

**FIRST ADDENDUM
TO
FIRST AMENDMENT TO THE ASSIGNMENT
AND ASSUMPTION AGREEMENT**

This **FIRST ADDENDUM TO THE FIRST AMENDMENT TO THE ASSIGNMENT AND ASSUMPTION AGREEMENT** (this "Addendum") is made and entered into as of May 16, 2014, by and among the Virginia Department of Transportation, an agency of the Commonwealth of Virginia (the "Department"), Alpha Natural Resources, LLC ("Alpha"), and Bizzack Construction, LLC, successor in interest to Rapoca Energy Company ("Bizzack") (Alpha and Bizzack are referred to individually as the "Contractor" or collectively as the "Contractors"). This Addendum supplements and is made a part of that certain First Amendment to the Assignment and Assumption Agreement, dated January 11, 2007, by and among the parties hereto (the "First Amendment"). Capitalized terms not otherwise defined herein shall have the meaning given to them in the First Amendment.

RECITALS

WHEREAS, pursuant to the Public-Private Transportation Act of 1995, §§56-556, *et seq.* of the Code of Virginia (1950), as amended (the "Code"), the Department and Kellogg, Brown and Root ("KBR") executed (i) a Comprehensive Agreement (the "Comprehensive Agreement") dated January 11, 2002, concerning the design, construction and maintenance of a controlled access highway called the Coalfields Expressway (the "Project") and (ii) a Design-Build Contract (the "Design-Build Contract") dated January 11, 2002, concerning the Project;

WHEREAS, on January 11, 2006, the Department, Alpha, Pioneer Group, Inc., now known as Rapoca Energy Company, Bizzack's predecessor in interest ("Rapoca"), and KBR entered into an Assignment and Assumption Agreement, pursuant to which KBR assigned all of its rights and obligations under each of the Comprehensive Agreement and the Design-Build Contract to Alpha and Rapoca, and Alpha and Rapoca assumed all of KBR's rights and obligations under the Comprehensive Agreement and the Design-Build Contract, subject to certain obligations and conditions as set forth therein and which provided further, that all of Alpha's and Rapoca's obligations under the Comprehensive Agreement and the Design-Build Contract would be suspended in order to allow good faith negotiations between the Department and the Contractors for the purpose of modifying the Comprehensive Agreement and the Design-Build Contract to reflect the potential use of the value of the Contractors' coal reserves and expertise in mining and large-scale earth moving operations to reduce estimated Project development costs;

WHEREAS, pursuant to that certain Assignment and Assumption Agreement Attending Stock Purchase of Rapoca by Bizzack dated as of July 31, 2013 between Rapoca and Bizzack and consented to by the Department, Rapoca assigned to Bizzack and Bizzack assumed all of Rapoca's rights, obligations and privileges under the

Comprehensive Agreement, including the Design-Build Contract and certain other project agreements (collectively, the “Principal Contract Documents”), which assignment, in accordance with the Comprehensive Agreement, was approved by the Department;

WHEREAS, the First Amendment provides, among other things, for the allocation between Alpha and Bizzack of rights to distinct portions of the Project and for the development of a limited feasibility study to determine whether the use of the Contractors’ resources would result in a cost-effective approach to the development of the Project, and each of the Contractors completed and submitted to the Department a limited feasibility study (individually, a “Study” and together, the “Studies”) in relation to its allocated portion of the Project;

WHEREAS, Bizzack’s allocated portion of the Project includes the Interchange (as hereinafter defined), and Alpha’s allocated portion of the Project includes Woods Fork (as hereinafter defined);

WHEREAS, consistent with the First Amendment, the Department and the Contractors agree that the Project, as proposed in the Contractors’ Studies, must be designed, permitted, and constructed in a phased approach, and the parties have negotiated and continue to negotiate extensive modifications to the Principal Contract Documents; and

WHEREAS, the Department and the Contractors desire to supplement the First Amendment to provide for the exchange and transfer of certain rights and interests between Alpha and Bizzack.

NOW, THEREFORE, in consideration of the covenants contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Department, Alpha and Bizzack agree as follows:

1. **Purpose of This Addendum.** This Addendum supplements the First Amendment by effecting an exchange, through the assignment, transfer and conveyance of certain rights and interests between Alpha and Bizzack, with respect to certain portions of the Project.

2. **Assignments.** Subject to the applicable terms and conditions of the Principal Contract Documents:

a. Bizzack hereby assigns, transfers and sets over to Alpha all of Bizzack’s rights and interests to the proposed interchange of the Coalfields Expressway (“CFX”) to connect the CFX with Phase II of the U.S. Route 460 Connector (the “Interchange”). Alpha hereby accepts the foregoing assignment and assumes and agrees to discharge and satisfy all liabilities incurred in connection therewith pursuant to the Principal Contract Documents. Alpha shall protect, indemnify and hold harmless Bizzack, from and against any and all claims, actions, damages, liability and expenses (including fees of attorneys,

investigators and experts) resulting from or arising out of or otherwise relating to any claim, action or cause of action or other liability arising out of or resulting from or relating to the rights and interests assigned and assumed pursuant to this subsection a.

b. Alpha hereby assigns, transfers and sets over to Bizzack all of Alpha's rights and interests to the remaining section of the Hawks Nest CFX alignment, which generally runs from station 1645+00 to Route 614 and is commonly referred to as the "Woods Fork Section," and which is located between the completed Hawks Nest rough-grade roadbed section of the CFX and Bizzack's proposed Poplar Creek section of the CFX ("Woods Fork"). Bizzack hereby accepts the foregoing assignment and assumes and agrees to discharge and satisfy all liabilities incurred in connection therewith pursuant to the Principal Contract Documents. Bizzack shall protect, indemnify and hold harmless Alpha, from and against any all claims, actions, damages, liability and expenses (including fees of attorneys, investigators and experts) resulting from or arising out of or otherwise relating to any claim, action or cause of action or other liability arising out of or resulting from or relating to the rights and interests assigned and assumed pursuant to this subsection b.

3. **Grant of Access Rights.** Subject to the applicable terms and conditions of the Principal Contract Documents, Alpha hereby grants to Bizzack ingress, egress, and access rights across the Interchange and across Alpha's affiliate's Rough Hawk and Hawks Nest mines (the "Access Rights"), but only to the extent (i) necessary for the sole purpose of equipment mobilization to and from Phase II of the U.S. Route 460 Connector or Poplar Creek projects; (ii) that such rights do not impact (A) Alpha's contractual obligations to the Department or (B) Alpha's compliance with its mining permits; and (iii) Alpha has provided Bizzack with advance written approval with respect to any exercise of such rights, which approval shall not be unreasonably withheld. Bizzack shall exercise the Access Rights at its own risk. Bizzack shall protect, indemnify and hold harmless Alpha and its affiliates and agents, from and against any and all claims, actions, damages, liability and expense (including fees of attorneys, investigators and experts) in connection with loss of life, personal injury or damage to property occasioned wholly or in part by any act or omission of Bizzack in connection with or arising out of the Access Rights, except to the extent such loss, injury or damages was caused by the gross negligence of Alpha or its affiliates or agents.

4. **Department Consent and Approval.** The Department hereby consents to and approves the assignments, assumptions, and grant of access rights, along with the terms and conditions related thereto, set forth in Sections 2 and 3 of this Addendum.

5. **Continuation of Terms and Obligations.** All other terms and conditions set forth in the First Amendment shall remain in full force and effect, except as expressly modified by this Addendum.

6. **Counterparts.** This Addendum may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

[Signatures appear on the next page]

IN WITNESS WHEREOF, the parties, intending to be bound, have executed this Addendum on the date first written above.

VIRGINIA DEPARTMENT OF TRANSPORTATION,
an agency of the Commonwealth of Virginia

By: _____
Charles A. Kilpatrick, P.E.
Commissioner of Highways

ALPHA NATURAL RESOURCES, LLC,
a Delaware limited liability company

By: _____
Its: _____

BIZZACK CONSTRUCTION, LLC, a Kentucky
limited liability company

By: _____
Its: _____

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