHARGED ON THE UNPAID BALANCE. INTEREST IS CALCULATED ON THE BASIS OF 18% PER ANNUM SIMPLE INTEREST.	INVOICE TOTAL	19,597.50

111200830238547229AKS12 IPF





EQUIPMENT COMPANY
 4344 PDPLAR LEVEL ROAD P.O. BOX 32427
 LOUISVILLE, KY 40213-1041 LOUISVILLE, KY 40232-2427
 (502) 450-4050 FAX (502) 459 8195

INVOICE

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PAGE 1(1)

TIN 61-0445955

Invoice no	Customer no	Inv date	Due date
103910000049	1004542	12/31/12	12/31/12

Sold to
 Grand Eagle Mining Inc
 Po Box 66823
 St Louis, MO - 63166-6823

Ship to
 Grand Eagle Mining Inc
 Po Box 66823
 St Louis, MO - 63166-6823

Payment terms	
Cash on Delivery	

Description	Qty	U/M	Price	Amount
A000142 (8R6BAN001013) OT Billing Meter Hours 10/10/12-11/10/12 400 Hours Overusage 10/10/12-11/10/12 88Hours@\$97.50				8,580.00

SEND PAYMENT TO: RUDD EQUIPMENT COMPANY Dept 77432, P.O. BOX 77000 Detroit, MI 48277	TOTAL	8,580.00
	SALES TAX	0.00
INTEREST AT THE RATE OF 1.6% PER MONTH WILL BE CHARGED ON THE UNPAID BALANCE. INTEREST IS CALCULATED ON THE BASIS OF 18% PER ANNUM SIMPLE INTEREST.	INVOICE TOTAL	8,680.00

111299630238565851ARS121PF

