

**DATED .....**

**THE COAL AUTHORITY**

**AND**

**[OPTION HOLDER]**

---

**OPTION AGREEMENT**

**relating to**

---

**[SITE]**

**[REFERENCE]**



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**OPTION AGREEMENT  
PARTICULARS**

**DATE :** .....

**PARTIES :**

(1) **Authority**

**THE COAL AUTHORITY** of :-

200 Lichfield Lane, Mansfield, Nottinghamshire, NG18 4RG

Tel: 01623 637000

Fax: 01623 620363

(2) **Option Holder**

**[OPTION HOLDER]** of :-

[Option Holder's Address]

Tel: [Telephone Number]

Fax: [Fax Number]

Company registered in [England & Wales/Scotland]

No.[Number]

**OPTION PERIOD :**

The period beginning on the date of this Agreement and ending on the Termination Date

**TERMINATION DATE :**

(a) [words (numbers)] years from the date of this Option;  
or

(b) the day and time of any substantial and material breach of any obligation of the Option Holder pursuant to this Agreement; or

(c) the date of any notification to the Authority that the Option Holder will not be exercising or further exercising the Option; [or]

(d) the day and time of revocation of the Conditional Licence in respect of all or part of the subject matter of the Option.

whichever is the earlier.

## 1. DEFINITIONS

In this Agreement, unless the context otherwise requires :-

<b>["Access Boreholes"</b>	means boreholes sunk for the purpose of carrying out Coal-Mining Operations; <i>UCG Only</i> ]
<b>"Authority"</b>	means the Coal Authority, and includes its successors in title or assigns, and, in the case of an individual, any personal representatives of such individual;
<b>"Coal", "Coal Mine" and "Coal-Mining Operations"</b>	are as defined in the Conditional Licence;
<b>"Conditional Licence"</b>	means the Conditional [Underground/Surface Mining/Underground Coal Gasification] Licence of even date herewith granted by the Authority to the Option Holder in respect of all or part of the subject matter of the Option;
<b>"Conditions Precedent"</b>	has the meaning given to it by Paragraph 2 of the Second Schedule;
<b>"Disposition"</b>	means any disposal of the interest of the Authority in the Mine, whether for valuable consideration or otherwise and however such interest becomes vested in the grantee thereunder, and includes any mortgage or charge which confers on the mortgagee or chargee any immediate or future power to sell or otherwise dispose of such interest;
<b>"Lease"</b>	means a lease of the whole or any part of the Mine proposed, following the exercise of an Option, to be granted or, where applicable, granted by the Authority to the Option Holder in the form of the draft lease set out in the Fifth Schedule;
<b>"Mine"</b>	means the Coal and (where relevant) Coal mine described in the First Schedule;
<b>"Option"</b>	means an option granted to the Option Holder by Clause 3;
<b>"Option Holder"</b>	means the party named as Option Holder in the Particulars, and includes any permitted successor in title or assign of such party, and, in the case of an individual, any personal representative of such individual;
<b>"Option Notice"</b>	means, in relation to any Option, the notice referred to in Clause 4.1.2;
<b>"Option Period"</b>	means, in relation to any Option, the period specified in the Particulars;
<b>"Particulars"</b>	means the matters appearing on the preceding pages headed "Particulars";
<b>"Plan"</b>	means the plan[s] (which may be in two or more parts) signed and annexed hereto which form part of this Agreement;

<b>“Planning Condition Precedent”</b>	means the Condition Precedent specified in Paragraphs 2.2.1 and 2.2.2 of the Second Schedule;
<b>“Planning Permission”</b>	has the meaning given to it in the Second Schedule;
<b>“Termination Date”</b>	means the date specified in the Particulars;
<b>“VAT”</b>	means Value Added Tax and any tax or duty of a similar nature which may from time to time be levied in addition thereto or in substitution therefor; and
<b>“Working Day”</b>	means any day other than a Saturday or a Sunday or a day which is a general public or bank holiday in England and Wales.

## **2. INTERPRETATION**

- 2.1 The headings appearing in this Agreement do not affect its construction.
- 2.2 In this Agreement (including the Schedules) :-
- 2.2.1 any reference to a Clause or to a Schedule is a reference to the relevant clause of or schedule to this Agreement and any reference to a Paragraph is, unless otherwise stated, a reference to the relevant paragraph of the Schedule in which the reference is contained;
- 2.2.2 any word importing an individual includes a body corporate and vice versa;
- 2.2.3 any word importing one gender includes all other genders and any word importing the singular includes the plural and vice versa;
- 2.2.4 any reference to a statute or statutory instrument (whether specifically named or not) includes any amendment or re-enactment thereof for the time being in force, and all instruments, orders, regulations, permissions, notices, plans and directions for the time being given, issued or made under or deriving validity from it;
- 2.2.5 any obligation by any party which comprises more than one person is joint and several; and
- 2.2.6 any obligation on a party not to do any act or thing includes an obligation not to permit or suffer such act or thing to be done.
- 2.3 The provisions contained in the First, Second, Third and Fourth Schedules are incorporated in and form part of this Agreement.

## **3. GRANT OF OPTION**

In consideration of the sum of [£Option payment] [per annum] paid by the Option Holder, the Authority grants to the Option Holder the option or options to require, on the terms contained in the Third Schedule (but subject in particular to the provisions of Paragraph 3.2 of that Schedule), the grant of a Lease of any part of the Mine and which, at the time of exercise of the option, has fulfilled the Conditions Precedent for such option.

## **4. EXERCISE OF OPTION**

### **4.1 When and how exercisable**

The Option shall be exercisable :-

- 4.1.1 only during the Option Period (time to be of the essence); and

4.1.2 by notice in writing from the Option Holder (or solicitors acting on its behalf) to the Authority, such notice to be substantially in the form annexed to this Agreement accompanied by evidence of the satisfaction of the Conditions Precedent.

#### **4.2 Service of Option Notice**

Any Option Notice shall be prepared, signed and served in duplicate by the Option Holder or by the solicitors acting on behalf of the Option Holder. Upon receipt of the Option Notice, the Authority will respond within five Working Days advising whether or not it regards the Option Notice as validly served.

#### **4.3 Authority to countersign Option Notice**

Within ten Working Days after service of a valid Option Notice, (and provided that the satisfaction of the Conditions Precedent have been satisfactorily evidenced), the Authority shall countersign, or shall cause its solicitors to countersign on its behalf, and return to the Option Holder or to the Option Holder's solicitors (as the case may require) the duplicate of such Option Notice.

#### **4.4 Power of Attorney**

4.4.1 Pursuant to Section 4 of the Powers of Attorney Act 1971 and in order to secure performance of the Authority's obligation under Clause 4.3, (but not further or otherwise), the Authority irrevocably appoints the Option Holder as the attorney of the Authority for the purpose only of countersigning (whether personally, or through a director or the company secretary of the Option Holder) on behalf of the Authority :-

4.4.1.1 a further duplicate of a valid Option Notice, but only in the event of any failure by the Authority to perform the obligation contained in Clause 4.3; and

4.4.1.2 any other instrument required in order to create, under Section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, (but not further or otherwise), a binding and enforceable contract for the grant and acceptance of a Lease of the relevant part of the Mine on the terms contained in the Third Schedule.

4.4.2 As soon as reasonably practicable after the Option Holder countersigns as attorney for the Authority a further duplicate of an Option Notice or any other instrument under the power in that regard contained in Clause 4.4.1, the Option Holder shall supply or cause to be supplied to the Authority a copy thereof, certified as a true copy by solicitors acting for the Option Holder.

#### **4.5 Restrictions on Dispositions by Authority**

4.5.1 The Authority agrees with the Option Holder that the Authority will not complete any Disposition (other than to the Option Holder) without first having procured from the grantee under such Disposition and having delivered to the Option Holder a covenant substantially in the form annexed to this Agreement.

4.5.2 The Authority agrees with the Option Holder to notify the Option Holder in writing of the completion of any Disposition within ten Working Days after the date thereof.



#### **4.6 No admissions**

Nothing contained in Clauses 4.3 to 4.5 (inclusive) shall constitute an admission by either party that this Agreement is not fully binding on and enforceable by the parties, or that, following service of an Option Notice, the Authority is not obliged to grant and the Option Holder to accept the Lease to which the Option Notice relates in accordance with the terms contained in the Third Schedule.

#### **4.7 Restriction on alienation by Option Holder**

An Option shall be exercisable by the Option Holder or by solicitors acting on its behalf, and by no other person and the Option Holder shall not transfer, assign, mortgage or charge the Option Holder's interest under this Agreement except as a whole (or insofar as it remains to be fulfilled) and (in the case of transfer or assignment) except with the prior consent of the Authority (such consent not to be unreasonably withheld or delayed having regard to the duties of the Authority under the Coal Industry Act 1994).

### **5. EFFECT OF EXERCISE OF OPTION**

On the valid exercise of an Option, the Authority shall grant the Lease to which such Option relates to the Option Holder who shall accept such Lease, in each case on the terms contained in the Third Schedule.

### **6. FAILURE TO EXERCISE OPTION TO ITS FULLEST EXTENT**

The Option Holder shall, within ten Working Days after (a) the Termination Date or (b) where Paragraph 3.2 of the Third Schedule applies, the date on which pursuant to that paragraph the remaining obligations under this Agreement are at an end, cause to be withdrawn any land charge, caution, notice or restriction registered to protect the interest hereunder of the Option Holder and shall cause to be returned to the Authority or its solicitors any papers received by the Option Holder or its solicitors in connection with the Mine save to the extent that such papers relate to or affect property which is then the subject of a subsisting Lease to the Option Holder.

### **7. VAT**

- 7.1 All sums payable under or pursuant to this Agreement by the Option Holder shall be deemed to be exclusive of VAT.
- 7.2 Where under or pursuant to the terms of this Agreement the Authority makes a supply to the Option Holder and VAT is payable in respect of such supply, the Option Holder shall pay to the Authority on the date of such supply a sum equal to the amount of the VAT so payable subject to the provision by the Authority of a valid VAT receipt for the sum claimed.
- 7.3 Where the Option Holder is required by the terms of this Agreement to reimburse the Authority or any other person for the costs or expenses of, or any other sums in respect of, any supply made to the Authority or such other person (including any supply which the Authority or such other person is deemed to make to itself), the Option Holder shall also at the same time pay and indemnify and keep indemnified the Authority and any such other person against all amounts in respect of VAT incurred by the Authority (or such other person, as the case may be) in respect of that supply save to the extent that the Authority (or such other person, as the case may be) is entitled to, and retains, repayment or credit in respect of such amounts.

## **8. TERMS OF CONTRACT**

8.1 The parties acknowledge that :-

8.1.1 this Agreement; and

8.1.2 any plan, inventory or agreed form of document, or other instrument referred to in this Agreement, and either annexed to this Agreement or signed or initialled for identification with, and on or before the entering into of, this Agreement (whether individually or as part of a bundle or volume so signed or initialled)

contain all of the terms of the grant of any Option and (subject to the exercise of the relevant Option) of the contract between them for the grant and acceptance of the relevant Lease.

8.2 The Option Holder acknowledges that the Option Holder has not entered into this Agreement and that it will not be exercising any Option, in each case in reliance (wholly or partly) on any statement or representation made by or on behalf of the Authority but not embodied in this Agreement save for written answers to specific enquiries raised by the Option Holder or their solicitors.

## **9. NOTICES**

### **9.1 Address for service**

Any demand, notice or other communication to be given pursuant to this Agreement shall be in writing and shall be sufficiently served if it is delivered personally, or sent by facsimile transmission or by pre-paid registered or recorded delivery mail :-

9.1.1 in the case of the Authority, to it at the address or fax number set out in the Particulars or at such other address or fax number in the United Kingdom as the Authority may for the time being have notified to the Option Holder; and

9.1.2 in the case of the Option Holder, to it (and if there shall be more than one person within the definition of the Option Holder then any one of them), either at the address or fax number set out in the Particulars or at such other address or fax number in the United Kingdom as that person may for the time being have notified to the Authority, or in the case of a body corporate, at the registered or principal office for the time being of the body corporate.

### **9.2 Service by facsimile**

For the purpose of this Clause 9, facsimile transmission to the specified fax numbers will count as good service only if the party serving the demand, notice or other communication also despatches or delivers a copy of it by one of the other methods of service.

### **9.3 When service effected**

Service shall be deemed to have been effected, in the case of posting by pre-paid mail, on the second Working Day after posting and in the case of facsimile transmission, subject to compliance with Clause 9.2, at the time when it was sent by facsimile transmission except that any notice sent by facsimile transmission after 4.30 p.m. shall be deemed to have been served at 9.00 a.m. on the next Working Day.

#### **9.4 Postal disputes**

If, at the time at which any notice or other communication referred to in Clause 9.1 is to be served or given, there is in progress any industrial dispute affecting postal deliveries either generally or to or within the postal area in which is situated the address of the intended recipient thereof, then, notwithstanding the provisions of Clause 9.1 or Clause 9.3, such notice or other communication shall only be deemed to be sufficiently served if it is served in accordance with Clause 9.2 and/or it is delivered personally.

#### **10. AUTHORITY'S DUTY OF CARE**

The Option Holder agrees that the Authority owes to the Option Holder no duty of care to protect, secure or maintain the Mine on or after the date hereof for the period of the Option and any extension thereof, save for any relevant continuing statutory obligations.

#### **11. EXTENSION OF OPTION PERIOD**

Where there are reasonable grounds for extending the Option Period and there has been no breach of any obligation of the Option Holder pursuant to this Agreement, the Authority shall not unreasonably refuse to extend the Option Period for such time as is reasonable to satisfy the Planning Condition Precedent, but any such extension may be made subject to such further reasonable and proper fees, consideration and conditions as the Authority reasonably thinks fit including provision of appropriate information so that the Authority can discharge its duties under Section 2(1)(b) and 2(2)(a) of the Coal Industry Act 1994.

#### **12. GOVERNING LAW AND JURISDICTION**

- 12.1 This Agreement shall be governed and construed in all respects in accordance with the law of England and Wales.
- 12.2 The parties hereto irrevocably agree that the courts of England and Wales are to have exclusive jurisdiction to settle any dispute which may arise out of or in connection with this Agreement and that accordingly any suit, action or proceeding (together in this Clause referred to as "Proceedings") arising out of or in connection with this Agreement may be brought in such courts.
- 12.3 Each party hereto irrevocably waives any objection which it may have now or hereafter to the laying of the venue of any Proceedings in any such court as is referred to in this Clause and any claim that any such Proceedings have been brought in an inconvenient forum and further irrevocably agrees that a judgement in any Proceedings brought in the English and Welsh courts shall be conclusive and binding upon such party and may be enforced in the courts of any other jurisdiction.

**IN WITNESS** of which this Deed has been executed by the parties hereto, and is intended to be and is delivered on the date first before written.

## FIRST SCHEDULE

### The Mine

([Name])

#### *UNDERGROUND*

[All the Coal and coal mine contained within or comprising the Specified Seams together further with all other underground roadways and other underground spaces used or occupied, whether now or at any time within eighty years from the date of this Agreement (which period shall be the perpetuity period applicable to this Agreement), in connection with the winning working and getting of Coal from the Specified Seams

In this schedule :-

**“Specified Seams”** mean :-

Such part of the [ ] seam[s] as lie[s] beneath the surface area of [ ] hectares shown edged [red] on the Plan]

#### *SURFACE*

[All the Coal and (where relevant) coal mine comprising an area of [ ] hectares or thereabouts and shown edged [red] on the attached the Plan [down to and including the [ ] Seam / down to a level of [ ] metres above/below Ordnance Datum] within the [County/County Borough of [ ]].]

#### *UNDERGROUND COAL GASIFICATION*

[All the Coal and Coal Mine contained within or comprising the Specified Seam[s] together with the right to drill Access Boreholes [within the area[s] edged [red][ and green] on the Plan].

In this schedule :-

**“Specified Seams”** mean :-

[All coal seams, such part thereof as lie at a depth of [words (numbers)] metres or greater beneath the [seabed] area of [size] hectares or thereabouts as shown edged [red] on the Plan.]

*OR*

Such part of the [name[s]] seam[s] as lie[s] beneath the [seabed] area of [size] hectares shown edged [red] on the Plan]

## SECOND SCHEDULE

### Conditions Precedent

#### 1. DEFINITIONS

1.1 In this Schedule, unless the context otherwise requires :-

- “1990 Act”** means the Town and Country Planning Act 1990;
- “Court”** means the Court or other tribunal having jurisdiction to hear and determine the particular matter herein referred to;
- “Interaction Agreement”** means the agreement of that name dated 31<sup>st</sup> October 1994 made initially between (1) British Coal Corporation and (2) The Authority, as the same may be varied from time to time;
- “Planning Permission”** means planning permission or the equivalent offshore permission satisfactory to the Option Holder for the extraction of coal by underground coal gasification methods from any part of the Mine, and whether granted by a relevant Planning Authority or by the Secretary;
- “Planning Refusal”** means :-
- (a) an express refusal of an application for Planning Permission;
  - (b) a deemed refusal of an application for Planning Permission pursuant to Section 78(5) of the 1990 Act;
  - (c) any calling in by the Secretary of an application for Planning Permission pursuant to Section 77 of the 1990 Act; and
  - (d) a Planning Permission granted subject to conditions which the Option Holder reasonably considers to be onerous or unduly restrictive; and
- “Secretary”** means the Secretary of State for Communities and Local Government or the Welsh Government or any other minister or authority for the time being having, or entitled to exercise, the powers now conferred by Part III of the 1990 Act, and includes any Inspector appointed to hear and determine any appeal made against a Planning Refusal.

1.2 For the purposes of this Schedule, Planning Permission shall be deemed to be granted and a Planning Refusal shall be deemed to be issued when the Option Holder or anyone acting on the Option Holder's behalf in connection with the Planning Application receives written notice in that regard from the relevant Planning Authority or the Secretary (as the case may require).

- 1.3 For the purposes of Paragraphs 2.2.2 and 4.2, references to ‘final disposal’ and ‘finally disposed of’ shall be construed as references to the earliest date by which the proceedings on the application (including any proceedings on or in consequence of an appeal) have been determined and any time for appealing or further appealing has expired, except that if the application is withdrawn or any appeal is abandoned the references shall be construed as references to the date of the withdrawal or abandonment.

## **2. CONDITIONS PRECEDENT**

The Conditions Precedent in relation to any Option are :-

- 2.1 the Option Holder is or has become a party to the Interaction Agreement; and
- 2.2 Either :-
- 2.2.1 Planning Permission has been granted relating to the part or parts of the Mine included within the Option, and otherwise as mentioned in Paragraph 4.1, or
- 2.2.2 the final disposal by the Court of any such application as is mentioned in that Paragraph, leaving in place the grant of such Planning Permission and as mentioned in Paragraph 4.2.
- 2.3 the Option Holder has secured the necessary surface access rights to operate the Mine;
- 2.4 the Option Holder has secured all other rights and permissions necessary to carry out Coal-Mining Operations (as defined in the Conditional Licence) relating to the part or parts of the Mine included within the Option;
- 2.5 the Option Holder has supplied all information requested by the Authority for the purpose of the performance of its duties under sections 2(1)(b) and 2(2)(a) of the Coal Industry Act 1994.

## **3. OPTION HOLDER TO KEEP AUTHORITY INFORMED**

Within ten Working Days after receipt by the Option Holder of :-

- 3.1 any notice from or decision of the relevant Planning Authority,
- 3.2 any notice from or decision of the Secretary, or
- 3.3 any proceedings issued in, or order of, the Court, in each case with regard to any application for Planning Permission or (if granted) any Planning Permission, the Option Holder shall send to the Authority a copy thereof.

## **4. SATISFACTION OF PLANNING CONDITION PRECEDENT**

For the purposes of this Agreement, the Planning Condition Precedent shall be satisfied on the earliest of :-

- 4.1 the date of grant of the relevant Planning Permission, and :-
- 4.1.1 in the case of a grant thereof by the Secretary, the expiration of the period of six weeks following the Secretary’s decision in that regard without any aggrieved person making an application to the Court under Section 288 of the 1990 Act, or
- 4.1.2 in any other case, the expiration of a period of three months following the grant without any person making an application to the Court for judicial review in respect thereof; and
- 4.2 if any such application is made, the date on which it is finally disposed of by the Court, leaving in place the grant of the relevant Planning Permission.

## **THIRD SCHEDULE**

### **Terms for grant and acceptance of Lease**

#### **General terms**

#### **1. DEFINITIONS**

In this Schedule, unless the context otherwise requires :-

- “Actual Completion”** means the date on which completion of the relevant Lease pursuant to this Agreement actually takes place;
- “Completion”** means the date on which completion of the relevant Lease pursuant to this Agreement is due to take place;
- “Planning Acts”** means the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning (Consequential Provisions) Act 1990 and the Planning and Compensation Act 1991, and includes any other applicable town and country planning legislation; and
- “Purchase Price”** means the sum calculated in respect of the relevant Lease in accordance with the Fourth Schedule.

#### **2. PURCHASE PRICE**

The price payable by the Option Holder to the Authority for the Lease shall be the Purchase Price.

#### **3. COMPLETION**

3.1 Subject to Paragraph 3.2, the Lease shall be completed, and the Purchase Price shall be payable, at the offices of the Authority’s solicitors or at such other place as they may reasonably require, in either case before 2.30 p.m. on whichever is the later of :-

3.1.1 the day on which the Option Holder first holds a licence granted pursuant to Part II of the Coal Industry Act 1994 which authorises the carrying out of coal mining operations within a licensed area which includes the part or parts of the Mine the subject of the Lease; and

3.1.2 the twentieth Working Day after the valid exercise of the relevant Option.

3.2 If :-

3.2.1 at least 12 months have elapsed since the day specified in Paragraph 3.1.2 and the day specified in Paragraph 3.1.1 has not occurred; or

3.2.2 the day for completion pursuant to Paragraph 3.1 would but for this Paragraph 3.2 be the day specified in Paragraph 3.1.2 and on or prior to that day the authorisation contained in the licence referred to in Paragraph 3.1.1 is for any reason terminated or suspended

this Agreement insofar as it remains to be fulfilled (including the obligations to grant and accept the Lease shall be at an end.

#### **4. SUB-SALES**

The Authority shall not be required to execute a Lease otherwise than :-

4.1 to the Option Holder and no other person, and

4.2 of the whole of the property to be demised.

## **5. FIXTURES AND FITTINGS**

Any fixture or fitting in the nature of a tenant's fixture or fitting shall be excluded from the Lease.

## **6. LEASE**

6.1 In any Lease the Term Commencement Date shall be the last date of execution of that Lease.

6.2 The Authority or its solicitors shall prepare the engrossments of any Lease and a counterpart and shall deliver the engrossments to the Option Holder or the solicitors acting on its behalf at least ten Working Days before Completion.

## **7. EXCLUSION OF IMPLIED GRANTS**

Without prejudice to any rights expressly granted or excepted and reserved, if and to the extent that any parcel of land owned by the Authority is to be in part demised pursuant to this Agreement and in part retained by the Authority, then no easement, quasi-easement, right or privilege of whatsoever kind shall be granted or reserved to the Authority or the Option Holder in respect of any part or parts of such land whether under the provisions of Section 62 of the Law of Property Act 1925 or under the rule of law known as the rule in *Wheeldon v Burrows* or otherwise howsoever.

## **8. COSTS**

The Option Holder shall on Actual Completion pay to the Authority the Authority's reasonable costs, fees and disbursements relating to the preparation, engrossment, execution and completion of the relevant Lease and its counterpart.

## **9. NATIONAL CONDITIONS**

The National Conditions are incorporated herein so far as they are not varied by or inconsistent with the express terms of this Agreement and are applicable to a sale by private treaty, but with the following variations and additions :-

9.1 "vendor" and "purchaser" mean the Authority and the Option Holder respectively;

9.2 "prescribed rate" means the rate of three per centum per annum above the Base Rate (as defined in the Lease);

9.3 "working day" means a Working Day as defined in Clause 1 of this Agreement;

9.4 "Planning Acts" mean the Planning Acts as defined in Clause 1 of this Agreement;

9.5 in condition 1(6), the words "with or without involving solicitors' undertakings" shall be deemed to be deleted, and the following substituted therefor :-

*"in accordance with the then current recommendations (if any) of The Law Society in relation to the concluding of contracts by such means";*

9.6 condition 1(7) shall be deemed to be deleted and the following substituted therefor :-

*"The date of the contract shall be the date of service in accordance with this Agreement of a valid Option Notice in respect of the Option.";*

9.7 conditions 2, 4, 9, 12, 13(1) and 20 shall not apply;

9.8 at the end of condition 5(2)(ii), there shall be deemed to be added the words :-



*“and such damages shall include (without limitation) such party's solicitor's fees and any VAT payable thereon in respect of the instructions for, and the preparation and service of, any notice under condition 22”;*

- 9.9 in condition 5(3), paragraphs (ii), (iii), (iv) and (v) thereof shall be deemed to be deleted, and the following substituted therefor :-
- “(ii) *a banker's draft or drafts in favour of the vendor's solicitor or (if requested or agreed by the vendor's solicitor) in favour of the vendor, in either case drawn on [any town clearing branch of] any clearing bank; or*
- (iii) *(if requested or agreed by the vendor's solicitor) a telegraphic or other direct transfer to a particular bank or branch of a particular bank, in either case for the credit of a specified account with that bank.”;*
- 9.10 proviso (i) to condition 5(5) shall be deemed to be deleted, and the following substituted therefor :-
- “(i) *for the purposes of conditions 6, 7 and 8 only, if completion takes place later than 1.30 pm then the date of actual completion shall be deemed to be the next working day after the day on which completion shall have taken place”;*
- 9.11 in condition 5(5)(ii), the words *“with a communication bearing their correspondence reference”* shall be deemed to be added after the words *“vendor's solicitor's office”;*
- 9.12 the following provision shall be deemed to be added as condition 5(6) :-
- “If the vendor's solicitors shall have agreed to complete upon receipt of a telegraphic or other direct transfer in accordance with condition 5(3)(iii), the remittance shall be treated as being made at the time at which the amount payable by the purchaser on completion is credited to the specified account at the vendor's or the vendor's solicitor's bank”;*
- 9.13 in condition 7(1), the words :-
- “but without prejudice to any right of the vendor to recover from the purchaser further damages for any delay in fulfilling any obligation of the purchaser under this contract”*
- shall be deemed to be added within the parentheses after the words *“paragraph (2) of this condition”;*
- 9.14 in condition 7(1)(ii), the words *“and gives written notice thereof to the vendor or his solicitor”* shall be deemed to be deleted, and the following substituted therefor :-
- “for such period and at such rate of interest as shall have been approved in writing by the vendor or the vendor's solicitors (such approval not to be unreasonably withheld or delayed)”;*
- 9.15 The following words shall be deemed to be added at the end of condition 8(1)(ii) :-
- “by [monthly] instalments in arrear, and if not so paid to be rolled up with [monthly] rests”;*
- 9.16 condition 8(1)(v) shall be deemed to be deleted and the following substituted therefor :-
- “(v) not change the use of nor make any alteration to the property”;*
- 9.17 in conditions 8(3) and 8(4), the word *“not”* shall be deemed to be deleted;
- 9.18 in condition 10(1), the words *“5 working days after”* shall be deemed to be substituted for *“10 working days of”;*

9.19 there shall be added to condition 10 the following :-

- “(3) *Within 3 working days after the giving of the notice of rescission, the purchaser shall cause to be withdrawn any land charge caution or notice registered to protect the interest hereunder of the purchaser, and shall cause to be returned to the vendor or to the vendor's solicitor any papers provided to the purchaser or to the purchaser's solicitor in connection with the proposed sale of the property.*
- (4) *Any such rescission shall also be without prejudice to any right of either party to this contract against the other in respect of any antecedent breach of any obligation thereunder.”;*

9.20 in condition 14 the words up to and including “affect the property”, shall be deemed to be deleted and the following added at the end of that condition :-

*“and the vendor shall be under no duty to disclose any latent easements or latent liabilities known to it to affect the property”;*

9.21 conditions 15(2), (3) and (4), and 21(2) and (3) shall not apply;

9.22 in condition 19(3) “10 working days” shall be substituted for the reference to “6 working days”;

9.23 in condition 19(4), the words “not in an area of compulsory registration” shall be deemed to be deleted; and

9.24 in condition 22 :-

- (i) “10 working days” shall be substituted for “16 working days” in conditions 22(2) and (3), and
- (ii) the words “(without in any way limiting, whether by time or amount, any claim for damages which the vendor may have against the purchaser)” shall be deemed to be added before the words “if the vendor resells the property” in condition 22(3),

and, for the purposes of condition 22, the Authority shall not be treated as unready or unwilling to fulfill the Authority's own outstanding obligations hereunder on the ground that any mortgage or charge affecting the Property is undischarged if it will be discharged (or a suitable undertaking for the discharge will be given) on Actual Completion.

**FOURTH SCHEDULE**

**Purchase Price**

As described in Clause 3 of the Lease

Model Document

**FIFTH SCHEDULE**

**Lease**

[Unsigned copy of Lease inserted into printed document]

Model Document

**SIXTH SCHEDULE**

**Instrument(s) supplemental to Agreement**

[None]

Model Document

**SEVENTH SCHEDULE**

**Part 1**

**Additional exceptions and reservations**

[None]

**Part 2**

**Rights granted**

[None]

Model Document

The Common Seal of the  
**THE COAL AUTHORITY**  
was affixed hereto in the presence of :-

Executed as a Deed on behalf of  
**[OPTION HOLDER]**  
by :-

..... *Position*  
..... *Print Name*  
..... *Position*  
..... *Print Name*

duly authorised to act in that capacity





## FORM OF OPTION NOTICE

To: [Name and address of Authority  
or successor in title]

**BY HAND**

or

**BY REGISTERED/**

**RECORDED DELIVERY  
POST**

1. We refer to the Option Agreement (“the Agreement”) dated [ ] between (1) The Coal Authority and (2) [Option holder] in respect of the property briefly known as [ ] but more particularly described in the Agreement (“the Property”).

*[Where Option being exercised by Option Holder :-*

2. The Conditions Precedent defined in the Second Schedule to the Agreement having now been satisfied in respect of the part or parts of the Mine (as defined in the Agreement) described in the Schedule to this notice (not being a part or parts of the Mine described in a schedule to any previous Option Notice under the Agreement) (as evidenced by the attachment to this notice) we, [Name and address, and (where appropriate) Company Registration No. of Option Holder], as Option Holder under the Agreement, give to you notice of our exercise of the option contained in Clause {3}/{3.1.1/3.1.2} thereof to require the grant of a Lease of the part or parts of the Mine described in the Schedule to this notice on the terms contained in the Third Schedule to the Agreement, and require you, in accordance with the terms of the Agreement, to countersign, or to cause your solicitors to countersign, and return to us the enclosed duplicate of this notice.]

*[Where Option being exercised by solicitors on behalf of Option Holder :-*

2. The Conditions Precedent defined in the Second Schedule to the Agreement having now been satisfied in respect of the coal and (where relevant) coal mine described in the Schedule to this notice (not being coal or a coal mine described in a schedule to any previous such notice) (as evidenced by the attachment to this notice) we, as solicitors for and on behalf of [Name and address, and (where appropriate) Company Registration No. of Option Holder], as Option Holder under the Agreement (“the Option Holder”), give to you notice of the exercise by the Option Holder of the Option contained in Clause {3}/{3.1.1/3.1.2} thereof to require the grant of a lease of the property described in the Schedule to this notice on the terms contained in the Third Schedule to the Agreement, and require you, in accordance with the terms of the Agreement, to countersign, or to cause your solicitors to countersign, and return to us the enclosed duplicate of this notice.]

Signed .....

Dated .....

[Name]

[Director/Company Secretary/Solicitors]

for and on behalf of [Name of Option Holder]

**SCHEDULE TO OPTION NOTICE**

**Description of the part or parts of the Mine to be demised**

(On duplicate)

[Authority or successor in title] acknowledges receipt of the notice from [name of Option Holder] of which this is a duplicate, and confirms acceptance of its terms.

Signed ..... Dated .....

[Name]

[Authorised Signatory/Solicitors]

for and on behalf of [Authority or successor in title]

Model Document

## FORM OF COVENANT

- To: [Name and address of Option Holder or successor in title]
1. Reference is made to the Option Agreement (“the Agreement”) dated [ ] between (1) The Coal Authority and (2) [Option holder] in respect of the property briefly known as [ ] but more particularly described in the Agreement (“the Property”).
  2. [Name and address, and (where appropriate) Company Registration No. of grantee under Disposition] (“the Grantee”), the intended grantee under a proposed [type of Disposition] (“the Disposition”) in respect of [extent of Mine affected] (being a Disposition as defined in the Agreement), covenants with [name and address of Option Holder or successor in title] and its or their permitted successors in title (“the Option Holder”) that, as from the date of completion of the Disposition [*in case of Mortgage or Charge only*] as from the date under which any power of sale under the Disposition, if completed, becomes exercisable and until the discharge of the Disposition], the Grantee will perform and observe the obligations on the part of the Authority contained in the Agreement (including any arising pursuant to the exercise of the Options therein contained) as if the Grantee had been the original contracting Authority under the Agreement.
  3. Without prejudice to the generality of the foregoing, pursuant to Section 4 of the Powers of Attorney Act 1971 and in order to secure performance of the Authority’s obligations under Clause 4.3 of the Agreement, the Grantee irrevocably appoints the Option Holder as the attorney of the Grantee for the purpose only of countersigning [(whether personally, or through a Director or the Company Secretary of the Option Holder] on behalf of the Grantee the duplicate of any valid Option Notice and any other instrument mentioned in Clause 4.4 of the Agreement, but in each case only in the circumstances therein mentioned.
  4. This covenant has been executed by the Grantee, and is intended to be and is delivered on [ ].