

STITES & HARBISON, PLLC  
250 W. Main Street  
Suite 2300  
Lexington, KY 40507  
Telephone: (859) 226-2300  
Facsimile: (859) 253-9144  
Elizabeth Lee Thompson  
Chrisandrea L. Turner  
*Counsel to R.J. Corman Railroad Construction Company*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

**In re:**

**PATRIOT COAL CORPORATION, *et al.*,**

**Debtors.**

**Chapter 11**

**Case No. 12-12900 (SCC)**

**(Jointly Administered)**

**NOTICE OF RJ CORMAN RAILROAD CONSTRUCTION COMPANY  
PURSUANT TO 11 U.S.C. § 546(b)(2)**

**PLEASE TAKE NOTICE** that, pursuant to Section 546(b)(2) of the United States Bankruptcy Code, R. J. Corman Railroad Construction Company (“RJ Corman”) has recorded its Notice of Mechanic’s Lien in accordance with the laws of the State of West Virginia for work performed by RJ Corman as follows:

Notice of Mechanic’s Lien pursuant to West Virginia Code Sections 38-2-3 and 38-2-5 to TC Sales Company, LLC for worked performed in the amount of \$97,015.06. A copy of this Notice of Mechanic’s Lien is attached as Exhibit 1.

The Notice of Mechanic’s Lien described herein was filed with the clerk of county commission of the county in which the work was performed within one hundred days of the service dates pursuant to West Virginia Code Sections 38-2-7, 38-2-10, and 38-2-12. This Notice is being filed and served pursuant to 11 U.S.C. § 546(b)(2) in lieu of commencement of a suit in chancery pursuant to West Virginia Code Section 38-2-34.

Dated: October 1, 2012

By: /s/Chrisandrea L. Turner  
Chrisandrea L. Turner  
Elizabeth Lee Thompson

STITES & HARBISON, PLLC  
250 West Main Street  
Suite 2300  
Lexington, KY 40507  
Telephone: (859) 226-2300  
Facsimile: (859) 253-9144  
*Counsel to R.J. Corman Railroad Construction  
Company*

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing was served on October 1, 2012, electronically in accordance with the method established under this Court's CM/ECF Administrative Procedures, and was also served via facsimile to (i) the Debtors' proposed notice and claim agent, GCG, Inc. at (855) 687-2627, and (ii) counsel to the Debtors, Davis Polk & Wardwell LLP at (212) 450-3580, and was also served via U.S Mail, postage prepaid, upon:

TC Sales Company, LLC  
500 Lee Street East, Suite 900  
Charleston, WV 25301

Dated: October 1, 2012

Lexington, Kentucky

/s/Chrisandrea L. Turner  
Chrisandrea L. Turner  
Kentucky Bar No. 87520  
STITES & HARBISON, PLLC  
250 West Main St., Ste. 2300  
Lexington, KY 40507  
*E-mail address: [clturner@stites.com](mailto:clturner@stites.com)  
Telephone number: (859) 226-2300*

## **Exhibit 1**

NOTICE OF MECHANIC'S LIEN

TO: TC Sales Company, LLC

Notice is hereby given, in accordance with the laws of the State of West Virginia, that the undersigned claims a lien to secure the payment of the sum of \$97,015.06 upon your interest in and to certain real estate, described as approximately 15 miles of leased tracks, rights-of-way, spur tracks, buildings and appurtenances thereto located in and around Cabin Creek, near Sharon, Kanawha County, West Virginia, from Milepost ("MP") CLD 0.7 to MP CLD 12.2, inclusive of the Leewood Siding located from MP CLD 10.5 to MP CLD 11.5, and the equipment spur track located at MLP CLD 11.8.

The undersigned was a contractor with you pursuant to a Track Maintenance Agreement attached hereto as Exhibit A. Unpaid invoices for work performed pursuant to the Track Maintenance Agreement are attached as Exhibit B.

R. J. CORMAN RAILROAD CONSTRUCTION COMPANY

By: Kenneth D Adams

Its: Sec/Treas

COMMONWEALTH OF KENTUCKY,

COUNTY OF JESSAMINE, TO-WIT:

Kenneth D. Adams, being first duly sworn, upon his oath, states that he is the Secretary/Treasurer of R.J. Corman Railroad Construction Company, that in such capacity he is familiar with the transaction which gives rise to this mechanic's lien, and that the statements in the foregoing notice of mechanic's lien are true, as he verily believes.

Return To: Edward M. Kowal, Esq.  
CAMPBELL WOODS, PLLC  
P.O. BOX 1835  
Huntington, WV 25719

1

MECHLN 61 249  
Recorded In Above Book and Page  
09/05/2012 01:50:51 PM  
Vera J. McCorkick  
County Clerk  
Kanawha County, WV

Deed Tax 0.00  
Recording Fee 25.00  
TOTAL 25.00

ACCEPTED FOR  
SERVICE OF PROCESS  
2012 SEP -5 PM 2:28  
SECRETARY OF STATE  
STATE OF WEST VIRGINIA

Keith D Adams

Taken, subscribed and sworn to before me, this 4<sup>th</sup> day of September, 2012.

My commission expires October 1, 2012

(Notarial  
Seal)

Courtney S. Laurenz  
Notary Public

This instrument prepared by:

Edward M. Kowal, Jr., Esq.  
Campbell Woods, PLLC  
P. O. Box 1835  
Huntington, West Virginia 25719

# Invoice 109206917

Invoice Date 06/12/12

RJ CORMAN RAILROAD CONSTRUCTION LLC  
P O BOX 788  
NICHOLASVILLE, KY 40340 USA

Telephone: 859/881-7521

**Bill To:**

PATRIOT COAL CORPORATION  
ATTN: ACCOUNTS PAYABLE  
PO BOX 66823  
ST LOUIS, MO 63166-6823

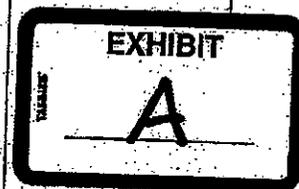
**Ship To:**

PATRIOT COAL CORPORATION  
ATTN: ACCOUNTS PAYABLE  
PO BOX 66823  
ST LOUIS, MO 63166-6823

Customer	Ship Via	F.O.B.		Terms	
PAT100		CABIN CREEK, WV		Net 30 Days	
Purchase Order Number		Salesperson		Order Date	Our Job Number
615649-2305				06/12/12	12FD-TCCABCRKWV
Quantity Ordered	Quantity Shipped	Item Number	Unit of Measure	Unit Price	Extended Price
	Back Ordered	Item Description (Customer Part No.)		Discount % Tax	
62.00	62.00	EQUIPMENT	HR	77.00	4774.00
	0.00	EQUIPMENT CHARGES- SERVICE TRUCK		N	
91.00	91.00	EQUIPMENT	HR	125.00	11375.00
	0.00	EQUIPMENT CHARGES- PRENTICE TRUCK/GRAPPLE TRUCK		N	
85.00	85.00	EQUIPMENT	HR	71.00	6035.00
	0.00	EQUIPMENT CHARGES- BACKHOE		N	
33.00	33.00	EQUIPMENT	HR	26.00	858.00
	0.00	EQUIPMENT CHARGES- F250 PICKUP		N	
15.00	15.00	EQUIPMENT	HR	125.00	1875.00
	0.00	EQUIPMENT CHARGES- ROTARY DUMP TRUCK		N	
74.00	74.00	EQUIPMENT	HR	40.00	2960.00
	0.00	EQUIPMENT CHARGES- HI-RAIL PICKUP		N	
56.00	56.00	LABOR	HR	72.00	4032.00
	0.00	LABOR CHARGES- SUPERVISOR REGULAR HOURS		N	
13.00	13.00	LABOR	HR	108.00	1404.00
	0.00	LABOR CHARGES- SUPERVISOR OVERTIME HOURS		N	

Net due on 07/12/12

(Continued)



# Invoice 109206917

Invoice Date 06/12/12

**RJ CORMAN RAILROAD CONSTRUCTION LLC**  
P O BOX 788  
NICHOLASVILLE, KY 40340 USA

Telephone: 859/881-7521

**Bill To:**

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ATTN: ACCOUNTS PAYABLE  
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ST LOUIS, MO 63166-6823

**Ship To:**

PATRIOT COAL CORPORATION  
ATTN: ACCOUNTS PAYABLE  
PO BOX 66823  
ST LOUIS, MO 63166-6823

Customer	Ship Via	FOB	Terms		
PAT100		CABIN CREEK, WV	Net 30 Days		
Purchase Order Number		Salesperson	Order Date	Our Job Number	
615649-2305			06/12/12	12FD-TCCABCRKWW	
Quantity Ordered	Quantity Shipped	Item Description (Customer Part No)	Unit of Measure	Unit Price	Extended Price
240.00	240.00	LABOR	HR	50.00	12000.00
	0.00	LABOR CHARGES- OPERATOR/LABORER REGULAR HOURS		N	
65.00	65.00	LABOR	HR	75.00	4875.00
	0.00	LABOR CHARGES- OPERATOR/LABORER OVERTIME HOURS		N	
30.00	30.00	LABOR	HR	100.00	3000.00
	0.00	LABOR CHARGES- OPERATOR/LABORER HOLIDAY HOURS		N	
1	1	LODGING CHARGES		1818.14	1818.14
	0	LODGING CHARGES TO CUSTOMER- \$1,515.12 X 20% MARKUP		N	
1.00	1.00	MEAL CHARGES		1800.00	1800.00
	0.00	MEAL CHARGES TO CUSTOMER- \$1,500.00 X \$25/DAY X 20% MARKUP		N	
1.00	1.00	MISC		3286.01	3286.01
	0.00	MATERIALS (ASPHALT, MAKAZE, CLEAN AMINE) \$2,738.34 X 20% MARKUP		N	
<p>Net due on 07/12/12</p> <p>(Continued)</p>					

# Invoice 109206917

Invoice Date 06/12/12

RJ CORMAN RAILROAD CONSTRUCTION LLC  
P O BOX 788  
NICHOLASVILLE, KY 40340 USA

Telephone: 859/881-7521

**Bill To:**

PATRIOT COAL CORPORATION  
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ST LOUIS, MO 63166-6823

**Ship To:**

PATRIOT COAL CORPORATION  
ATTN: ACCOUNTS PAYABLE  
PO BOX 66823  
ST LOUIS, MO 63166-6823

Customer	Ship Via	P.O.B		Terms	
PAT100		CABIN CREEK, WV		Net 30 Days	
Purchase Order Number		Salesperson		Order Date	Out Job Number
615649-2305				06/12/12	12FD-TCCABCRKWV
Quantity Ordered	Quantity Shipped	Item Number	Unit of Measure	Unit Price	Extended Price
	Back Ordered	Item Description (Customer Part No.)		Discount %	Tax
11.00	11.00	TRACK_MAINT		850.00	9350.00
	0.00	TRACK INSPECTIONS		N	
12.50	12.50	TRACK_MAINT		85.00	1062.50
	0.00	TRACK INSPECTION HOURS OVER 10		N	
CABIN CREEK, WV LOCATION JOB PERFORMED 5/01/12 THRU 5/31/12					
JOB SUPT: JIMMY OVERBEY DETAIL ATTACHED JUNE 2012 BILLING					
Net due on 07/12/12					
				Nontaxable Subtotal	70504.65
				Taxable Subtotal	0.00
				Tax	0.00
				Total Invoice	70504.65

# Invoice 109206889-A

Invoice Date 05/24/12

RJ CORMAN RAILROAD CONSTRUCTION LLC  
P O BOX 788  
NICHOLASVILLE, KY 40340 USA

Telephone: 859/881-7521

**Bill To:**

PATRIOT COAL CORPORATION  
ATTN: ACCOUNTS PAYABLE  
PO BOX 66823  
ST LOUIS, MO 63166-6823

**Ship To:**

PATRIOT COAL CORPORATION  
ATTN: ACCOUNTS PAYABLE  
PO BOX 66823  
ST LOUIS, MO 63166-6823

**THIS IS A REVISED INVOICE**

Customer	Ship Via	F.O.B.		Terms	
PAT100		CABIN CREEK, WV		Net 30 Days	
Purchase Order Number		Salesperson		Order Date	Our Job Number
615649-2305				05/24/12	12FD-TCCABCRKWW
Quantity Ordered	Quantity Shipped	Item Number	Unit of Measure	Unit Price	Extended Price
	Back Order	Item Description (Customer Part No.)		Discount %	Tax
15.50	15.50	EQUIPMENT	HR	77.00	1193.50
	0.00	EQUIPMENT CHARGES- SERVICE TRUCK		N	
38.50	38.50	EQUIPMENT	HR	125.00	4812.50
	0.00	EQUIPMENT CHARGES- PRENTICE TRUCK/GRAPPLE TRUCK		N	
33.50	33.50	EQUIPMENT	HR	71.00	2378.50
	0.00	EQUIPMENT CHARGES- BACKHOE		N	
18.00	18.00	EQUIPMENT	HR	26.00	468.00
	0.00	EQUIPMENT CHARGES- F250 PICKUP		N	
8.00	8.00	EQUIPMENT	HR	40.00	320.00
	0.00	EQUIPMENT CHARGES- HI-RAIL PICKUP		N	
16.00	16.00	LABOR	HR	72.00	1152.00
	0.00	LABOR CHARGES- SUPERVISOR REGULAR HOURS		N	
2.00	2.00	LABOR	HR	108.00	216.00
	0.00	LABOR CHARGES- SUPERVISOR OVER TIME HOURS		N	
81.00	81.00	LABOR	HR	50.00	4050.00
	0.00	LABOR CHARGES- OPERATOR/LABORER REGULAR HOURS		N	
Net due on 06/23/12					
(Continued)					

**Invoice 109206889-A**  
Invoice Date 05/24/12

RJ CORMAN RAILROAD CONSTRUCTION LLC  
P O BOX 788  
NICHOLASVILLE, KY 40340 USA

Telephone: 859/881-7521

**Bill To:**

PATRIOT COAL CORPORATION  
ATTN: ACCOUNTS PAYABLE  
PO BOX 66823  
ST LOUIS, MO 63166-6823

**Ship To:**

PATRIOT COAL CORPORATION  
ATTN: ACCOUNTS PAYABLE  
PO BOX 66823  
ST LOUIS, MO 63166-6823

**THIS IS A REVISED INVOICE**

Customer	Ship Via	F.O.B.		Terms	
PAT100		CABIN CREEK, WV		Net 30 Days	
Purchase Order Number		Salesperson		Order Date	Our Job Number
615649-2305				05/24/12	12FD-TCCABCRKWW
Quantity Ordered	Quantity Shipped	Item Number	Unit of Measure	Unit Price	Extended Price
		Back Ordered		Discount %	Tax
14.50	14.50	LABOR	HR	75.00	1087.50
	0.00	LABOR CHARGES- OPERATOR/LABORER OVER TIME HOURS		N	
1	1	LODGING_CHARGES		1047.41	1047.41
	0	LODGING CHARGES TO CUSTOMER @ \$872.84 (20% MARKUP)		N	
1.00	1.00	MEAL_CHARGES		690.00	690.00
	0.00	MEAL CHARGES TO CUSTOMER- 23 PER DIEMS @ \$25.00/DAY (20% MARKUP)		N	
10.00	10.00	TRACK_MAINT		850.00	8500.00
	0.00	TRACK INSPECTIONS		N	
7.00	7.00	TRACK_MAINT		85.00	595.00
	0.00	TRACK INSPECTION HOURS OVER 10		N	
CABIN CREEK, WV LOCATION WORK PERFORMED 4/01/12 THRU 4/30/12					
JOB SUPT: JIMMY OVERBEY DETAIL ATTACHED MAY 2012 BILLING					
Net due on 06/23/12					
Nontaxable Subtotal					26510.41
Taxable Subtotal					0.00
Tax					0.00
Total Invoice					26510.41

**Invoice**

Invoice Date

5/11/2012

**RJ CORMAN RAILROAD CONSTRUCTION**  
**P.O. BOX 788**  
**NICHOLASVILLE, KY 40340 USA**

Phone: 859-881-2453

**Bill To:**  
 Patriot Coal Corporation  
 P. O. Box 66823  
 St. Louis, MO 63166-6823  
 Attn: Accounts Payable

**Copy To:**  
 Catenary Coal  
 Attn: Matt Cook  
 5914 Cabin Creek  
 Eskdale, WV 25075  
 (304) 926-2422

(CAT100)

Customer	Ship Via	F.O.B.	Terms	
Mathew Cook		Cabin Creek, WV	Net 30 days	
Purchase Order Number	Order Date	Our Order Number		
917125-2308	5/11/2012	11FD-YCCABCRKVV		
Item	Unit Price	Unit	Item Description	Extended Price
			<u>4/1/12-4/30/12</u>	
			Cabin Creek, WV Location	
			Equipment	
\$	77.00	15.5	Service Truck	\$ 1,193.50
\$	125.00	38.5	Prentice Truck/Grapple Truck	\$ 4,812.50
\$	71.00	33.5	Backhoe	\$ 2,378.50
\$	26.00	18	F250 Pickup	\$ 468.00
\$	27.00		Utility Trailer	\$
\$	95.00		Box Truck	\$
\$	40.00	8	Hi-Rail Pickup	\$ 320.00
\$	72.00	16	Supervisor Regular Hours	\$ 1,152.00
\$	108.00	2	Supervisor Over Time Hours	\$ 216.00
\$	50.00	81	Operator/Laborer Reg Hours	\$ 4,050.00
\$	75.00	14.5	Operator/Laborer Over Time Hours	\$ 1,087.50
\$	872.84	1	Lodging (20% Markup)	\$ 1,047.41
\$	575.00	1	23 Per Diems @ \$25/Day (20% Markup)	\$ 860.00
\$	850.00	10	Track Inspections	\$ 8,500.00
\$	85.00	7	Track Inspection Hours Over 10	\$ 595.00
				\$ 26,510.41

DATE 5/11/2012  
 ATTACHMENTS: Yes

SUPERVISOR: Jimmy Overbey  
 SUBMITTED BY: Annette Blue

FINAL: NO

TRACK MAINTENANCE AGREEMENT

THIS TRACK MAINTENANCE AGREEMENT (this "Agreement") made and entered into this 8 day of November, 2011 ("Effective Date"), by and between TC SALES COMPANY, LLC (hereinafter "Owner") and R.J. Corman Railroad Construction Company, LLC (hereinafter "Contractor").

WITNESSETH:

WHEREAS, pursuant to that certain Lease/Minetrack Agreement effective January 1, 1994 by and between CSX Transportation, Inc. ("CSX") and Arch Coal Sales Company, Inc. ("Arch") (hereinafter the "CSX Agreement"), which was assigned by Arch to Owner pursuant to that certain Assignment and Assumption Agreement effective December 30, 2005, Owner leases approximately 15 miles of railroad track and other related rail property from CSX in the Cabin Creek Subdivision near Sharon, West Virginia;

WHEREAS, Owner desires to hire Contractor to perform maintenance, repairs and inspections on the Track (as defined below); and

WHEREAS, Contractor desires to perform such services pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, that for and in consideration of the undertakings and agreements hereafter set forth, and other good and valuable consideration not fully set forth herein, the sufficiency of which is acknowledged by the parties, the parties agree as follows:

1. Term. The term of this Agreement shall be for a period of one (1) year beginning on the Effective Date and shall automatically renew on the anniversary date thereof and continue on a year-to-year basis thereafter; provided, however, either party shall have the right to terminate this Agreement at any time upon thirty (30) days' prior written notice to the other party.
2. Services. Contractor shall provide all necessary equipment, supervision, labor, accessories, supplies, tools, utilities, facilities and services necessary to perform track inspections, maintenance and repairs on the CSX leased tracks identified as the Cabin Creek Subdivision, Kanawha County, West Virginia, from Milepost ("MP") CLD 0.7 to MP CLD 12.2, inclusive of the Leewood Siding located from MP CLD 10.5 to MP CLD 11.5, and the equipment spur track located at MLP CLD 11.8 (hereinafter referred to as the "Track"). The Track shall be maintained to Class II Track standards as defined in CFR 49 Part 213. The "Services" to be provided by Contractor hereunder and for which Contractor has assumed the responsibility to perform are as follows:

- (a) Perform track inspections as prescribed by CFR 49, Section 213.233



(b) Perform switch, turnout, and track crossing inspections on foot as prescribed by CFR 49, Section 213.235.

(c) Perform special inspections as provided by CFR 49, Section 213.239, upon the request of Owner or at the discretion of Contractor.

(d) Based on Contractor's inspections in (a) - (c) above, advise Owner of maintenance and repair work that needs to be performed on the Track, and perform such maintenance and repair work on the Track as agreed to by Owner on a timeline mutually agreed to by the parties.

(e) Prepare Track inspection records, and maintain such records at Owner's designated location, in accordance with CFR 49, Section 213.241.

(f) If Contractor's visual inspection, as provided for in subsections (a) and (b) above, reveals a defect(s) or condition(s) in the Track that does not meet the requirements of its intended class of track, and said defect(s) or condition(s) in the Track could jeopardize the safety of the train, employees of Owner's affiliates or its affiliates' contractors, or the general public, Contractor shall take appropriate remedial action as prescribed by CFR 49, Section 213 and immediately notify Owner of Contractor's remedial action. If Contractor determines the defect(s) or condition(s) in the Track does not meet the requirement of its intended class of track and Track cannot safely continue in use until repairs are made and Owner permits the continued operation of rail traffic across the Track after Owner has been advised by Contractor of such, Owner shall assume sole responsibility for the operation of the Track and shall release, indemnify and defend Contractor, its officers, agents, employees and affiliates, from and against all claims and liability for injury, death, or property damage arising out of such continued operations until the defect(s) or condition(s) is repaired by Contractor. The foregoing indemnification obligation shall survive termination of this Agreement.

(g) Keep the Track free from debris, weeds, rock, ice, snow, poles and other obstructions when noted by Contractor during inspections in (a) - (c) above, or as advised by CSX or Owner.

3. Rates. Owner shall pay Contractor for the Services performed hereunder in accordance with the Rate Schedule set forth in Exhibit A to this Agreement. Adjustments to the Rate Schedule may be made upon mutual agreement of the parties prior to the beginning of each annual successive term of this Agreement.

~~When Payment Contractor shall submit monthly invoices to Owner for the~~  
~~services performed during the previous month.~~ All invoices shall be accompanied by detailed supporting documents as may be required by Owner, including, but not limited to, the days and hours worked and the type of equipment and the number of hours for which the equipment was utilized in performing the Services hereunder. Owner shall make payment to Contractor within thirty (30) days of receipt of the

monthly invoice. Invoices shall accrue interest at the rate of 1 ½% per month for every month or partial month they remain unpaid.

5. Status of Contractor. Contractor shall perform the Services as an independent contractor according to its own manner and methods without direction or control by Owner. Nothing herein shall be deemed to create a partnership between the parties hereto, to convey to either party, by operation of law or otherwise, any interest in, right to, or ownership of, any property of the other party, or to constitute Contractor as an agent or employee of Owner for any purpose, it being understood that Contractor is an independent contractor.

Contractor accepts this Agreement as a complete, adequate and clearly understandable description of the Services which it is to perform. Contractor represents to Owner, and Owner relies on such representation, that Contractor has the ability and expertise to perform the Services.

6. Responsibility for Employees. All persons who perform work for Contractor hereunder, whether they be supervisors, laborers or otherwise, shall be employed by Contractor. The employees of Contractor are not employees or agents of Owner, and Owner shall exercise no control over, or have the right to exercise control over, such employees. Contractor solely and exclusively, shall employ, direct, supervise, discharge and fix the compensation and working conditions and practices of its employees, shall be solely responsible for their payment and shall comply with all laws pertaining to payment of employees.

7. Conformity with Laws. Contractor agrees to perform its Services under this Agreement in conformity with all applicable federal, state and local laws, rules, regulations and permit specifications and requirements now or hereinafter in effect. To the extent required by law, Contractor shall furnish Owner with a copy of its West Virginia Office of Miners Health Safety and Training ("WVOMHST") contractor's identification number and its Mine Safety and Health Administration ("MSHA") contractor's identification number, along with the annual Certificate of Approval issued by the WVOMHST.

8. Warranties. Contractor warrants the Services will be performed in a good and workmanlike manner in conformance with industry standards, and disclaims all other warranties express or implied. Contractor's liability under this warranty shall be limited to cost of correction or replacement of the work and excludes consequential or punitive damages. Contractor disclaims any warranty of fitness or suitability for any purposes. Contractor specifically disclaims any warranty or guarantee that CSXT will operate over the Track at any time.

9. Insurance. Throughout the term of this Agreement, Contractor shall provide and maintain insurance of the type and in an amount no less than the minimum requirement set out in the attached Exhibit B, which is made a part of this Agreement. Contractor shall provide certificates of insurance with companies acceptable to Owner on an annual basis or upon Owner's request. The insurance limits and coverage specified in

the attached Exhibit B are minimum requirements and shall not be construed in any way to limit Contractor's liability. The use of any subcontractor is subject to Owner's prior written consent. If Contractor uses any subcontractors, Contractor agrees that any subcontractor shall be required to maintain equivalent indemnity and insurance provisions as those required hereunder. Contractor shall immediately provide written notice to Owner of any accidents or occurrences resulting from injuries to persons or property in any way arising out of or related to Contractor's Services hereunder.

10. Indemnification. In addition to Contractor's obligation to maintain insurance as set forth in Article 9, Contractor shall indemnify, defend and hold harmless Owner, its parents, affiliates and related companies, and the officers, directors and employees of such companies (collectively the "Indemnified Parties"), against any and all liabilities, demands, losses, claims, damages of any kind, whether on account of injury to or death of any person or persons, damage to or loss of property, violation of any law or regulation, breach of any of the provisions of this Agreement or otherwise, arising out of the negligent performance of Services by Contractor and/or the Services of Contractor's subcontractors, together with any and all costs and expenses, including reasonable attorney's fees and expenses, that may be incurred by Owner in connection therewith. In no event shall Contractor be liable to the Indemnified Parties for any special, or indirect damages resulting from or arising out of this agreement, including, without limitation, loss of profits or business interruption, however they may be caused. These covenants and agreements of indemnity shall survive the cancellation, termination or expiration of this Agreement.

11. Assignment and Subcontracting. Contractor shall not assign this Agreement, or any payments hereunder, nor shall Contractor subcontract or permit the further subcontracting of any of the Services hereunder, without the express written consent of Owner, which consent shall not be unreasonably withheld. Contractor's written request to subcontract any of the Services hereunder shall contain the full legal name of the subcontractor; its address; copies of its MSHA and WVOMHST I.D. numbers and any other documents required by Owner; and a specific description of the part of the Services to be performed by the subcontractor. Owner's consent to Contractor's subcontracting of any of the Services hereunder shall not be construed to relieve or modify Contractor's obligations under this Agreement to perform the Services and to fulfill Contractor's obligations hereunder directly to Owner. Contractor shall be solely responsible for ensuring that its subcontractor is performing its obligations under its subcontract so that the Services are being performed in an efficient, timely and workmanlike manner.

Each subcontract shall contain an express agreement by the subcontractor that Owner shall not be liable to the subcontractor for any liabilities, losses, claims, demands, damages, costs and expenses of any kind incurred by the subcontractor in performing the Services under its subcontract with Contractor. Contractor shall make timely payments to its subcontractor and shall hold Owner harmless from any costs or losses incurred by its subcontractor as a result of Contractor's failure to make such payments.

12. Full Understanding: Modification. This Agreement and the Exhibits attached hereto and made a part hereof contain the full understanding and agreement between the parties hereto and supersedes all prior agreements, communications, or understandings, whether written or oral, by and between the parties in connections with the Services to be performed by Contractor hereunder. This Agreement shall not be amended, altered or modified in any particular manner except by mutual agreement of the parties reduced to writing and signed by them.

13. Notices. Any notice, request, protest, consent, demand, report or statement given by one party to the other shall be in writing and deemed to have been given upon deposit in the United States mail, postage prepaid, or upon receipt of facsimile, and properly addressed as follows:

(a) If the notice is to the Owner, to:

TC Sales Company, LLC  
500 Lee Street, East, Suite 900  
Charleston, WV 25301  
Attention: Materials Management  
Fax: 304-380-0350

(or to such other person or address as  
Owner shall have designated by due notice  
to Contractor.)

(b) If the notice is to Contractor, to:

R.J. Corman Railroad Construction Company, LLC  
101 R.J. Corman Drive  
Nicholasville, Kentucky 40356

Attn:

Fax:

(or to such other person or address as  
Contractor shall have designated by due  
notice to Owner.)

14. Waiver. The failure of any party to insist in any one or more instances upon strict performance of any of the provisions of this Agreement or to take advantage of any of its rights hereunder shall not be construed as a future waiver of any such provisions or the relinquishment of any such rights, but the same shall continue and remain in force and effect for the term of this Agreement. Any waiver by either party to be enforceable must be in writing duly signed by the party.

15. Remedies Cumulative. Remedies provided under this Agreement shall be cumulative and in addition to other remedies provided by law or equity.

11FD & 12FD - TCC A/C/KW



**2011 Repair, Maintenance and Inspection Rates**  
**Patriot Coal Corporation**

Equipment	Committed Hourly Rate
CAT 583 Sideboom	\$ 225.00
CAT 572 Sideboom	\$ 195.00
CAT M320 Rubber Tire Excavator (Hi-Rail Equipped)	\$ 200.00
CAT 324 Excavator (Hi-Rail Equipped)	\$ 225.00
CAT 328/330 Excavator	\$ 215.00
CAT 325 Excavator	\$ 200.00
CAT 320 Excavator	\$ 125.00
CAT 305 Mini Excavator	\$ 95.00
CAT 977 Track Loader	\$ 158.00
CAT 966 Rubber Tire Loader	\$ 148.00
CAT 950/CAT 930 Rubber Tire Loader	\$ 137.00
D7/D8 Dozer	\$ 177.00
D4/D5 Dozer	\$ 68.00
Backhoe	\$ 71.00
Hi-Rail Rotary Dump Truck	\$ 125.00
Hi-Rail Grapple Truck	\$ 125.00
Straight Dump Truck (Tri-Axle)	\$ 79.00
Undercutter	\$ 279.00
Spiker	\$ 125.00
Spike Puller	\$ 80.00
Rail Heater	\$ 90.00
Anchor Machine	\$ 65.00
Mark IV Tamper	\$ 245.00
Chase Tamper	\$ 140.00
Regulator	\$ 150.00
Welding Truck	\$ 275.00
Rail Saw	\$ 50.00
Bolt Machine	\$ 35.00
Rail Lifter	\$ 82.00
Tie Handier	\$ 80.00
Kribber/Adzer	\$ 125.00
TKO	\$ 165.00
Trip Machine	\$ 165.00
Plate Retriever	\$ 30.00
Spike Retriever	\$ 30.00
Plate Broom	\$ 70.00
Gauger	\$ 15.00
Motor Grader	\$ 77.00

  
 \_\_\_\_\_  
 Authorized Customer Representative

11/28/2011  
 \_\_\_\_\_  
 Date



**2011 Repair, Maintenance and Inspection Rates Cont'd**  
**Patriot Coal Corporation**

<b>Equipment</b>	<b>Committed Hourly Rate</b>
Skid Steer	\$ 54.00
Service Truck with Tools	\$ 77.00
Cargo Trailer with Tools	\$ 31.25
Tractor/Trailer Combination/Block Truck	\$ 95.00
Pickup/Escon/Miscellaneous 2 Axle Vehicles	\$ 26.00
Hj-Rail Pickup	\$ 40.00
Utility Trailer/Backhoe Trailer	\$ 27.00
Light Plants	\$ 36.00
Brushcutter attachment for Trackhoe	\$ 35.00
Chainsaw/Weed-eater	\$ 10.00
Welder	\$ 15.00
Track Inspection	\$ 850.00 per day

**Personnel Hourly Rates**

	<b>Straight-Time</b>	<b>Overtime</b>	<b>Holiday</b>	<b>Holiday OT</b>
Superintendent	\$72	\$108	\$144	\$216
Operators	\$50	\$75	\$100	\$150
Groundsmen	\$50	\$75	\$100	\$150
Safety Manager	\$72	\$108	\$144	\$216

- \*Other Equipment is available. Please inquire for pricing.
- \*Track Inspection is based on a 10 hour day; each additional hour will be invoiced at \$85.00 per hour.
- \*Fuel Surcharge will be applied where appropriate. Please visit [www.rjcorman.com](http://www.rjcorman.com) for schedule.
- \*Meals, Motels, Permits, Supplies, Subcontractors, and Track Material will be invoiced at Cost + 20%.

*[Signature]*  
Authorized Customer Representative

*11/20/2011*  
Date

**SAFETY IS OUR PRIORITY**

24-Hour Dispatch 1-800-772-9091

6. All insurance shall be with insurers acceptable to Owner (Insurer shall be a licensed or registered company in the state where contract operations are conducted and must have a Best's rating of at least A-, VII).
- B. No Less Than Coverage Requirements.
  - A. Workers' Compensation and Employer's Liability shall include:
    1. Statutory Workers' Compensation for state of hire or operation and Federal Black Lung Benefits (if applicable).
    2. Employer's Liability.
  - B. Commercial General Liability (Occurrence Form) shall include:
    1. Premises/Operations
    2. Independent Contractors
    3. Personal Injury
    4. Products/Completed Operations
    5. Blanket Contractual Liability
    6. Explosion, Collapse and Underground Coverage
    7. Subsidence Coverage
  - C. Comprehensive Automobile Liability shall include:
    1. Owned vehicles
    2. Non-Owned vehicles
    3. Hired vehicles
  - D. Excess Liability (Occurrence Form) shall comply with the Terms and Conditions of the following underlying coverage:
    1. Employer's Liability
    2. Commercial General Liability
    3. Comprehensive Automobile Liability

**EXHIBIT B**

**INSURANCE LIMITS AND COVERAGES**

A. No Less Than Coverage Limit Requirements.

Workers' Compensation	Statutory
Employers' Liability (per accident and per employee disease; this requirement may be met with a combination of primary and excess insurance)	\$1,000,000.00
Commercial General Liability (per occurrence) Bodily Injury & Property Damage (this requirement may be met with a combination of primary and excess insurance)	\$5,000,000.00 CSL (Combined Single Limit)
Automobile Liability Bodily Injury & Property Damage (this requirement may be met with a combination of primary and excess insurance)	\$1,000,000.00 CSL (Combined Single Limit)

The following apply to all policies:

1. Owner, its parent, subsidiaries and affiliates and their agents, directors, officers and employees, shall be included as additional insured on all policies (except Workers' Compensation coverage). This endorsement shall be indicated on the Certificate(s) of Insurance provided to Owner.
2. All policies shall contain a Waiver of Subrogation in favor of Owner its parent, subsidiaries and affiliates and their agents, directors, officers and employees, and it's Insurers.
3. Owner shall receive thirty (30) days written notice of cancellation or any material change.
4. Coverage under all insurance required to be carried by Contractor shall be primary insurance exclusive of any other existing valid and collectible insurance.
5. All policies described below shall have adequate territorial and navigation limits for the location of the work.

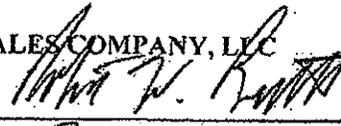
16. Captions. The captions to articles hereof are for convenience only and shall not be considered in construing the intent of the parties.

17. Construction. This Agreement has been fully negotiated by the parties hereto and shall not be construed against either party as the drafting party.

18. Applicable Law. This Agreement shall be interpreted and governed by the laws of the State of West Virginia.

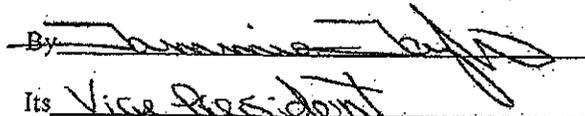
WITNESS the following signatures. Executed in duplicate.

TC SALES COMPANY, LLC

By 

Its PRESIDENT

R.J. CORMAN RAILROAD CONSTRUCTION  
COMPANY, LLC

By 

Its Vice President