



Fuel Supplier: Knight Hawk Coal, LLC

Fuel Type: Coal

Contract No: BRE 25-001

**Description: Term Coal Contract
Effective August 27, 2024**

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COAL SUPPLY AGREEMENT

1
2
3 This Coal Supply Agreement (the “Agreement”) dated as of August 27, 2024 (the
4 “Effective Date”), by and between (i) BIG RIVERS ELECTRIC CORPORATION, a Kentucky
5 corporation, 710 W 2nd Street, Owensboro, Kentucky 42301 (“Buyer”) and (ii) KNIGHT HAWK
6 COAL, LLC, having an address of 500 Cutler-Trico Road, Percy, Illinois 62272 (“Seller”)
7 establishes the terms and conditions pursuant to which Buyer shall purchase and Seller shall sell
8 coal of the qualities and quantities described herein. Buyer and Seller are each a “party” under
9 this Agreement and are collectively the “parties.” The following terms constitute all of the terms
10 and conditions of the binding agreement between the parties regarding this transaction. Seller
11 agrees to sell and deliver, and Buyer agrees to buy and accept, bituminous coal on the terms and
12 conditions stated in this Agreement.

WITNESSETH:

13
14 WHEREAS, Buyer is a rural electric cooperative corporation which desires to purchase
15 steam coal; and

16 WHEREAS, Buyer and Seller desire to enter into this Coal Supply Agreement pursuant
17 to which Seller will supply coal to Buyer under the terms as set forth herein:

18 NOW, THEREFORE, in consideration of the mutual covenants set forth herein, and for
19 other good and valuable consideration, the receipt and sufficiency of which are hereby
20 acknowledged, the parties hereto agree as follows:

21
22 **SECTION 1. GENERAL.**

23 (a) The above recitals are true and correct and comprise a part of this Agreement.

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1 (b) Seller will sell to Buyer, and Buyer will buy from Seller, bituminous steam coal under
2 all the terms and conditions of this Agreement.

3 (c) Each covenant, representation and warranty given herein by a party is a material
4 inducement for the other party to enter into this Agreement.

5 **SECTION 2. TERM.** The term of this Agreement shall commence on the Effective Date
6 and shall continue through December 31, 2029, unless sooner terminated pursuant to any of the
7 terms set forth herein (the “Term”).

8 **SECTION 3. QUANTITY.**

9 § 3.1 Base Quantity. Subject to the terms and conditions set forth in this Agreement, Seller
10 shall sell and deliver, or cause to be delivered, and Buyer shall purchase and receive, or cause to
11 be received, the following annual base quantity of coal (“Base Quantity”) for the indicated calendar
12 year:

	<u>YEAR</u>	<u>BASE QUANTITY (TONS)</u>
13		
14		
15	2025	500,000
16	2026	500,000
17	2027	500,000
18	2028	500,000
19	2029	500,000
20		

21
22 As used herein, the term “ton” shall mean 2,000 pounds.

23 The Base Quantity of coal to be delivered in a given calendar year shall be delivered in
24 accordance with Section 3.3.

25 § 3.2 Make-Up Tons. Notwithstanding the provisions of § 3.1 above, if Seller or Buyer
26 fails to supply or to take delivery of (as applicable) the entire Base Quantity scheduled for a

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1 particular year for any reason other than a force majeure event (as provided in Section 10 hereof),
2 then the non-defaulting party, may, at its sole option and without any obligation to do so, elect to
3 make up such undelivered or un-received quantities (“Make-Up Tons”) by having the defaulting
4 party deliver or take delivery of the Make-Up Tons during the calendar year immediately following
5 the calendar year in which such Make-Up Tons should have been delivered (the “Make-Up Year”).
6 If necessary, the Term of this Agreement will be automatically extended to include the Make-Up
7 Year. Prior to making such election, the non-defaulting party may request from the defaulting
8 party adequate assurances, reasonably satisfactory to the non-defaulting party, that the defaulting
9 party is capable of delivering or receiving, and will deliver or receive, during the Make-Up Year,
10 (i) the Base Quantity (if any) applicable for the Make-Up Year under this Agreement and (ii) the
11 Make-Up Tons.

12 In the event the non-defaulting party makes the election to deliver or receive Make-Up
13 Tons, as applicable, the defaulting party shall deliver or receive the Base Quantity and the Make-
14 Up Tons during the Make-Up Year pursuant to a new, mutually-agreed delivery schedule
15 incorporating the delivery of the Make-Up Tons. In such event, for accounting and payment
16 purposes, the first tons delivered in the Make-Up Year shall be considered to be the Make-Up
17 Tons, and deliveries of Make-Up Tons will not be considered a part of the Base Quantity (if any)
18 applicable for the Make-Up Year.

19 If the defaulting party’s failure to deliver or receive all of the Base Quantity during a
20 particular year constitutes a breach of or other violation under this Agreement, the existence of
21 this § 3.2 shall not act as a waiver by the non-defaulting party of such breach or violation, nor shall
22 it act as a limitation on the non-defaulting party’s remedies. However, if the non-defaulting party

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1 elects to deliver or receive the Make-Up Tons as provided in this § 3.2, then such election and the
2 receipt or delivery of the Make-Up Tons in the Make-Up Year shall be the non-defaulting party's
3 sole and exclusive remedy as to the Make-Up Tons, provided that nothing in this § 3.2 shall limit
4 the remedies of the non-defaulting party for failure of the defaulting party to perform with regard
5 to the delivery or receipt of the Make-Up Tons under the terms of this Agreement, including but
6 not limited to Sections 4 through 8.

7 § 3.3 Delivery Schedule. Unless otherwise mutually agreed, Seller shall deliver and Buyer
8 shall take delivery of the Base Quantity on a ratable monthly basis as adjusted, if needed, during
9 the year to reflect, Buyer's outages, Seller's annual miner's vacation, and minor delays in
10 transportation. Time is of the essence with respect to such deliveries. Buyer will advise Seller
11 monthly of its delivery schedule. The parties will cooperate and work together in good faith to
12 agree on a reasonable and mutually agreeable delivery schedule within the Term and within each
13 month during the Term. Failure by Seller to deliver or failure by Buyer to accept Shipments in
14 accordance with the foregoing schedules, as mutually agreed, other than a failure resulting from
15 rejection or suspension pursuant to the provisions of Section 6 hereof, or a force majeure event, as
16 defined in Section 10 hereof, shall constitute a material breach within the meaning of Section 14
17 of this Agreement.

18 **SECTION 4. SOURCE.**

19 § 4.1 Source. The coal sold hereunder shall be mined, fully washed, and supplied during
20 the Term from the Illinois #6 geological seam at the Prairie Eagle underground mining operations
21 located in Perry County, Illinois ("Coal Property"). Seller represents that it has title to or legal
22 control over the Coal Property and the coal located on the Coal Property. Seller also represents

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1 and warrants that, when delivered to Buyer, the coal will be free and clear of all liens and
2 encumbrances and Buyer shall have good and marketable title to the delivered coal.

3 § 4.2 Assurance of Capacity, Operation, and Reserves. Subject to the provisions of this
4 Agreement, Seller represents and warrants that the Coal Property contains recoverable coal of a
5 quality and in quantities which will be sufficient to satisfy all the requirements of this Agreement.
6 Seller agrees and warrants that it or its affiliates will have at the Coal Property adequate machinery,
7 equipment, wash plant and preparatory facilities, and other facilities to produce, prepare, and
8 deliver coal in the quantities and of the quality required by this Agreement. Seller further agrees
9 to operate and maintain such machinery, equipment, and facilities in accordance with good mining
10 practices so as to efficiently and economically produce, prepare, and deliver such coal.

11 Seller represents and warrants that it has the right and authority to, and does hereby,
12 dedicate to this Agreement sufficient reserves of coal meeting the quality specifications hereof
13 lying on or in the Coal Property so as to fulfill the quantity and quality requirements hereof.
14 Seller's dedication of reserves shall not be construed to limit or restrict Seller's ability to claim a
15 valid force majeure event under provisions of Section 10 herein.

16 Seller agrees that Buyer is not providing any capital for the purchase of such machinery,
17 equipment, and/or facilities and that Seller shall operate and maintain same at its sole expense.

18 Seller has obtained, or will obtain prior to the Effective Date of this Agreement, and will
19 maintain, all required permits and licenses for the production and delivery of the coal as required
20 by this Agreement.

21 § 4.3 Non-Diversion of Coal. Seller agrees and warrants that it will not, without Buyer's
22 express prior written consent, use or sell coal from the Coal Property so as to reduce the

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1 economically recoverable balance of coal in the Coal Property to an amount of coal less than that
2 required to be supplied to Buyer hereunder.

3 § 4.4 Seller's Preparation of Mining Plan. Seller shall prepare a complete mining plan for
4 the Coal Property with adequate supporting data to demonstrate Seller's capability to have coal
5 produced from the Coal Property which meets the quantity and quality specifications of this
6 Agreement. Seller shall, upon Buyer's request, provide information to Buyer regarding such
7 mining plan which shall contain maps and a narrative describing areas and seams of coal to be
8 mined and shall include (but not be limited to) the following supporting information: (i) reserves
9 from which the coal will be produced during the Term hereof and the mining sequence, by year
10 (or such other time intervals as mutually agreed) during the Term of this Agreement, (ii) methods
11 of mining such coal; (iii) methods of transporting and washing the coal to ensure compliance with
12 the quantity and quality requirements of this Agreement including a description and flow sheet of
13 the preparation plant; (iv) quality data plotted on the maps depicting data points and isolines by
14 ash, sulfur, and BTU/lb.; (v) quality control plans including sampling and analysis procedures to
15 ensure individual Shipments meet quality specifications; and (vi) Seller's aggregate commitments
16 to others to sell coal from the Coal Property during the Term of this Agreement. If delivery of
17 such complete mining plan is requested by Buyer, it shall be delivered to Buyer on or before thirty
18 (30) days after such request.

19 Buyer's receipt of the mining plan or other information or data furnished by Seller (the
20 "Mining Information") shall not in any manner relieve Seller of any of Seller's obligations or
21 responsibilities under this Agreement; nor shall Buyer's review of the Mining Information be
22 construed as constituting an approval of Seller's mining plan for any purposes. Review by Buyer

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1 of the Mining Information is for Buyer's purposes only and is to allow Buyer to evaluate Seller's
2 capability to supply coal as required by this Agreement. Buyer shall maintain as confidential all
3 Mining Information disclosed by Seller and shall not disclose or use such Mining Information for
4 any purpose other than to evaluate Seller's performance and compliance with the provisions of
5 this Agreement, subject only to any disclosures which may be required by law or in connection
6 with a judicial or administrative proceeding before courts, regulatory bodies, or agencies such as
7 the Kentucky Public Service Commission.

8 Buyer shall have the right to request an update of the Mining Information showing progress
9 to date, Seller's conformity to the mining plan contained in the Mining Information, then-known
10 changes in reserve data, and planned changes in mining progression, plans, or procedures.

11 § 4.5 Relationship of the Parties. Each party agrees that it is not and will not hold itself out
12 as a partner, joint venturer, employee, agent, or representative of the other party. Nothing herein
13 contained shall be construed as creating a single enterprise, joint venture, agency, partnership, joint
14 employer, owner-contractor, or lessor-lessee relationship between Buyer and Seller or between
15 Buyer and the owners or operators of the Coal Property.

16 Each party shall have sole and exclusive authority to direct and control its respective
17 activities and operations, and those of its affiliates and/or any subcontractors, undertaken in the
18 performance of their respective obligations under this Agreement. Each party shall exercise full
19 and complete control over its respective work force and labor relations policies. Each party shall
20 have no authority or control over the other party's operations or work force.

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1 **SECTION 5. DELIVERY.**

2 § 5.1 Delivery Point. The coal shall be delivered by Seller F.O.B. barge at Seller's Lone
3 Eagledock, mile point 105 on the Upper Mississippi River (the "Barge Delivery Point").

4 § 5.2 Title/Risk of Loss. Title to and risk of loss of coal sold hereunder will pass to Buyer,
5 and the coal will be considered to be delivered, when the barges containing the coal are moved
6 free and clear from the Barge Delivery Point by Buyer's barging contractor.

7 § 5.3 Cost of Transportation. Seller shall arrange and pay for all costs of (i) transporting
8 the coal from the Coal Property to the Barge Delivery Point (including, without limitation, all
9 blending, loading, and truck charges) and (ii) fleeting, switching, harbor and other port charges,
10 blending, loading, and trimming the coal into barges to the proper weight and the proper
11 distribution within the barges.

12 § 5.4 Barge Delivery. Buyer or its contractor shall furnish suitable barges in accordance
13 with the delivery schedule agreed upon by the parties. Unless instructed otherwise by the barging
14 contractor or unless river conditions require that lesser amounts must be loaded, Seller shall ensure
15 that rake barges are loaded to a minimum tonnage of 1,550 tons per barge and box barges are
16 loaded to a minimum tonnage of 1,650 tons per barge. In the event lesser amounts are loaded,
17 notice requirements for such light loading shall accompany Seller's Shipment notice. Seller shall
18 arrange and pay for all costs of transporting the coal to the staging areas for loading barges and for
19 loading and trimming the coal into barges to the proper weight and proper distribution within the
20 barges. Buyer shall arrange for transporting the coal from the Barge Delivery Point to Buyer's
21 generating station(s) and shall pay for the cost of such transportation. Seller shall be responsible
22 for any delay costs, demurrage, or other penalties: (i) assessed by Buyer's barging contractor for

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1 delays caused directly by Seller in handling the scheduling of Shipments with Buyer's barging
2 contractor, or any other delays for which Seller is directly responsible, or (ii) assessed against
3 Buyer and directly caused by Seller for actual charges or costs incurred by Buyer which accrue at
4 the Barge Delivery Point, including without limitation delay penalties, demurrage, penalties for
5 loading less than the specified minimum tonnages in each barge or other penalties assessed for
6 barges not loaded in conformity with applicable requirements. If, in the reasonable opinion of the
7 Seller or its representative, the supplied barges appear unseaworthy and/or contain an excess of
8 residual material which makes them unsuitable for loading, it will be the responsibility of Buyer
9 or its contractor to remove such unseaworthy barge or remove any residual material from the
10 supplied barges at Buyer's expense. In such case Seller shall not be responsible for any cost caused
11 by such delay.

12 Seller shall require of the loading operator that the barges provided by Buyer or Buyer's
13 contractor be provided convenient and safe ingress, transit, berth, loading, and egress while the
14 barges are at the Barge Delivery Point. While the barges are at the Barge Delivery Point, Seller
15 shall ensure that all U.S. Coast Guard regulations and other applicable laws, ordinances, rulings,
16 and regulations are complied with, including adequate mooring and display of warning lights.
17 Seller represents and warrants and shall provide acceptable certificates to Buyer that the loading
18 dock operator carries Landing Owners / Stevedoring / Wharfinger's Liability insurance with basic
19 coverage of not less than \$2,000,000.00 and Seller shall provide evidence thereof to Buyer in the
20 form of a certificate of insurance from the insurance carrier or an acceptable certificate of self-
21 insurance with a requirement for sixty (60) days advance notice to Buyer in the event of a
22 termination or reduction in coverage under the insurance. Repair for any damage caused by a dock

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1 operator, Seller or its affiliates occurring at the Barge Delivery Point to Buyer's or Buyer's
 2 contractor's barges shall be at the expense of Seller. Seller shall ensure that barge decks are swept
 3 clean of any debris and ready for Buyer or Buyer's contractor to pick-up the loaded barges upon
 4 Seller's notification.

5 **SECTION 6. QUALITY.**

6 § 6.1 Specifications. The coal delivered from the Coal Property shall conform to the
 7 following specifications on an "as-received" basis:

8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39
	Quality		Guaranteed Monthly			Rejection Limits																									
	<u>Specifications</u>		<u>Weighted Average</u>			<u>(Per Shipment)</u>																									
	BTU/lb.		min. 11,200			< 10,900																									
	Ash		max. 8.50 lbs./MMBTU			> 9.20 lbs./MMBTU																									
	Moisture		max. 13.05 lbs./MMBTU			> 14.00 lbs./MMBTU																									
	Sulfur		max. 3.00 lbs./MMBTU			> 3.20 lbs./MMBTU																									
	Chlorine		max. 0.07 lbs./MMBTU			> 0.12 lbs./MMBTU																									
			Typical																												
	Mercury		0.07 ug/g																												
	Calcium Oxide		4.27 lbs./MMBTU																												
	Arsenic		2.00 ug/g																												
	Vanadium		44 ug/g																												
	SIZE (3" x 0"):																														
	Top size (inches)*		2.0" x 0"																												
	Fines (% by weight)																														
	passing 1/4" screen		44%																												
	<u>% BY WEIGHT:</u>																														
	VOLATILE		37.0																												
	FIXED CARBON		41.0																												
	GRINDABILITY (HGI)		53.0																												
	BASE ACID RATIO (B/A)**		0.32																												
	Fouling Factor***		0.34																												
	Slagging Factor****		1.07																												

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1 ASH FUSION TEMPERATURE (°F) (ASTM D1857)

2

3 REDUCING ATMOSPHERE

4	Initial Deformation	typ. 1950
5	Softening (H=W)	typ. 2100
6	Softening (H=1/2W)	typ. 2150
7	Fluid	typ. 2350

8

9 OXIDIZING ATMOSPHERE

10	Initial Deformation	typ. 2250
11	Softening (H=W)	typ. 2350
12	Softening (H=1/2W)	typ. 2400
13	Fluid	typ. 2450

14

15 * All the coal will be of such size that it will pass through a screen having circular
 16 perforations three (3) inches in diameter, but shall not contain more than fifty-five percent (55%)
 17 by weight of coal that will pass through a screen having circular perforations one-quarter (1/4) of
 18 an inch in diameter.

19 **The Base Acid Ratio (B/A) is herein defined as:

20 BASE ACID RATIO (B/A) =
$$\frac{(\text{Fe}_2\text{O}_3 + \text{CaO} + \text{MgO} + \text{Na}_2\text{O} + \text{K}_2\text{O})}{(\text{SiO}_2 + \text{Al}_2\text{O}_3 + \text{TiO}_2)}$$

21

22

23 ***The Fouling Factor (Rf) = (B/A) x (Percent Na2O by Weight (Dry))

24

25 ****The Slagging Factor (Rs) = (B/A) x (Percentage Sulfur by weight (Dry))

26

27 Note: As used herein: > means greater than;
 28 < means less than.

29

30 § 6.2 Definition of "Shipment". As used herein, a "Shipment" shall mean one (1) loaded
 31 barge.

32 § 6.3 Rejection. Buyer has the right, but not the obligation, to reject any Shipment which
 33 fail(s) to conform to the Rejection Limits set forth in § 6.1. Buyer must reject such coal within
 34 seventy-two (72) hours of Buyer's receipt of the coal analysis provided for in § 7.2 or such right

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1 to reject is waived. Notwithstanding the foregoing, Seller must provide a short proximate quality
2 analysis to Buyer prior to unloading any barge Shipment. Buyer has the further right, but not the
3 obligation, to reject at any time, any Shipment with respect to which any barge Shipment (i)
4 contains extraneous materials, which include, but are not limited to, slate, rock, wood, mining
5 materials, metal, steel, etc. (“Debris”) or (ii) cannot be transported through the generating station’s
6 material handling system as reasonably determined by Buyer.

7 In the event Buyer rejects a Shipment based upon Debris, or upon its determination that
8 such coal cannot be transported through the generating station’s material handling system, title to
9 and risk of loss with respect to the coal shall be considered to have never passed to Buyer and
10 Buyer may, at its sole option, stop any remaining barges which are in route, prevent the unloading
11 of such barge(s), return the coal to Seller, or mutually agree with Seller upon a disposition for such
12 barge(s) of coal, all at Seller’s cost and risk. For rejected barge Shipments, Seller shall be
13 responsible for all transportation costs associated with the rejected coal including, but not limited
14 to, return barging expense, demurrage, switching, clean-out, and storage charges associated with
15 rejected coal from the time of the original title transfer from Seller to Buyer.

16 In the event Buyer rejects a Shipment, replacement of the tonnage of the rejected coal shall
17 be at Buyer’s sole discretion. If Buyer elects not to receive replacement tonnage, the sum of the
18 Base Quantity for the year in which the rejected Shipment was to have been delivered shall be
19 reduced by the tonnage of the rejected Shipment. If Buyer elects to receive replacement tonnage,
20 such tonnage shall be considered Make-Up Tons pursuant to § 3.2 and
21 § 8.2.

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1 Whether or not Buyer rejects a Shipment of coal which is otherwise rejectable, such
2 rejectable Shipment shall be a rejectable Shipment for purposes of § 6.4 hereof. Buyer's failure
3 to reject, within the time periods set forth in this section, any Shipment of coal which is otherwise
4 rejectable shall not operate as a waiver of any right or remedy of Buyer with respect to such
5 Shipment other than the right to reject such Shipment.

6 With respect to an unloaded barge Shipment or Shipments which fail to meet the Rejection
7 Limits set forth in § 6.1, the parties recognize that segregation of such coal, or its removal from
8 the premises, is not possible; however, at Buyer's option, the parties shall confer for the purpose
9 of reaching agreement on an adjustment to the Base Price to be paid for such unloaded coal. In
10 addition, Seller shall reimburse Buyer for any penalties, costs or charges, including reasonable
11 attorney's fees, associated with or resulting from the use of the non-conforming Shipment. Buyer
12 shall provide Seller with a written calculation of any such penalties, costs or charges within thirty
13 (30) days after receipt of the coal analysis, or as soon as practicable thereafter. Seller shall make
14 payment to Buyer within thirty (30) days of receipt of the written calculation.

15 Any Shipment which is rejected because of Debris, or upon Buyer's determination that
16 such coal cannot be transported through the generating station's material handling system, shall
17 be considered a rejectable Shipment for purposes of § 6.4. Any Shipment which fails to meet the
18 Rejection Limits set forth in § 6.1 also shall be considered a rejectable Shipment for purposes of
19 § 6.4.

20 The remedies set forth herein are in addition to all of Buyer's other remedies under this
21 Agreement and under applicable law and in equity for Seller's breach.

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1 If Buyer fails to reject a Shipment of non-conforming coal which it had the right to reject
2 for failure to meet any or all of the Rejection Limits set forth in § 6.1 or because such Shipment
3 included a barge Shipment that contained Debris, or because Buyer determined that such coal
4 could not be transported through the generating station's material handling system, then such non-
5 conforming coal shall be deemed accepted by Buyer; and the quantity Seller is obligated to sell to
6 Buyer under the Agreement shall be reduced by the amount of each such non-conforming
7 Shipment which is not rejected. Further, for Shipments containing Debris, the estimated weight
8 of such Debris shall be deducted from the weight of that Shipment.

9 Seller acknowledges its part in reasonable and workmanlike quality control and as such,
10 Seller shall not take advantage of Buyer's good faith by delivering coal that is substantially above
11 or below, as applicable, the Guaranteed Monthly Weighted Averages and the per Shipment
12 Rejection Limits.

13 § 6.4 Suspension and Termination. If the ton-weighted monthly average of coal fails to
14 meet any two (2) or more of the individual Guaranteed Monthly-Weighted Average specifications
15 set forth in § 6.1 for any two (2) calendar months in any six (6) calendar month period, or if five
16 (5) Shipments are rejectable by reason of Debris, Buyer's determination that the coal could not be
17 transported through the generating station's material handling system, or failure to meet the
18 Rejection Limits specified in §6.1 in any consecutive thirty (30) day period, Buyer may upon
19 written notice delivered in accordance with § 12, Notices, suspend future Shipments, except those
20 Shipments which have already been loaded into barges prior to the time notice is received. Seller
21 shall, within ten (10) days after receipt of Buyer's notice, provide Buyer with reasonable
22 assurances that subsequent deliveries of coal shall not contain Debris, shall meet or exceed the

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1 Guaranteed Monthly Average set forth in § 6.1, and shall be able to be transported through the
2 generating station's material handling system, and that the coal from the Coal Property thereafter
3 will comply with all the Rejection Limits set forth in § 6.1. If Seller fails to provide such
4 assurances within said ten (10) day period, then Buyer, notwithstanding the notice and termination
5 provisions contained in § 14, may terminate this Agreement immediately and exercise all its other
6 rights and remedies under applicable law and in equity for Seller's breach. Buyer's failure to
7 terminate after the end of such ten (10) day period shall not constitute a waiver for a continuing
8 default or for any subsequent defaults. If Seller provides such assurances to Buyer's reasonable
9 satisfaction, Shipments hereunder shall resume, and any tonnage deficiencies resulting from
10 suspension may be made up at Buyer's sole option. Buyer shall not unreasonably withhold its
11 acceptance of Seller's assurances, or unreasonably delay resumption of Shipments. If Buyer elects
12 not to receive replacement tonnage, the sum of the Base Quantity for the year in which the rejected
13 Shipment was to have been delivered shall be reduced by the tonnage of the rejected Shipment. If
14 Buyer elects to receive replacement tonnage, such tonnage shall be considered Make-Up Tons
15 pursuant to §§ 3.2 and 8.2.

16 If Seller, after the resumption of Shipments, fails to meet any two (2) or more of the
17 individual Guaranteed Monthly-Weighted Average specifications for any two (2) calendar months
18 within the next one hundred eighty (180) days or if three (3) Shipments are rejectable within any
19 consecutive thirty (30) days during such one hundred eighty (180) day period, then Buyer,
20 notwithstanding the notice and termination provisions contained in § 14, may terminate
21 immediately this Agreement and exercise all its other rights and remedies under applicable law.

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1 The aforementioned one hundred eighty (180) day period shall commence on the date upon which
2 Shipments are resumed.

3 **SECTION 7. WEIGHTS, SAMPLING, AND ANALYSIS.**

4 § 7.1 Weights for Barge Delivery. The weight of the coal delivered shall be determined on
5 a per Shipment basis by Seller on the basis of truck scales located at Seller's Mine as loaded into
6 Buyer's or Buyer's contractor's barges, unless another method is mutually agreed upon by the
7 parties. In the event it is necessary for Seller to provide draft weights, such draft shall be duly
8 performed by an appropriate independent testing agency and performed in a workmanlike manner
9 pursuant to methodologies for obtaining such that the weights are deemed accurate and reliable so
10 as to be utilized for payment purposes in accordance with the terms and conditions of this
11 Agreement. If Seller shall utilize scales for the purpose of determining the weight of the coal
12 delivered pursuant to this Agreement, such scales shall be tested and shall comply with appropriate
13 standards for weighing as set out in the National Institute of Standards and Technology Handbook
14 44 for such scales, to ensure accuracy and reliability. Buyer shall have the right, at its expense and
15 upon reasonable notice, to have the draft process or scales checked for accuracy at any reasonable
16 time or frequency. If the draft process or such scales are found to be over or under the tolerance
17 range allowable for the draft process or the scale based on the National Institute of Standards and
18 Technology Handbook 44, either party shall pay to the other any amounts owed due to such
19 inaccuracy to reflect the difference between the tolerance range and the variance above or below
20 the tolerance range, as the case may be, for a period not to exceed thirty (30) days or the time
21 between tests, whichever is shorter. Seller shall, upon request from Buyer, provide Buyer with

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1 adequate and reasonable data or certifications completed by an independent third party indicating
2 such scales are operational and performing at a level appropriate for payment purposes.

3 § 7.2 Sampling and Analysis. The sampling and analysis of the coal delivered hereunder
4 shall be performed by Seller for barge Shipments and the results thereof shall be accepted and used
5 for the quality and characteristics of the coal delivered under this Agreement unless another
6 method is mutually agreed upon by the parties. The party obtaining the sample shall provide
7 analyses from its or its contractor's laboratory to the other party at its expense in accordance with
8 industry-accepted standards. The party obtaining the analysis shall provide such to the other party
9 via an electronic or facsimile copy or copies of all analyses within two (2) days of completion,
10 provided, however, that Seller shall provide Buyer a short proximate analysis for barge delivered
11 coal prior to the coal being unloaded from the barge at the applicable generating station.

12 Samples for analyses shall be made in Seller's or Seller's contractor's laboratory at Seller's
13 expense in accordance with American Society of Testing and Measurement (hereinafter referred
14 to as "A.S.T.M.:" D2234, and : (i) shall be taken by the most current industry-accepted standard;
15 (ii) shall be mutually acceptable to both parties; (iii) may be composited; and (iv) shall be taken
16 with a frequency and regularity sufficient to provide reasonably accurate representative samples
17 of the deliveries made hereunder. Seller and Buyer acknowledge that they are familiar with the
18 sampling and analysis practices to be utilized hereunder, and confirm that they are acceptable,
19 provided, however, that either party shall, upon reasonable notice to the other, have the right to
20 have a representative present to observe the sampling and analyses performed. If a party initiates
21 a change in its sampling or analysis, such party shall notify the other party promptly in writing of
22 any significant changes in such practices. Any such changes in sampling and analysis practices

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1 shall, except for industry accepted changes in practices, provide for no less accuracy than the
2 sampling and analysis practices existing at the time of the execution of this Agreement, unless the
3 parties otherwise mutually agree.

4 Each sample taken shall be divided into four (4) parts and put into airtight containers,
5 properly labeled and sealed. One part shall be used for analysis; one part shall be used as a check
6 sample, if a party in its sole judgment determines it is necessary; one part shall be retained until
7 the twenty-fifth (25th) of the month following the month of unloading (the "Disposal Date") and
8 shall be delivered to a requesting party for analysis if so requested before the Disposal Date; and
9 one part ("Referee Sample") shall be retained until the Disposal Date.

10 Seller shall provide to Buyer the analysis for each Shipment by the tenth (10th) day of the
11 month following the month of unloading. Thereafter, unless a party requests a Referee Sample
12 analysis before the Disposal Date, the analyses of the party obtaining the sample and analysis shall
13 be used to determine the quality of the coal delivered hereunder. The Monthly Weighted Averages
14 shall be determined by utilizing the individual Shipment analyses and the weight of each Shipment.

15 If any dispute arises before the Disposal Date, the retained Referee Sample shall be
16 submitted for analysis to an independent commercial testing laboratory ("Independent Lab")
17 mutually chosen by Buyer and Seller. For each coal quality specification in question, a dispute
18 shall be deemed not to exist and the party obtaining the sample and analysis shall prevail and the
19 analysis of the Independent Lab shall be disregarded, if the analysis of the Independent Lab differs
20 from the party obtaining the analysis by an amount equal to or less than:

- 21 (i) 0.50% moisture
- 22 (ii) 0.50% ash on a dry basis
- 23 (iii) 100 Btu/lb. on a dry basis

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1 (iv) 0.10% sulfur on a dry basis.

2

3 For each coal quality specification in question, if the analysis of the Independent Lab
4 differs from party obtaining the sample and analysis by an amount more than the amounts listed
5 above, then the analysis of the Independent Lab shall prevail and the analysis of the party obtaining
6 the sample and analysis shall be disregarded. The cost of the analysis made by the Independent
7 Lab shall be borne by the non-requesting party to the extent that the Independent Lab’s analysis
8 prevails and by the requesting party to the extent that the party obtaining the sample’s analysis
9 prevails.

10 **SECTION 8. PRICE.**

11 § 8.1 Base Price. The base price of the coal to be sold and delivered hereunder shall be
12 computed on the basis of \$/MMBTU F.O.B. Barge Delivery Point, and shall be firm for each year
13 as set forth below (the “Base Price”), except that the Base Price for Make-Up Tons shall be
14 determined as set forth in §8.2:

15	<u>YEAR</u>	<u>BASE PRICE F.O.B. BARGE DELIVERY POINT (\$/MMBTU)</u>
16	2025	\$1.7969
17	2026	\$1.8862
18	2027	\$1.9420
19	2028	\$2.0201
20	2029	\$2.0759

21

22 § 8.2 Make-Up Tons Pricing. Notwithstanding the foregoing, the Base Price for any Make-
23 Up Tons (as defined in § 3.2 herein) shall be based on the Base Price for the calendar year in which
24 such Make-Up Tons should have been delivered and not the Base Price in the Make-Up Year (as
25 defined in § 3.2 herein).

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1 § 8.3 Price Adjustments for Changes in Governmental Impositions. The above Base Price
2 includes all Impositions in effect as of the Effective Date of this Agreement. The Base Price shall
3 be subject to adjustment pursuant to this § 8.3 only in the event that the requesting party can clearly
4 demonstrate that: (a) new, industry-wide federal or state statutes, regulations, or other
5 governmental impositions affecting the industry and the coal to be supplied hereunder or the
6 production thereof, including but not limited to tax increases or decreases (other than taxes
7 measured by income), or (b) amendments, modifications, or changes to the text, interpretation,
8 application, or enforcement (excluding changes in frequency, rigor, or thoroughness of
9 enforcement) of any existing generally-applicable federal or state statutes, regulations, or other
10 governmental impositions that occur after the Effective Date (all such requirements described in
11 clauses (a) and (b), collectively a “Requirement”), causes Seller’s direct cost of providing coal to
12 Buyer under this Agreement to increase or decrease (generally an “Imposition”). The \$0.60/ton
13 Black Lung Tax, whether pursuant to extension of current legislation or new passage of such
14 legislation, shall not constitute a governmental imposition per this § 8.3, except to the extent the
15 Black Lung tax for any year is above \$.60/ton or below \$.60/ton. The parties acknowledge that
16 although an Imposition may not be imposed on a per ton basis, Seller shall allocate such direct
17 costs in this manner. In the event a Party desires to obtain a price adjustment based on an
18 Imposition, the affected party shall promptly notify the other party in writing of the Requirement
19 or potential Requirement, setting forth the Requirement, the specific legal basis for the Imposition,
20 the anticipated or actual financial impact of the Imposition, and the anticipated or actual effective
21 date. Either Buyer or Seller may request a Base Price adjustment, which shall be comprised of no
22 more than the actual costs directly associated with the effect of such changes on the cost of

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1 producing the coal to be supplied hereunder. Additionally, an Imposition adjustment shall only be
2 made hereunder if the price adjustment is allocated proportionately among all coal that is produced
3 by Seller, including all coal that is produced from the Coal Property, so that Buyer is allocated
4 only its proportionate share of such Imposition, and the Base Price shall likewise be decreased for
5 any savings resulting from any Requirement or Imposition allocated on such proportionate basis.
6 Notwithstanding the above, there shall be no price adjustment based on the reauthorization of a
7 law, regulation, tax, or other Requirement, or if a law, regulation, tax, or other Requirement is
8 replaced with a similar Requirement, except to the extent of Buyer's proportional share of the net
9 effect on Seller's cost of producing coal to be supplied hereunder, compared to the similar
10 Requirement in effect or applicable at the time this Agreement is executed.

11 There shall be no change to the Base Price based on reductions in, or loss of production or
12 production capacity as a result of an Imposition. By way of example, and not of limitation, an
13 Imposition that requires the purchase of special or additional equipment shall be prorated over the
14 number of years of useful life of the equipment and over the total tons in any year during the useful
15 life of the equipment. In such a case, the change in the Base Price would not exceed the per-ton
16 prorated cost of the equipment.

17 After Seller has determined the actual, direct cost impact of any Imposition, Seller shall
18 notify Buyer in writing of the amount and effective date of any claimed adjustment to the Base
19 Price as a result of one or more Impositions and shall furnish Buyer with the specific legal basis
20 for the Imposition, and accurate and detailed computations and data necessary to substantiate the
21 claimed adjustment. Buyer shall have the right to inspect all books and records of Seller relevant
22 to the claimed adjustment. Buyer shall notify Seller of any disagreement Buyer has with the

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1 claimed adjustment within a reasonable time after receipt of such notice and computations, taking
2 into account any audits or requests for additional information by Buyer. It is Seller's fiduciary
3 obligation to ensure that Imposition decreases are given to Buyer.

4 If the amount of the actual or anticipated Impositions claimed in any particular calendar
5 year exceeds seventy-five (\$0.75) per ton on a cumulative basis for such calendar year, Buyer may
6 terminate this Agreement upon not less than thirty (30) days written notice to Seller. Upon receipt
7 of such written notice, Seller may elect, by forwarding written notice to Buyer within ten (10) days
8 after receiving Buyer's notice of termination, to reduce the Imposition(s), or to withdraw the
9 Imposition(s) for the particular calendar year. In the event Seller makes an election to withdraw
10 the Imposition(s) and provides written notice of such withdrawal, then this Agreement shall
11 continue in full force and effect. In the event Seller elects to reduce the amount of the
12 Imposition(s), Buyer shall have ten (10) days to accept such reduced Imposition(s) by written
13 notice or to provide notice of termination based on rejection of the final Imposition(s).

14 § 8.4 Payment Calculation. Payment shall be based solely upon the tonnage and BTU/lb.
15 received pursuant to the terms of Section 6. QUALITY, Section 7. WEIGHTS, SAMPLING
16 AND ANALYSIS, and this Section 8 PRICE. If there are any adjustments pursuant to Section
17 6. QUALITY, such adjustments shall apply as a credit or debit, as applicable, to amounts owed
18 Seller by Buyer for the month the coal was unloaded.

19 **SECTION 9. INVOICES, BILLING, AND PAYMENT.**

20 § 9.1 Invoicing Address. Invoices will be sent to Buyer at the following address:

21 Big Rivers Electric Corporation
22 710 W 2nd Street (physical address 42301)
23 P.O. Box 20015

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1 Owensboro, Kentucky 42304
2 Attn.: Fuels Accounting
3 Phone: 270-844-6160
4 Email: katie.risley@bigrivers.com
5
6

7 Payment inquiries to:
8
9 Knight Hawk Coal, LLC
10 Accounts Receivable Department
11 500 Cutler-Trico Road
12 Percy, Illinois 62272
13 Phone: 855-611-2625
14 Facsimile: 618-426-1155
15 Email: andrewcarter@knighthawkcoal.com
16

17 § 9.2 Payment Procedures for Coal Shipments. For all Barge Delivery Point coal delivered
18 and unloaded from barges at the destination generating station between the first (1st) day of the
19 calendar month and the fifteenth (15th) day of the calendar month, Seller shall invoice Buyer by
20 the 20th of the month, based upon the Base Price as calculated by the as-received weighted-average
21 BTU/lb. analysis from the 1st day of the month through the 15th day of the month. Buyer shall
22 make partial payment for the amount owed for the Barge Delivery Point coal based on the as-
23 received BTU/lb. analysis through the fifteenth (15th) day of the month by the twenty-fifth (25th)
24 day of the month, except that, if the twenty-fifth (25th) day of the month is not a regular work day,
25 payment shall be made on the next regular work day.

26 For all Barge Delivery Point coal delivered and unloaded at the destination generating
27 station between the sixteenth (16th) day of the calendar month and the last day of any calendar
28 month, Seller shall invoice Buyer by the fifth (5th) day of the following month, based upon the
29 Base Price as calculated by the as-received weighted-average BTU/lb. analysis from the sixteenth
30 (16th) day of the month through the end of the calendar month. Buyer shall make a payment for

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1 the amount owed for Barge Delivery Point coal by the tenth (10th) day of the month following the
2 month of delivery and unloading at the destination generating station, except that, if the tenth (10th)
3 day of the month is not a regular work day, payment shall be made on the next regular work day.
4 Also, by the tenth (10th) day of the month following the month of delivery and unloading barges
5 at the destination generating station, a reconciliation of amounts paid via partial payment and
6 amounts owed for all Barge Delivery Point coal delivered and unloaded at the destination
7 generating station during said month shall be made including any applicable discounts or other
8 adjustments provided herein, except that, if the tenth (10th) day of the month is not a regular work
9 day, payment shall be made on the next regular work day. Seller shall provide Buyer its banking
10 wire transfer information and shall provide any notice of change in a timely fashion.

11 § 9.3 Withholding. Buyer shall have the right to withhold from payment of any billing or
12 billings (i) any sums which it is not able in good faith to verify or which it otherwise in good faith
13 disputes, (ii) any damages resulting from any breach of this Agreement by Seller; and (iii) any
14 amounts owed to Buyer from Seller pursuant to this Agreement. Buyer shall notify Seller promptly
15 in writing of any such issue, stating the basis of its claim and the amount it intends to withhold. In
16 the event Seller does not agree with any withholding, it shall immediately provide notice to Buyer
17 of such disagreement and provide documentation in support thereof. If the disputed amount
18 exceeds \$250,000, either party shall have the right to suspend shipments upon notice to the other
19 party until such time as the dispute is resolved and settlement of withholding occurs. In the event
20 of such a suspension of shipments due to a withholding, the parties' senior executives shall
21 schedule a meeting to attempt to resolve any withholding dispute within thirty (30) days of the
22 notice. In the event the senior executives cannot reach a resolution, the parties shall seek a

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1 mediator, approved by both parties, to resolve such disputed withholding amount. Time is of the
2 essence in regard to such meeting schedule and resolution of dispute.

3 Payment by Buyer, whether knowing or inadvertent, of any amount in dispute shall not be
4 deemed a waiver of any claims or rights by Buyer with respect to any disputed amounts or
5 payments made. Any disputed amounts withheld by Buyer that are later found to have been
6 withheld improperly, other than disputed amounts resulting from Seller's errors or lack of
7 documentation, shall be paid within five (5) business days after such determination. In the event
8 Buyer has not made such payment within five (5) business days, such unpaid amount shall be
9 subject to interest at four percent (4.0%) per annum based from the sixth (6) business day until
10 such time as the payment is made in full to Seller.

11 **SECTION 10. FORCE MAJEURE.**

12 § 10.1 General Force Majeure Except as otherwise provided herein, if either party hereto
13 is delayed in or prevented from performing any of its obligations under this Agreement due to acts
14 of God, war, riots, civil insurrection, acts of the public enemy, terrorism, nuclear disasters, strikes,
15 lockouts, damage to mines or plants, breakdown of equipment or facilities, fires, explosions,
16 floods, earthquakes, damage to or destruction of a mine or preparation plant, or roof falls, roof and
17 floor intrusions, geologic pressure which traps equipment, underground flooding, or other
18 unanticipated geologic conditions which could not have been discovered by the exercise of
19 reasonable engineering prudence, then the obligations of both parties hereto shall be suspended to
20 the extent made necessary by such event; provided that the affected party gives prompt oral notice
21 to the other party followed by written notification not later than ten (10) days after such
22 commencement or occurrence. The written notification for force majeure events shall also describe

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1 the nature and probable duration of the force majeure event. Failure to give either of such notices,
2 or the failure to furnish in the written notice information concerning the nature and probable
3 duration of the force majeure event, shall be deemed a waiver of the affected party's rights under
4 this Section 10. The party declaring a force majeure event shall exercise due diligence to avoid
5 the force majeure event and shorten its duration and will keep the other party advised as to the
6 continuance of the force majeure event. In the event of force majeure, delivery of the affected
7 quantity of coal shall be made up at the sole discretion of the non-declaring party based upon a
8 reasonable delivery schedule. If the non-declaring party elects not to deliver or receive
9 replacement tonnage, the sum of the Base Quantity for the year(s) in which a force majeure occurs
10 shall be reduced by the tonnage deficiencies resulting from the force majeure. If the non-declaring
11 party elects to deliver or receive replacement tonnage, such tonnage shall be considered Make-Up
12 Tons pursuant to §§ 3.2 and 8.2.

13 Buyer reserves the right to purchase replacement coal from other sources during the
14 occurrence of a force majeure event affecting Seller. Seller shall have the right to sell coal which
15 Buyer is unable to accept during an occurrence of force majeure event affecting Buyer.

16 In the event that a situation of force majeure continues for a period exceeding forty-five
17 (45) days, then the party not claiming force majeure may elect to terminate this Agreement by
18 giving written notice to the other party. In the event of such termination, neither party shall have
19 any further liability to the other except for those obligations or liabilities which may have accrued
20 with respect to performance or defaults prior to said termination.

21 §10.2 Environmental Law Force Majeure. If a party concludes that any new
22 environmental law is enacted or new rule or regulation is promulgated (including without

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1 limitation, an amendment to or a new interpretation of an existing law, rule, or regulation) after
 2 the Effective Date of this Agreement which becomes effective during the Term of this Agreement,
 3 which makes it impossible or commercially impracticable for Seller to deliver or Buyer to utilize
 4 this or like kind and quality coal which thereafter would be delivered under this Agreement, such
 5 party shall so notify the other party. Thereupon, Buyer and Seller shall promptly consider whether
 6 corrective actions can be taken in the mining and preparation of the coal at Seller’s mine and/or in
 7 the handling and utilization of the coal at Buyer’s generating station. If in Buyer’s sole judgment
 8 any such actions will not, without unreasonable expense to Buyer, make it possible or
 9 commercially practicable for Buyer to use the coal which would be delivered hereunder without
 10 violating any applicable law, regulation, policy or order, Buyer shall have the right, upon the later
 11 of sixty (60) days’ notice to Seller or the effective date of such restriction, to terminate this
 12 Agreement without further obligation hereunder on the part of either party except for obligations
 13 incurred prior to the time of such termination.

14 If, in Seller’s sole judgment, any such actions will not, without unreasonable expense to
 15 Seller, make it possible or commercially practicable for Seller to produce and deliver the coal
 16 which would otherwise be delivered hereunder without violating any applicable law, regulation,
 17 policy, or order, Seller shall have the right, upon the later of sixty (60) days’ notice to Buyer or the
 18 effective date of such restriction, to terminate this Agreement without further obligation hereunder
 19 on the part of either party except for obligations incurred prior to the time of such termination.

20 **SECTION 11. IDLE NOTICE.** In the event that Buyer intends to idle any generating
 21 units or stations utilized by it within its system, Buyer shall provide six-months written notice of
 22 such event (the “Idle Notice”) to Seller to include the date of such actual or planned idling (the

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1 “Idle Date”). After the Idle Date provided to Seller, Buyer shall have no other further obligation
2 to accept delivery of any remaining Quantity under this Agreement, except for Shipments
3 scheduled up to the Idle Date. Buyer may terminate this Agreement following the Idle Date as
4 provided herein without any further liability other than that which has accrued pursuant to the
5 Agreement prior to the Idle Date, including, without limitation, such payments, fees, costs,
6 expenses, and other charges that are outstanding or that accrue for deliveries prior to the Idle Date.

7 **SECTION 12. NOTICES.**

8 § 12.1 Form and Place of Notice. Any official notice, request for approval or other
9 document required or permitted to be given under this Agreement shall be in writing, unless
10 otherwise provided herein, and shall be deemed to have been sufficiently given when delivered in
11 person, transmitted by facsimile or other electronic media, delivered to an established mail service
12 for same day or overnight delivery, or dispatched in the United States mail, postage prepaid, for
13 mailing by first class, certified, or registered mail, return receipt requested, and addressed as
14 follows:

15 If to Buyer: Big Rivers Electric Corporation
16 710 W 2nd Street (physical zip code 42301)
17 P.O. Box 20015
18 Owensboro, Kentucky 42304
19 Attn: Don Gulley, President and CEO
20 Phone: (270) 844-6101
21 Email: don.gulley@bigrivers.com

22
23 With a copy to: Big Rivers Electric Corporation
24 710 W 2nd Street (physical zip code 42301)
25 P.O. Box 20015
26 Owensboro, Kentucky 42304
27 Attn: Vicky Payne, Manager Fuels Procurement
28 Phone: (270) 844-6119
29 Email: vicky.payne@bigrivers.com

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1
2 If to Seller: Knight Hawk Coal, LLC
3 Attn: Andrew Carter
4 Vice President-Marketing
5 500 Cutler-Trico Road
6 Percy, Illinois 62272
7 Phone: (855) 611-2625
8 Fax: (618) 426-1155
9 Email: andrewcarter@knighthawkcoal.com
10
11

12 § 12.2 Change of Person or Address. Any party may change the persons or addresses
13 specified above upon giving written notice to the other party of such change.

14 § 12.3 Electronic Data Transmittal. Seller hereby agrees, at Seller's cost, to electronically
15 transmit shipping notices and/or other data to Buyer in a format acceptable to and established by
16 Buyer upon Buyer's request. Buyer shall provide Seller with the reasonable appropriate format
17 and will inform Seller as to the electronic data transmission requirements at the appropriate time.

18 **SECTION 13. INDEMNITY AND INSURANCE.**

19 § 13.1 Indemnity. Seller agrees to indemnify and save harmless Buyer, its officers,
20 directors, employees, and representatives from any responsibility and liability for any and all
21 claims, demands, costs, charges, losses, or legal actions for personal injuries, including death and
22 property damage or pollution (including reasonable outside attorney's fees), but not including
23 Buyer's losses resulting from its indemnification obligations hereunder ("Buyer's Losses"): (i) due
24 to any failure of Seller or its affiliates, or any owner or operator of the Coal Property, their
25 respective employees, agents, representatives, contractors or subcontractors, to comply with any
26 laws, regulations, or ordinances, relative to Seller's performance of this Agreement, or (ii) due to
27 the acts or omissions of Seller or its affiliates, or any owner or operator of the Coal Property, their

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1 respective employees, agents, representatives, contractors, or subcontractors in relation to the
2 performance of this Agreement. Notwithstanding the foregoing, Seller shall not be liable or have
3 any obligation to indemnify Buyer for Buyer's Losses arising out of or resulting from Buyer's
4 negligence, willful misconduct or breach of this Agreement.

5 Buyer agrees to indemnify and save harmless Seller, its officers, directors,
6 employees and representatives from any responsibility and liability for any and all claims,
7 demands, losses, or legal actions for personal injuries, including death and property damage
8 (including reasonable outside attorney's fees), but not including Seller's losses resulting from its
9 indemnification obligations hereunder ("Seller's Losses"): (i) due to any failure of Buyer, its
10 employees, agents, representatives, contractors, or subcontractors, to comply with any laws,
11 regulations, or ordinances, relative to Buyer's performance of this Agreement, or (ii) due to the
12 acts or omissions of Buyer in relation to the performance of this Agreement. Notwithstanding the
13 foregoing, Buyer shall not be liable or have any obligation to indemnify Seller for Seller's Losses
14 arising out of or resulting from Seller's negligence, willful misconduct or breach of this
15 Agreement.

16 § 13.2 Insurance. Seller agrees to carry insurance coverage with minimum limits as
17 follows. Further, Seller shall require that any owner or operator of the Coal Property procure and
18 maintain insurance coverage of the type set forth below with coverage limits not less than the limits
19 set forth below.

20 (a) Commercial General Liability, including Completed Operations and Contractual
21 Liability, \$2,000,000 single limit liability.

22 (b) Automobile General Liability, \$2,000,000 single limit liability.

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1 (c) In addition, Seller shall carry excess liability insurance covering the foregoing perils
2 in the amount of \$4,000,000 for any one occurrence.

3 (d) Workers' Compensation and Employer's Liability with statutory limits.

4 If any of the above policies are written on a claims-made basis, then the retroactive date of
5 the policy or policies will be no later than the Effective Date of this Agreement. Within fifteen
6 days after the execution of this Agreement, Certificates of Insurance satisfactory in form to Buyer
7 and signed by Seller's insurer shall be supplied by Seller to Buyer evidencing that the above
8 insurance is in force and that not less than sixty (60) calendar days' written notice will be given to
9 Buyer prior to any cancellation or material reduction in coverage under the policies. Seller shall
10 cause its insurer to waive all subrogation rights against Buyer respecting all losses or claims arising
11 from performance hereunder. Evidence of such waiver satisfactory in form and substance to Buyer
12 shall be exhibited in the Certificate of Insurance mentioned above. Seller's liability shall not be
13 limited to its insurance coverage.

14 **SECTION 14. TERMINATION FOR DEFAULT.**

15 If either party hereto commits a material breach of any of its obligations under this
16 Agreement at any time, including, but not limited to, a breach of a representation or warranty set
17 forth herein, then the other party may give written notice describing such breach ("Notice of
18 Default"). If such material breach is not curable or the defaulting party fails to cure such material
19 breach within thirty (30) days following receipt of the Notice of Default then, at the option of the
20 non-defaulting party, this Agreement shall terminate in addition to all the other rights and remedies
21 available to the non-defaulting party under this Agreement and at law and in equity.
22 Notwithstanding the foregoing, Buyer may terminate this Agreement pursuant to the provisions of

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1 § 6.4 and if Buyer elects to terminate this Agreement pursuant to the provisions of § 6.4, Buyer
2 shall not be required to comply with the provisions of this Section 14.

3 **SECTION 15. TAXES, DUTIES, AND FEES.**

4 Seller shall pay when due, and the price set forth in Section 8 of this Agreement shall be
5 inclusive of, all taxes, duties, fees, royalties and other assessments of whatever nature imposed by
6 governmental authorities relating to the mining, beneficiation, production, sale, loading, and
7 delivery of coal to Buyer or in any way accrued or levied at or prior to the transfer of title to the
8 coal to Buyer, and including, without limitation, all severance taxes, royalties, black lung fees,
9 reclamation fees, and other costs, charges, and liabilities. Buyer shall be solely responsible for all
10 taxes, duties, fees, and other assessments relating to the coal accrued or levied after the transfer of
11 title to the coal to Buyer with respect to the transactions contemplated under this Agreement.

12 **SECTION 16. DOCUMENTATION AND RIGHT OF AUDIT.**

13 Buyer and Seller shall maintain all records and accounts pertaining to payments, quantities,
14 quality analyses, and source for all coal supplied under this Agreement for a period lasting through
15 the Term of this Agreement and for two (2) years thereafter. Buyer and Seller and/or their
16 designated representatives (including, but not limited to its agents, auditors, consultants, and
17 engineers), upon reasonable advance notice and during normal working hours, shall be granted by
18 the other Party access to and shall be permitted to inspect (i) the mine or mines producing coal for
19 delivery under this Agreement, (ii) all support facilities (including, but not limited to coal washing
20 facilities, preparation plants, and load-out facilities), (iii) records directly related to the production,
21 weighing, or delivery of coal under this Agreement, and (iv) the generating stations receiving coal
22 under this Agreement. Such audit shall be at no additional expense to the requesting party for

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1 reasonable requests to audit, copy and inspect such records and accounts at any reasonable time
2 upon reasonable notice during the Term of this Agreement and for two (2) years thereafter. The
3 requesting party shall be responsible for all costs associated with its designated representative's
4 travel.

5 **SECTION 17. COAL PROPERTY AND DELIVERY POINT INSPECTIONS.**

6 Buyer and Seller, and their representatives, shall have the right upon reasonable advance
7 notice, but not the obligation, at all reasonable times and at their own risk and expense to inspect
8 the Coal Property, Delivery Points, and generation station(s) to which coal sold hereunder is
9 delivered, including the loading and unloading facilities, scales, sampling system(s), wash plant
10 facilities, and mining equipment for conformance with this Agreement. Seller and Buyer shall
11 undertake reasonable care and precautions to prevent personal injuries to any representatives,
12 agents, or employees of either party (collectively, "Visitors") who inspect the Coal Property or
13 Delivery Points and/or generation station(s). Any such Visitors shall make every reasonable effort
14 to comply with Seller's or Buyer's regulations and rules regarding conduct on the work site, made
15 known to Visitors prior to entry, as well as safety measures mandated by state or federal rules,
16 regulations, and laws. Buyer and Seller understand that coal mines, generating stations, and related
17 facilities are inherently high-risk environments.

18 **SECTION 18. MISCELLANEOUS.**

19 § 18.1 Applicable Law. This Agreement shall be construed in accordance with the laws of
20 the Commonwealth of Kentucky, and all questions of performance of obligations hereunder shall
21 be determined in accordance with such laws, without regard to choice of law principles. The

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1 parties agree that all actions will be brought in the Commonwealth of Kentucky, and the parties
2 hereby waive any objections to venue for any such action.

3 § 18.2 Headings. The paragraph headings appearing in this Agreement are for convenience
4 only and shall not affect the meaning or interpretation of this Agreement.

5 § 18.3 Waiver. The failure of either party to insist on strict performance of any provision
6 of this Agreement, or to take advantage of any rights hereunder, shall not be construed as a waiver
7 of such provision or right.

8 § 18.4 Remedies Cumulative. Except for those remedies identified under this Agreement
9 as exclusive remedies, any other remedies provided under this Agreement shall be cumulative and
10 in addition to other remedies provided under this Agreement or by law or in equity, except that
11 neither party shall in any event be liable for lost profits, or any exemplary or punitive damages, on
12 account of any alleged default, breach of contract, negligence, or other act pursuant to this
13 Agreement.

14 § 18.5 Severability. If any provision of this Agreement is found contrary to law or
15 unenforceable by any court of law, the remaining provisions shall be severable and enforceable in
16 accordance with their terms, unless such unlawful or unenforceable provision is material to the
17 transactions contemplated hereby, in which case the parties shall negotiate in good faith a
18 substitute provision.

19 § 18.6 Binding Effect. This Agreement shall bind and inure to the benefit of the parties
20 and their successors and assigns.

21 § 18.7 Assignment. Neither party may assign this Agreement or any rights or obligations
22 hereunder without the prior written consent of the other party. Notwithstanding the foregoing

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1 either party may, without need of consent of the other party (and without relieving itself from
2 liability hereunder), (a) transfer, sell, pledge, encumber or assign this Agreement or the accounts,
3 revenues or proceeds hereof in connection with any financing or other financial arrangements; (b)
4 transfer or assign this Agreement to an Affiliate to such party; or (c) transfer or assign this
5 Agreement to any person or entity succeeding to all or substantially all of the assets of such party
6 by way of merger or reorganization; provided, however, that in each such case any such assignee
7 shall agree in writing to be bound by the terms and conditions hereof and that no such assignment
8 shall in any way relieve the assignor from liability or full performance under this Agreement.
9 “Affiliate” means, with respect to any person, any other person (other than an individual) that,
10 directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under
11 common control with, such person. For this purpose, “control” means the direct or indirect
12 ownership of 50% or more of the outstanding capital stock or other equity interests having ordinary
13 voting power. Any attempt to assign this Agreement other than with the required consent
14 hereunder shall be null and void.

15 § 18.8 Entire Agreement. This Agreement contains the entire agreement between the
16 parties as to the subject matter hereof, and there are no representations, understandings, or
17 agreements, oral or written, which are not included herein.

18 § 18.9 Amendments. Except as otherwise provided herein, this Agreement may not be
19 amended, supplemented or otherwise modified except by written instrument signed by both parties
20 hereto.

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1 § 18.10 Brokers. Seller hereby indemnifies and holds Buyer harmless from all losses,
2 costs, demands, and expenses Buyer may incur in connection with claims made against Buyer by
3 any brokers who have been engaged by Seller with respect to this Agreement.

4 § 18.10 Counterparts. This Coal Supply Agreement may be executed and conveyed to the
5 other party by electronic means in any number of counterparts, each executed counterpart
6 constituting as an original, but altogether only one Coal Supply Agreement.

7 **SECTION 19. CONFIDENTIALITY**

8
9 Seller and Buyer agree to maintain in strict confidence the terms and conditions of this
10 Agreement and any information or data relating hereto exchanged or obtained by the parties during
11 negotiation and performance of this Agreement. Neither Buyer nor Seller shall disclose any of the
12 terms and conditions hereof to any third party (except (i) to affiliates of Seller or Buyer or (ii) to
13 Buyer's or Seller's lenders, legal counsel, accountants, or consultants (such external service
14 providers shall be bound by confidentiality statements of a similar nature as this Agreement and
15 notice of same shall be provided to the other party) without the prior written consent of the other
16 party, except where such disclosure may be required by law or in connection with judicial or
17 administrative proceedings before courts, regulatory bodies, or agencies such as the Kentucky
18 Public Service Commission. The obligations of Buyer and Seller arising under this Confidentiality
19 section shall continue for a period of three (3) years following termination or expiration of this
20 Agreement.

21 **SECTION 20. ETHICAL DEALING**

22 Each party represents and warrants that it has not given or received and shall not give or
23 receive any commission, payment, kickback, secret rebate or other thing of value to or from any

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1 employee or agent of the other party or to any supplier of services in connection with this
2 Agreement. Each party acknowledges that the giving or receiving of any such commission,
3 payment, kickback, secret rebate or other thing of value constitutes a breach of ethical standards,
4 is potentially violative of applicable law and may result in immediate termination of this and other
5 outstanding agreements between the parties.

6 IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed
7 as of the date first above written.

8
9 **BIG RIVERS ELECTRIC CORPORATION**

KNIGHT HAWK COAL, LLC

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By:  Signed by:
Don Gulley
718718E0F969452...

By: 

Title: President and Chief Executive Officer

Title: VP Marketing

Date: 8/27/2024

Date: 8/27/2024