



Consolidation Coal Company
46226 National Road
St. Clairsville, OH 43950
Attn: Director of Coal Sales Administration

September 7, 2017

Re: Coal Purchase and Sale Agreement No. 07-77-05-900 dated January 6, 2006 by and between Kentucky Power Company (assignee for the KPC Tonnage Obligation from AEP Generation Resources Inc.) ("Buyer") and Consolidation Coal Company and McElroy Coal Company (collectively, "Seller")

Amendment No. 2017-3

Gentlemen:

Reference is made to the above-captioned Coal Purchase and Sale Agreement, as amended (the "Agreement"), under which Seller is supplying coal to Buyer.

Effective June 30, 2017, Buyer and Seller hereby agree to amend the Agreement as follows as to the KPC Tonnage Obligation:

1.) In the **Definitions**, the following definitions shall be deleted and replaced as follows:

"Annual RFR Obligation" shall have the meaning set forth in Article V, Section 5.2 (c)(i).

"Designated Delivery Point" means FOB the location at which the Coal is transferred onto Buyer's beltline from Seller's Marshall County Mine ("Marshall") at Buyer's Mitchell Plant and/or FOB barge at the barge loading facility described on Schedule 3.1-B.

"Northern Appalachian Coal" means all bituminous coal mined in the states of Ohio, Maryland, Western Pennsylvania and Northern West Virginia available to Buyer for delivery FOB Barge to Buyer's Plant at the time Buyer notifies Seller, pursuant to Section 5.2(c)(ii) and Section 5.3 of this Agreement, of Buyer's receipt of an offer to enter into a new agreement to supply such coal.

"Plant" means the Mitchell Plant owned or operated by Buyer.

2.) In the **Definitions**, the following definition is stated as follows:

"Incremental NAPP RFR Obligation" shall have the meaning set forth in Article V, Section 5.3.

3.) In Article I, Term and Delivery Period, the two references to "December 31, 2021" are deleted and replaced with "December 31, 2022".

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4.) In Article II, Obligations and Deliveries, the Article is deleted and restated as follows:

“ARTICLE II
Obligations and Deliveries”

Section 2.1. Contract Quantity. During the Delivery Period, and subject to Article V herein, Seller agrees to sell and deliver to the Buyer and Buyer agrees to purchase and accept from Seller, at the Designated Delivery Point, the quantity of Coal set forth herein and any additional quantity of Coal to be delivered during the applicable Contract Year pursuant to Section 2.5(e) and Article XII (the “Contract Quantity”).

Table 2.1

Contract Year	McElroy Tons Per Year ^(A)
2016	1,554,314
2017	1,726,421 ^(B)
2018	1,333,000 ^(C)
2019	1,000,000
2020	1,000,000
2021	1,000,000
2022	1,000,000

Table 2.1 Associated Footnotes:

- (A) Beginning in Contract Year 2017, Buyer shall be subject to the Incremental NAPP RFR Obligation, as set forth in Article V, Section 5.3.
- (B) During the 2016 Negotiation Period for Segment Pricing Periods 2017 through 2019, Buyer and Seller did not reach agreement on Segment A pricing for Contract Year 2017, therefore the annual Contract Quantity Tons for 2017 has been reduced by 667,000 Tons, and such Tons are subject to Section 5.2(c) and the Annual RFR Obligation. In addition, of the quantity obligated, 393,421 Tons represent Contract Year 2016 shortfall and will be the first Tons delivered in 2017 at the applicable 2016 Contract Price. Such Contract Year 2016 shortfall is reflected in the stated quantity amount for Contract Years 2016 and 2017. Furthermore, the Parties agree to carry-over up to a maximum of 400,000 Tons of Contract Quantity Tons for 2017 into Contract Year 2018 at the applicable Contract Year 2017 price, which is not yet reflected in the stated quantity amount for Contract Years 2017 or 2018. By September 15, 2017, Buyer shall make a pre-payment equal to the difference of the Contract Price and the Argus Coal Daily Pittsburgh Seam price (FOB Mine (12,500 Btu/lb.; 6.0 lbs. SO₂)) of \$35.45 per ton, as published on August 25, 2017 for the fourth calendar quarter of 2017 (such difference being the “2017 Market Differential”), multiplied against the expected number of shortfall Tons. Such shortfall Tons shall be delivered at the applicable Contract Price minus the agreed upon 2017 Market Differential.
- (C) Buyer and Seller agree to carry-over up to a maximum of 400,000 Tons of Contract Quantity Tons for 2018 into Contract Year 2019 at the applicable Contract Year 2018 price, which is not yet reflected in the stated quantity amount for Contract Year 2018 or 2019. By September 15, 2018, Buyer shall make a pre-payment equal to the difference of the Contract Price and the last Argus Coal Daily Pittsburgh Seam (FOB Mine (12,500 Btu/lb.; 6.0 lbs. SO₂)) published in August 2018 for the fourth calendar quarter of 2018 (such difference being the “2018 Market Differential”), multiplied against the expected number of shortfall Tons. Such shortfall Tons shall be delivered at the applicable Contract Price minus the agreed upon 2018 Market Differential. If the 2018 Market Differential is negative, Buyer shall not be required to make a pre-payment.

Section 2.2. Reconsignment and Resale Rights. From time to time, and at any time, Buyer shall have the right, but not the obligation, to have all or any part of the Contract Quantity reconsigned for delivery to an alternate destination, and/or to make all or part of the Coal hereunder available for purchase by any person(s), whether or not affiliated with Buyer, through Buyer's subsequent resale to others of such Coal. Nothing in this provision shall be construed as requiring Seller to deliver more than the Contract Quantity in a given Contract Year.

Should Buyer exercise its right to reconsign or resell Coal at the Designated Delivery Point, Seller shall arrange for transport to such Designated Delivery Point. Should Buyer exercise its right to reconsign or resell Coal at an alternate destination, Buyer shall arrange for transport to such alternate destination and pay any additional costs incurred by Seller. The Contract Price for any reconsigned or resold Coal shall be the price at the Designated Delivery Point associated with the McElroy/Non-Mitchell Contract Price and meeting the requirements of Specification B in Schedule 3.1-A.

Section 2.3. Scheduling. Seller will advise Buyer of its desired loading dates and delivery schedule. The Parties will work together in good faith to agree on a reasonable and mutually acceptable delivery schedule within the Term and within each month during the Term based on the annual Contract Quantity.

Section 2.4 Delivery. The Coal shall be delivered to Buyer at the Designated Delivery Point in accordance with the Transportation Specifications detailed in Schedule 2.4 (attached hereto and hereby made a part of this Agreement).

Seller shall be responsible for any costs or charges imposed on or associated with the delivery of the Contract Quantity up to the Designated Delivery Point. Buyer shall be responsible for any costs or charges imposed on or associated with the Contract Quantity upon taking title to the Coal at the Designated Delivery Point in accordance with Article XV.

If a Party is charged for any increased transportation charges, penalties, or other transportation costs, including demurrage, attributable to the other Party's failure to timely arrange for delivery, load or unload the Coal in accordance with the terms of this Agreement, including the timing and tonnage requirements of the Transportation Specifications, and if such failure is not due to Force Majeure, such failing Party shall reimburse the other for such charges.

Each Party shall immediately contact the other Party in the event of a curtailment or interruption in the delivery or receipt of Coal hereunder. Each Party shall contact the other Party with as much advance notice as reasonably possible regarding any such impending curtailment or interruption.

Notwithstanding the above, solely for reasons of Seller's inability to produce Coal from the Approved Production Sources in the quantities and/or of the quality required by this Agreement and not for financial reasons, Seller shall have the right, with Buyer's prior written approval, such approval not to be unreasonably withheld, to substitute Coal from another mine wholly owned by Seller or its affiliates, provided that any deliveries from such substitute source shall meet the quality specifications set forth in this Agreement and be otherwise suitable for use at the Plant and be made to Buyer without Buyer incurring any costs greater than Buyer's costs would have been if the deliveries to the Plant would have been from

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the Approved Production Source and further provided that any deliveries to the Plant from such substitute source do not adversely affect Buyer's transportation logistics.

Section 2.5. Rejection and Suspension. In addition to the price adjustments provided for in Article VII, Buyer shall have the following rights and remedies upon Seller's failure to conform with the requirements as set forth in Article III, provided that if the Coal is delivered to the Mitchell Plant, or if the Coal is delivered to an alternate destination and Seller fails to timely provide Buyer with Seller's short proximate analysis of the Coal pursuant to Schedule 8.1, Buyer shall also be entitled to all other remedies at law or in equity, subject to Article XXVIII.

(a) (i) Buyer shall have the right to reject all or any part of any barge, prior to unloading hereunder, if the Coal therein fails to conform to the requirements set forth in footnote (D) on Schedule 3.1-A.

(ii) Buyer shall have the right to reject any Applicable Lot prior to unloading hereunder, if the Coal therein fails to conform to the Applicable Lot "Suspension" specifications set forth on Schedule 3.1-A, based on Seller's analysis provided in accordance with Schedule 8.1. Should Buyer exercise such right of rejection, it shall notify Seller by telephone upon discovery of the nonconformance, such notification to be promptly confirmed in writing.

(iii) Seller shall immediately discontinue and Buyer shall have the right to reject further conveyor and/or truck shipments to the Mitchell Plant if Seller's analytical results of an Applicable Lot (based on Seller's analysis of Buyer's individual sample or samples provided in accordance with Schedule 8.1, subparagraph (2)(c)) fails to conform to the Mitchell Plant Applicable Lot "Suspension" specifications, or Buyer determines that the Coal does not meet the requirements in Schedule 3.1-A, footnote (D). Seller or Buyer shall promptly notify the other Party by telephone upon discovery of the nonconformance. Such discontinuance shall continue until Seller provides Buyer with written notice (which written notice may be by electronic mail) that the cause of the nonconformance has been corrected. In no event shall Seller be required to remove Coal that has been delivered to the Mitchell Plant stockpile.

(iv) Subject to Buyer having sufficient barge capacity, Seller shall make up such discontinued or rejected shipment(s) within thirty (30) days; otherwise Seller shall make up such rejected shipment(s) in accordance with a mutually agreed upon schedule.

(b) (i) Buyer shall have the right to suspend all further barge shipments of Coal hereunder to the Plant if: (A) there are six (6) barges delivered to such Plant that fail to meet the requirements in footnote (D), as set forth in Schedule 3.1-A, whether rejected or not, in any thirty (30) consecutive day period; (B) there are six (6) Applicable Lots delivered to such Plant that fail to meet the defined minimum or exceed the defined maximum Applicable Lot "Suspension" specifications as set forth in Schedule 3.1 A, whether rejected or not, in any thirty (30) consecutive day period; or (C) the Coal quality delivered to such Plant fails to meet the defined minimum or exceeds the defined maximum Half-Month "Suspension" specifications applicable under Article III. Should Buyer exercise such right to suspend further shipments, Buyer shall notify Seller of its exercise of right of suspension within fifteen (15) calendar days after the day or Half-Month period in which such failure occurs.

(ii) Buyer shall have the right to suspend all further conveyor and/or truck shipments of Coal hereunder to the Mitchell Plant if: (A) there are six (6) Applicable Lots, with respect to conveyor shipments, or three (3) Applicable Lots, with respect to truck shipments, delivered to such Plant that fail to meet the defined minimum or exceeds the defined maximum Applicable Lot "Suspension" specifications or the

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requirements in footnote (D), all as set forth in Schedule 3.1-A, whether discontinued or not, in any thirty (30) consecutive day period; or (B) the Coal quality delivered to such Plant fails to meet the defined minimum or exceeds the defined maximum Half-Month "Suspension" specifications applicable under Article III. Should Buyer exercise such right to suspend further shipments, Buyer shall notify Seller of its exercise of right of suspension within fifteen (15) calendar days after the day or Half-Month period in which such failure occurs.

(c) Upon receipt of Buyer's notice of suspension, Seller shall immediately suspend further shipments and make every reasonable effort to correct the conditions giving rise to the shipment(s) of Coal failing to conform to such specifications or requirements. Seller shall inform Buyer in writing on a weekly basis of such corrective actions taken by Seller.

During such suspension, Seller shall permit Buyer's reasonable access to the Approved Production Sources and related facilities hereunder and to engineering data related thereto. Buyer shall have the right, but not the duty, to request and participate in discussions with Seller relating to the matter and to recommend procedures to correct said matter.

Such suspension shall continue until Seller provides Buyer with assurances in writing that are satisfactory to Buyer, based upon Buyer's reasonable determination, that the conditions causing shipments of Coal not in accordance with this Agreement have been corrected and that Seller can and shall deliver Coal meeting the Half-Month "Suspension" specifications of Schedule 3.1-A.

Upon receipt by Buyer of Seller's satisfactory written assurances, shipments shall be resumed at the rate specified in Article II.

(d) In the event that: (i) Seller fails to provide Buyer with such assurances within ten (10) days after the date of Buyer's notice of suspension as described in this Section 2.5; or (ii) having provided such assurances, Seller fails to correct such conditions and resume shipments in the ensuing sixty (60) days thereafter; or (iii) after such resumption of deliveries, there are: six (6) barges delivered to the affected Plant that fail to meet the requirements in footnote (D), as set forth in Schedule 3.1-A or six (6) Applicable Lots, with respect to barge or conveyor shipments, or three (3) Applicable Lots, with respect to truck shipments, delivered to the affected Plant during the ensuing thirty (30) days that fall below the minimum or exceed the maximum Applicable Lot "Suspension" specification(s) which had specifically resulted in Buyer's suspension, then such event shall constitute an Event of Default under Article XVII hereof.

(e) Shipments suspended pursuant to this Article II hereof shall be made up in accordance with a mutually agreeable schedule. The Parties shall make reasonable efforts to make up such shipments within 365 calendar days following resumption of shipments. Following Seller's receipt of Buyer's notice of suspension and prior to the making up of all suspended shipments, Seller agrees to not sell coal from the Approved Production Sources that is not at the time of Seller's receipt of such notice contractually committed to any third party without first offering such coal to Buyer as make up tonnage."

5.) In Article V, Contract Price, the Article is deleted in its entirety and restated as follows:

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"ARTICLE V
Contract Price

Section 5.1. Contract Price.

Table 5.1.1

Contract Price		
<u>Contract Year</u>	<u>McElroy/ Non-Mitchell¹</u>	<u>McElroy/Mitchell¹</u>
2016	\$49.177	\$50.177
2017	\$50.139 ⁽²⁾	\$51.139
2018	\$42.062 ⁽³⁾	\$43.062
2019	\$38.858 ⁽⁴⁾	\$39.858
2020	\$37.150 ⁽⁵⁾	\$38.150
2021	TBD	TBD
2022	TBD	TBD

Table 5.1.1 Associated Footnotes:

- (1) Unless otherwise stated, the Segment prices contain a WV Special Reclamation Tax rate of \$0.279 per Ton, effective as of July 1, 2012. Said tax rate is subject to change based on periodic reviews by the West Virginia State Legislature.
- (2) The Contract Price reflects 667,000 Tons at \$55.620 per Ton and 666,000 Tons at \$44.650 per Ton.
- (3) The Contract Price reflects 666,000 Tons at \$46.630 per Ton and 667,000 Tons at \$37.500 per Ton.
- (4) The Contract Price reflects 667,000 Tons at \$40.000 per Ton and 333,000 Tons at \$36.570 per Ton.
- (5) The Contract Price reflects 333,000 Tons at \$37.150 per Ton. The remaining Segments are to be priced during the 2018 and 2019 Negotiation Periods, respectively.

Table 5.1.2

PRICING SCHEDULE					
<u>Negotiation Period</u>	<u>Segment Pricing Periods</u>	<u>Segment</u>	<u>Annual Segment Tons^{(1),(2)}</u>	<u>Annual McElroy Tons⁽¹⁾</u>	
2017	2019 through 2020	B	333,000	333,000	
2018	2020 through 2021	C	333,000	333,000	
2019	2020 through 2022	A	334,000	334,000	
2020	2021 through 2022	B	333,000	333,000	
2021	2022	C	333,000	333,000	

Table 5.1.2 Associated Footnotes:

- (1) Tons referenced in this Table 5.1.2 are for the identified Segment of each Contract Year referenced within a Segment Pricing Period.
- (2) The Annual Segment Tons are as of the Effective Date of this Agreement. Should the Parties be unable to agree upon the Segment Price during a Negotiation Period(s), the Annual Segment Tons may be less than those shown after the first Negotiation Period for the applicable Segment(s). Please refer to Section 5.2 for more detail.

Section 5.2. Segment Pricing, Contract Price and Annual Tonnage Determination. The Segment Pricing for each Segment not yet determined and the annual tonnage determination for each Contract Year shall be determined under this Section 5.2 in accordance with Table 5.1.2, Pricing Schedule, and the Annual RFR Obligation described in Section 5.2(c) below.

- (a) Segment Pricing. Seller shall provide to Buyer the proposed SO₂ specifications for the

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applicable Segment(s) of Coal being priced during such Negotiation Period by January 31st of the Negotiation Period. During the Negotiation Period, the Parties shall commence to negotiate in good faith and attempt to agree on a McElroy/Non-Mitchell Segment Price for the applicable McElroy Tons identified in Table 5.1.2. The agreed upon Segment Pricing shall then be utilized to establish the Contract Price for the respective Contract Year for each particular Quality Specification. If the Parties fail to agree upon the Segment Pricing during a Negotiation Period, then there will not be Segment Prices for the applicable Segment(s). The effect on the Contract Price and the effect on a Contract Year's annual Tons due to the Parties agreeing to or not agreeing to Segment Pricing shall be addressed in the other provisions of this Article V.

(b) Contract Price and Contract Year Tonnage. Upon the passing of the timeframe for all Negotiation Periods for the Segments of a Contract Year, the Contract Price and the Contract Year tonnage requirement shall be determined as follows:

(i) If the Parties agree on Segment Pricing for each of the Segments in a Contract Year within the applicable Negotiation Periods, then the Segment Prices for each of the Segments of a Contract Year shall be weight averaged based on the applicable Segment Tons and Segment Price for each Segment to determine the Contract Price for such Contract Year and the annual Contract Quantity Tons for such Contract Year shall remain as stated in the Contract Quantity Table 2.1. The McElroy/Mitchell Contract Price shall be calculated by adding one dollar (\$1.00) per Ton to the McElroy/Non-Mitchell Contract Price.

(ii) If the Parties are unable to agree on Segment Pricing for any of the Segments in a Contract Year within the applicable Negotiation Periods, then the Segment Prices for each of the Segments of a Contract Year shall be weight averaged based on the applicable Segment Tons for each Segment in which Segment Pricing was agreed to by the Parties to determine the Contract Price for such Contract Year and the annual Contract Quantity Tons for such Contract Year shall be reduced by the annual Tons applicable to any Segment of a Contract Year in which Segment Pricing was not determined, subject to Section 5.2(c) and the Annual RFR Obligation.

EXAMPLES FOR SECTION 5.2(b)(i) AND (ii) FOR REFERENCE USE ONLY:

Example 1. If the Parties agree on the Segment Pricing for Segment A during the 2019 Negotiation Period, but are unable to agree on Segment Pricing for Segment B during the 2020 Negotiation Period for Contract Years 2021 through 2022, then the Annual Contract Quantity for each of Contract Years 2021 through 2022 would be reduced by the amount of Segment B Tons, and further subject to the Annual RFR Obligation and related provisions provided in this Section 5.2. However, for avoidance of doubt, should the Annual Contract Quantity for each of Contract Years 2021 and 2022 remain in "RFR Status," the Contract Price for each respective Contract Year 2021 and 2022 shall be determined excluding such Segment Pricing B tonnage.

Example 2. If the Parties agree on the Segment Pricing for Segment A during the 2019 Negotiation Period, but are unable to agree on Segment Pricing for Segment B during the 2020 Negotiation Period only for Contract Year 2022, then only the Annual Contract Quantity for Contract Year 2022 would be reduced by the amount of the Segment B Tons, and further subject to the Annual RFR Obligation and other related provisions provided in this Section 5.2.

(c) Annual RFR Obligation and Annual Tonnage Determination. If the Parties fail to agree on the Segment Pricing for a Segment during a Negotiation Period, the following procedures shall apply:

(i) If the Parties fail to agree on the Segment Price for a Segment during a Negotiation Period, then Buyer shall have the obligation to offer to Seller the first right to sell to Buyer, and Seller shall have the obligation to propose to Buyer the first right to buy from Seller, Tons totaling not more than the annual Tons for such applicable Segment (the number of such annual Tons that Buyer is obligated to offer to Seller or Seller is obligated to propose to Buyer being the "Annual RFR Obligation"). The Annual RFR Obligation shall be reduced as follows, and if multiple Segment Tons are included in the Annual RFR Obligation then timing for such reduction shall be in accordance with Section 5.2(c)(iv):

- (A) Any Tons that Seller agrees to deliver to Buyer pursuant to Section 5.2(c)(ii) or that Buyer agrees to accept from Seller pursuant to Section 5.2(c)(iii) shall be deducted from the Annual RFR Obligation;
- (B) Any Tons offered by Buyer to Seller that Seller declines to supply to Buyer shall be deducted from the Annual RFR Obligation in the amount equal to the tonnage offered by Buyer;
- (C) Any Tons offered by Seller to Buyer that Buyer declines to accept from Seller shall be deducted from the Annual RFR Obligation in the amount equal to the tonnage offered by Seller; and
- (D) Any Tons that become part of an Annual RFR Obligation that reach their RFR Tonnage Expiration Date. The "RFR Tonnage Expiration Date" as used herein shall be the end of day on December 31st of each respective Contract Year associated with the Segment Tons in which the Segment Tons are scheduled for delivery.

EXAMPLE FOR SECTION 5.2(c)(i)(D) FOR REFERENCE USE ONLY:

Example. If the Parties do not agree on the Segment Price for all Segment C Tons during the 2018 Negotiation Period, the 333,000 Segment C Tons that are scheduled for delivery in Contract Year 2020 shall have an RFR Tonnage Expiration Date of December 31, 2020. If Seller does not agree to supply any Segment C Tons offered pursuant to a Buyer Offer in accordance with Section 5.2(c)(ii), or if Buyer does not purchase any Segment C Tons offered pursuant to a Seller Proposal in accordance with Section 5.2(c)(iii), the Parties shall have no further obligation with respect to the 333,000 Segment C Tons scheduled for delivery in Contract Year 2020 following December 31, 2020, and these Tons shall be excised from the Agreement. However, the 333,000 Segment C Tons that are scheduled for delivery in Contract Year 2021 shall remain part of the Agreement, with RFR Tonnage Expiration Date of December 31, 2021.

(ii) Prior to Buyer accepting any offer from a non-affiliated third party in an arm's length transaction to purchase any Northern Appalachian Coal ("Buyer's Offer"), up to the Buyer's Annual RFR Obligation, to be delivered to the Mitchell Plant in substitution for the Segments A, B and C Tons that are scheduled for delivery in each Contract Year, Buyer must first notify Seller of the Tons, term and the Equivalent Offer Prices. The prices offered by the third party shall be adjusted to the equivalent Contract Price at the Designated Delivery Point by being quality adjusted and being adjusted for the delivered cost FOB Barge, Mitchell Plant, and shall be calculated as set forth in Schedule 5.2(c)(ii) (the resulting price being the

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"Equivalent Offer Price"). Tons purchased through options available to Buyer pursuant to any agreement(s) shall not be deemed to be Tons offered to Buyer. Buyer's Offers, and the Tons and Equivalent Offer Prices included therein, may extend beyond the then current Contract Year.

Within five (5) Business Days after receiving Buyer's notice, Seller shall advise Buyer whether or not Seller is willing to supply such Tons for the Segment to which such Tons are credited and at the Equivalent Offer Price(s). If Seller agrees to the foregoing, then such Tons shall be added to the Contract Quantity for such term and the Equivalent Offer Price shall be the McElroy/Non-Mitchell price for the applicable Segment and shall be weight averaged with the Segment Pricing then in effect for the remaining Segments. If there are multiple offers and acceptances by Seller, then, for the applicable Segment, the tonnage and Equivalent Offer Price for each offer accepted shall be weight averaged with all other accepted offers to determine the McElroy/Non-Mitchell price for such Segment. The McElroy/Mitchell prices shall be established pursuant to Section 5.2(b)(i). The Contract Quantity for calculating such weighted average shall be determined pursuant to Section 5.2(c)(iv) below. The corresponding Contract Prices shall be determined as set forth in Section 5.2(a). After each such recalculation of the Contract Prices, a retroactive price adjustment applicable to all Tons delivered and paid for by Buyer since January 1 of the applicable Contract Year shall be made by Buyer and included with or credited against any payments due Seller pursuant to Article IV within thirty (30) days following the effective date of the revised weighted average price(s).

Failure of Seller to reply to Buyer's offer within the five (5) Business Day period will be considered Seller's rejection of the opportunity to supply such quantity of Coal.

Should Buyer not purchase the Tons offered pursuant to Buyer's Offer, the reduction in Buyer's Annual RFR Obligation shall not occur and Buyer shall again be obligated to Seller for such Tons. Should the Equivalent Offer Price of a Buyer's Offer submitted pursuant to this Section 5.2(c)(ii) increase due to further negotiations between Buyer and a third party, then Buyer shall resubmit such Buyer's Offer to Seller.

(iii) Prior to Seller finalizing any proposal to sell Coal in an arm's length transaction from an Approved Production Source ("Seller's Proposal"), up to Seller's Annual RFR Obligation, Seller must first notify Buyer of the Tons, term and the Equivalent Proposal Prices for such Coal. Tons sold through options available to or provided by Seller pursuant to any agreements shall not be deemed to be proposals offered by Seller. The price of each proposal shall be adjusted for any difference in quality between (1) the Btu specification in the third party proposal and the Contracted Half-Month Btu Quality Specifications set forth in Schedule 3.1-A, and (2) the SO₂ specification set forth in the third party proposal and the SO₂ specification for the Contract Year(s) in which deliveries shall occur, as initially furnished by Seller, with the adjusted price to be expressed in dollars per Ton, FOB barge, Designated Delivery Point, and converted to a cents-per-MMBtu basis (the resulting price being the "Equivalent Proposal Price"). Seller's Proposals and the Tons and Equivalent Proposal Prices included therein may extend beyond the then current Contract Year.

Within five (5) Business Days after receiving Seller's notice, Buyer shall advise Seller whether or not Buyer is willing to accept delivery of such Tons for the Segment to which such Tons are credited and at the Equivalent Proposal Price(s). If Buyer agrees to the foregoing, then such Tons shall be added to the Contract Quantity for such term and the Equivalent Proposal Price(s) shall be the McElroy/Non-Mitchell

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price for the applicable Segment and shall be weight averaged with the Segment Prices then in effect for the remaining Segments. If there are multiple proposals and acceptances by Buyer, then, for the applicable Segment, the tonnage and Equivalent Proposal Price for each proposal accepted shall be weight averaged with all other proposals accepted to determine the McElroy/Non-Mitchell price for such Segment. The McElroy/Mitchell prices shall be established pursuant to Section 5.2(b)(i). The corresponding Contract Prices shall be determined as set forth in Section 5.2(a). After each such recalculation of the Contract Prices, a retroactive price adjustment applicable to all Tons delivered and paid for by Buyer since January 1 of the applicable Contract Year shall be made by Buyer and included with or credited against any payments due Seller pursuant to Article IV within thirty (30) days following the effective date of the revised weighted average price(s).

Failure of Buyer to reply to Seller within the five (5) Business Day period will be considered Buyer's rejection of the opportunity to accept delivery of such quantity of Coal.

Should Seller not sell the Tons proposed pursuant to Seller's Proposal, the reduction in Seller's Annual RFR Obligation shall not occur and Seller shall again be obligated to Buyer for such Tons. Should the Equivalent Proposal Price of a Seller's Proposal submitted pursuant to this Section 5.2(c)(iii) decrease due to further negotiations between Seller and a third party during the Contract Year, then Seller shall resubmit such Seller's Proposal to Buyer.

(iv) If the Parties are implementing the procedures described in this Section 5.2(c) for multiple Segments and multiple Contract Years, then the results of Seller either accepting or rejecting Buyer's Offers or Buyer either accepting or rejecting Seller's Proposals shall first apply to the oldest Segment Tons and then each subsequent Segment Tons in that order.

Section 5.3 Incremental NAPP RFR Obligation. In the event there is no Annual RFR Obligation for a Contract Year and Buyer identifies a requirement to purchase additional Northern Appalachian Coal (also referred to as "NAPP" herein) to be delivered to the Plant, prior to Buyer accepting any offer from a non-affiliated third party in an arm's length transaction to purchase such coal ("Buyer's Offer"), Buyer must first notify Seller of the additional tons required, term and the Equivalent Offer Prices, defined below ("Incremental NAPP RFR Obligation"). The prices offered by the third party shall be adjusted to the equivalent Contract Price at the Designated Delivery Point by being quality adjusted and being adjusted for the delivered cost FOB Barge, Mitchell Plant, and shall be calculated as set forth in Schedule 5.2(c)(ii) (the resulting price being the "Equivalent Offer Price").

Within five (5) Business Days after receiving Buyer's notice, Seller shall advise Buyer whether or not Seller is willing to supply such tons at the Equivalent Offer Price. If Seller agrees to the foregoing, then such tons shall be added as a separate purchase quantity and price pursuant to the other terms and conditions of this Agreement. Failure of Seller to reply to Buyer's offer within the five (5) Business Day period will be considered Seller's rejection of the opportunity to supply such quantity of coal.

Should the Equivalent Offer Price of a Buyer's Offer submitted pursuant to this Section 5.3 increase due to further negotiations between Buyer and a third party, then Buyer shall resubmit such Buyer's Offer to Seller.

Section 5.4 Legislation. In the event of the enactment, modification, or revision, to include a change in the interpretation or enforcement, of any federal, state, or local legislation, regulations, rules, or mandates issued pursuant thereto, including but not limited to the Federal Mine Safety & Health Act of 1977 and the Surface Mining Control and Reclamation Act of 1977, (a "Change in Law") on or after December 1, 2011, with respect to, by way of example, but not limited to, taxes; reclamation; conservation; mine safety; mine working conditions and practices; ventilation; health and health care; occupational hazards; reclamation, and conservation of mined areas; and which increases or decreases Seller's cost to mine coal from the McElroy Mine under this Agreement, an appropriate adjustment will be made to the Contract Price to reflect such changed cost; provided that such adjustment shall only apply to the Contract Price for those Tons to be delivered after the Change in Law and for which a Contract Price is established in the first paragraph of Section 5.1 of this Agreement. Additionally, such change in cost shall be determined by the difference in the new cost and the cost in effect on December 1, 2011.

In the event of a Change in Law (i) after the determination of any Segment Pricing and/or (ii) after determination of the Contract Price for a Contract Year pursuant to Section 5.2(b) of this Agreement, an appropriate adjustment will be made to either the Segment Pricing and/or the Contract Price, as applicable, to reflect such changed cost. Additionally, such change in cost shall be determined by the difference in the new cost and the cost in effect on the date the applicable negotiated price was determined.

In the event that any price adjustment exceeds the then current Contract Price more than two and one-half percent (2.5%) or should the cumulative total of all such adjustments under this Section 5.4 exceed \$2.70 per Ton, Buyer shall have the right, but not the obligation, to terminate this Agreement. Should Buyer terminate this Agreement as provided in the prior sentence, Seller may nullify such termination by giving written notice to Buyer within seven (7) calendar days after receiving Buyer's notice of such termination that Seller waives its rights to the amount of any increase above two and one-half percent (2.5%) of the then current Contract Price or that exceeds \$2.70 per Ton cumulatively."

6.) In Article VI, Taxes and Other Liabilities, reference to "Section 5.3" is deleted and replaced with "Section 5.4".

7.) In Article XV, Title, Risk of Loss, and Indemnity, the Article is deleted in its entirety and restated as follows:

"ARTICLE XV

Title, Risk of Loss, and Indemnity

Title for Coal conforming to this Agreement shall pass to Buyer as follows:

- a) Title to and risk of loss (except as provided in Schedule 2.4) of the Coal will pass to Buyer as the loaded barges are pulled from the Designated Delivery Point, or
- b) Title to and risk of loss of the Coal will pass to Buyer as the Coal is delivered via conveyor belt FOB the Designated Delivery Point, or

- c) Title to and risk of loss of the Coal reconsigned by Buyer to an Alternate Delivery Point pursuant to Section 2.2 will pass to Buyer upon the Coal being unloaded or transloaded at the Alternate Delivery Point.
- d) Title shall revert back to Seller immediately upon any Applicable Lot rejection by Buyer as provided in Section 2.5(a).

Seller warrants that it has title to the Coal and will deliver the Coal to Buyer free and clear of all liens, claims, and encumbrances arising prior to the transfer of title to Buyer. Seller and Buyer shall each indemnify, defend, and save harmless the other Party, its officers, directors, Affiliates, agents, and employees from and against any liabilities, expenses, losses, claim, damages, penalties, causes of action, or suits arising out of or in connection with its failure to comply with its obligations under this Agreement.

Seller shall indemnify, save harmless, and defend Buyer and its Affiliates, its officers, directors, agents, and employees (each a "Buyer Indemnified Party") from and against any liabilities, expenses, losses, claims, damages, penalties, causes of action, or suits, and all other obligations whatsoever, including without limitation, all judgments rendered against and all fines and penalties imposed upon the Buyer Indemnified Party (whether severally, or in combination with others) and any reasonable attorneys' fees and any other costs of litigation (all of which are hereinafter referred to as "Liabilities") arising out of injuries or death to any person(s), or damage to any property, caused by or related to, in whole or in part the barges furnished hereunder (as applicable), between the time that such barges are delivered to Seller or Seller's agent and the time that custody thereof is properly returned to Buyer (or to Buyer's agent carrier, if applicable). Any injury or death to person(s) or damage to property as hereinbefore described shall be reported to Buyer by Seller immediately upon the occurrence thereof, and confirmed in writing as soon as possible.

Buyer shall indemnify, save harmless, and defend Seller and its Affiliates, its officers, directors, agents, and employees (each a "Seller Indemnified Party") from and against any liabilities, expenses, losses, claims, damages, penalties, causes of action, or suits, and all other obligations whatsoever, including without limitation, all judgments rendered against and all fines and penalties imposed upon the Seller Indemnified Party (whether severally, or in combination with others) and any reasonable attorneys' fees and any other costs of litigation (all of which are hereinafter referred to as "Liabilities") arising out of injuries or death to any person(s), or damage to any property, caused by or related to, in whole or in part the barges furnished hereunder (as applicable), at the time that custody thereof is properly returned by Seller to Buyer (or to Buyer's agent carrier, if applicable). Any injury or death to person(s) or damage to property as hereinbefore described shall be reported to Seller by Buyer immediately upon the occurrence thereof, and confirmed in writing as soon as possible."

8.) **Schedule 2.4**, Transportation Specification Barge, **Schedule 3.1-A**, Quality Specifications; **Schedule 3.1-B**, Approved Production Source(s), Approved Reserve(s) of Coal, and Designated Delivery Point(s), **Schedule 5.2(c)(ii)**, Calculation of Equivalent Offer Price, and **Schedule 7.2**, Quality Adjustments, are deleted in their entirety and restated as provided in the replacement schedules attached hereto and incorporated herein by the respective numbered Schedules.

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[End of document, signature page follows.]

Except as amended herein, all other provisions of the Agreement shall remain in full force and effect. If you are in agreement with the foregoing, kindly indicate your acceptance thereof by signing the enclosed duplicate of this letter in the space provided and by returning it to this office.

Very truly yours,

Marguerite C. Mills
By: Marguerite C. Mills
Its: Vice - President
Dated: 9/8/17

*Give
copy
Cms*

Agreed and Accepted by:

CONSOLIDATION COAL COMPANY



By: Robert D. Moore
Its: Vice President

Dated: September 9, 2017

McELROY COAL COMPANY



By: Robert D. Moore
Its: Vice President

Dated: September 9, 2017

SCHEDULE 2.4
TRANSPORTATION SPECIFICATIONS
BARGE

Seller shall load Coal that is to be delivered hereunder into seaworthy barges, reasonably clean and ready to be loaded, provided by Buyer, or its agent, at the Designated Delivery Point(s) listed on Schedule 3.1-B of this Agreement. Seller shall not be obligated to load any barge that is not in such condition. Such barge shipments shall be tendered by Seller loaded to each barge's normal draft capacity as directed by Buyer or its agent and as permitted by prevailing river conditions.

Between the time the barges are delivered to and the time the barges are picked up from a Designated Delivery Point(s), the loading, fleeting, and switching of barges shall be at Seller's risk. All charges for barge drop-off, loading, switching, fleeting, and pickup, other than those services provided by Buyer and/or its agent, shall be at Seller's expense.

Seller shall not move, nor permit the movement of, any barge(s) provided by Buyer, or its agent, to any other location once the barge(s) are delivered at the Designated Delivery Point(s), unless otherwise agreed to by Buyer. Any such movement of barges requested by Seller shall be subject to Buyer's approval. If approved, such movement shall be rearranged and directed by Buyer at Seller's expense.

Barge placement requests are to be made by Seller under this Agreement so as to provide for approximately equal weekly shipments in fulfillment of Seller's monthly quantity obligation. In the event that a Designated Delivery Point(s) is utilized by more than one supplier of Coal to Buyer, Buyer shall arrange for the allocation and placement of barges on a weekly basis in response to the Seller's reasonable requests. Any request for an alteration to such allocation or placement shall be made to and, if approved, directed by Buyer.

Seller shall not have the right to ship Coal to be delivered under this Agreement from any shipping origin other than the Designated Delivery Point(s) unless Seller shall first have obtained Buyer's written approval of such proposed shipping origin. Such written approval shall be at Buyer's sole discretion, but shall be conditioned upon Seller's agreement to pay any increased barging cost differential that would be incurred by Buyer (any decreased barging cost differential shall be entirely to Buyer's benefit) for shipments made from the proposed shipping origin as compared to the Ireland Dock, as applicable.

It shall be Seller's obligation to provide and maintain adequate dock and harbor facilities at the Designated Delivery Point(s), to load barges in accord with Buyer's or its agent's request, and to dispatch and otherwise comply with reasonable requirements of Buyer's or its agent's barging and operating schedule.

Seller shall be responsible for all loss of, or damage to, any barge provided hereunder and for the loss of any Coal in said barge (other than damage or loss due to normal wear and tear, latent or patent

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defects in the barge existing at the time of delivery) occurring after such barge has been delivered to Seller at the Designated Delivery Point(s) and while in the custody, control, and possession of Seller. Seller shall reimburse Buyer for the cost to Buyer of repairing or replacing any such barge in an amount not to exceed its replacement value at the time of its loss or damage. Said replacement value shall be defined as the remaining years of life of said barge, divided by the expected life of said barge when new, and multiplied by the current market value of a new barge having similar design and capacity at the time of loss or damage.

A barge shall be deemed to have been delivered to Seller and be in Seller's custody, control, and possession, when it has been secured by or on behalf of Buyer or its agent at an Designated Delivery Point(s) to await loading and shall be deemed to be picked up when untied for pick up by or on behalf of Buyer from such Designated Delivery Point(s). Seller shall have the right, but not the duty, to refuse to load any barges which Seller considers unseaworthy. In such event, Seller shall promptly notify Buyer.

Actual loading days for a barge shall commence concurrently with the commencement of the Free Loading Days and shall continue until the barge has been loaded and Buyer has been advised that the barge is loaded and available at the Designated Delivery Point(s) for pickup by Buyer or its agent.

Seller shall maintain a demurrage account in which debits and credits for the loading of barges from Buyer's affiliate barge company shall be recorded. One credit for each barge delivered to be loaded with Coal shall be recorded in the demurrage account for each whole loading day for which the actual loading time for the barge is less than the Free Loading Days for the barge as set forth above, and one debit for each barge delivered to be loaded with Coal shall be recorded in the demurrage account for each whole loading day, or part of a loading day, for which the actual loading time for the barge is greater than the Free Loading Days provided above for the barge, and for each demurrage day accrued for each barge that has the Coal it contains rejected by Buyer as hereinafter provided.

Seller recognizes that Buyer may be assessed a penalty by a third-party barge company for demurrage in the event that Seller fails to load each barge within the loading time set forth in Buyer's barging agreement. If Seller fails to comply with the foregoing barge loading time limit, Seller shall pay to Buyer the penalty charges assessed by the third-party barge company. The charges will be those actually paid to the third-party barge company in effect when such charges were incurred. Should Seller not originate shipments in accordance with this Schedule 2.4, Seller shall pay Buyer for any resulting charges incurred by Buyer which are assessed by the third-party barge line in excess of the charges that would have been incurred by Buyer had Seller strictly complied herewith.

At the end of each calendar quarter throughout the term of this Agreement, the demurrage account shall be balanced and settled as follows: Credits in the demurrage account shall be used to cancel debits in the demurrage account with one credit canceling one debit. Seller shall pay to Buyer the daily barge

demurrage rate of \$300.00 (which amount shall be adjusted in an amount proportional to the adjustments to the Base Price under Article VI hereof), for each debit in a demurrage account not so cancelled. There shall not be payment for credits in the demurrage account. Excess credits in a demurrage account accumulated during each calendar quarter which remain unused following the balancing and settlement of the demurrage account shall be cancelled. The daily demurrage rate shall be adjusted in an amount proportional to the increases in the Contract Price, if any, i.e. if the Contract Price between the first year and the third year of this Agreement increases by ten percent (10%), then the daily barge demurrage rate shall be ten percent (10%) higher in the third year than in the first year of this Agreement.

Should Buyer reject any bargeload shipment of Coal because the Coal in such barge does not conform to the requirements set forth in this Agreement hereof, then Seller shall pay all transportation costs associated with said shipment, including a daily barge demurrage rate of \$300.00 for each such barge (which amount shall be adjusted in an amount proportional to the adjustments to the Contract Price under Article V hereof) and all other costs incurred by Buyer with respect to said barge(s) until the barge(s) are unloaded and transported to a destination specified by Buyer for further utilization. Such daily barge usage rate shall be charged for each day or part of a day effective as of the first 7:00 a.m., following Buyer's rejection and continuing through the date such barge reaches the destination specified by Buyer.

**SCHEDULE 3.1-A
QUALITY SPECIFICATIONS**

The Coal required and delivered hereunder, upon unloading and receipt at the Plant shall meet the following "Contracted Half-Month" specifications. Further, for the purposes of Section 2.5, the following "Suspension" specifications shall be applicable to such Coal.

Specification A*:

McElroy Mine Coal (Mitchell or FOB Belt)			
Weighted Average "As-Received" Basis			
	Contracted Half-Month (A)	Suspension	
		Half-Month (A)	Applicable Lot (B)(D)
Calorific Value (Btu/lb.) min. (G)	12,650	12,550	12,450
Moisture (%) max.	6.50	7.25	7.50
Ash (%) max. (F)	9.50	10.00	10.50
Volatile Matter (%) min.	37.50	36.90	36.00
Hardgrove Grindability min.	53	52	51
Lbs. SO ₂ /MM Btu max. (C) ¹	(E)	7.10	7.35
Except for 2014, equals:	(E)	7.10	7.45
Except for 2015, equals:	(E)	7.30	7.50
Except for 2016, equals:	(E)	7.25	7.45
Ash Fusion (H=½ W) °F Red Atm min.	2,100	2,030	2,000

Specification B*:

Non-Mitchell Coal (FOB Barge)			
Weighted Average "As-Received" Basis			
	Contracted Half-Month (A)	Suspension	
		Half-Month (A)	Applicable Lot (B)(D)
Calorific Value (Btu/lb.) min.	12,400	12,300	12,150
Moisture (%) max.	7.00	7.50	8.00
Ash (%) max.	10.50	11.50	12.50
Volatile Matter (%) min.	37.0	36.5	36.0
Hardgrove Grindability min.	53	52	51
Lbs. SO ₂ /MM Btu max (C)	(E)	7.25	8.00
Ash Fusion (H=½ W) °F Red Atm min.	2,050	2,000	1,975

* Definitions applicable to Specification A and B:

(A) = The Half-Month weighted average analysis result (as determined under Article VIII of this Agreement).

(B) = The analysis result of a sample representing, as applicable, either (a) the aggregate of the Coal delivered by conveyor belt at the Designated Delivery Point during any period in which a sample has been collected and analyzed pursuant to Schedule 8.1, subparagraph (2)(c); or (b) the aggregate of the Coal delivered by truck to the Designated Delivery Point on any one day.

A daily unloading shall consist of a minimum of three (3) unloaded barges. Should three (3) barges not be unloaded, such barge(s) shall be added to the next day's unloadings until a minimum of three (3) barges are unloaded.

(C) = For the purpose of determining the pounds of sulfur dioxide per million Btu, the figures shall be rounded to the nearest one hundredth. For example, 6.004 pounds SO₂ per million Btu shall mean 6.00 pounds SO₂ per million Btu, while 6.005 pounds SO₂ per million Btu shall mean 6.01 pounds SO₂ per million Btu and shall be deemed, for example, not to have met a 6.00 pounds SO₂ per million Btu specification.

(D) = Buyer shall also have the right to reject any Coal that is not 2 x 0 inches topsize, that exceeds a maximum of 60% passing a one quarter inch (1/4") square wire cloth sieve, is not free flowing and substantially free of extraneous material upon unloading, and/or has intermediate sizes (including fines) added or removed.

(E) = The SO₂ Specification shall be as follows for the applicable Contract Year:

Weighted Average "As Received" Basis Contracted Half-Year SO₂ Specification	
Contract Year	McElroy Mine Coal
2016	6.35
2017	6.25 ^(A)
2018	6.35 ^(B)
2019	6.80 ^(C)
2020	6.50 ^(D)
2021	TBD
2022	TBD

Footnotes to Table for definition of "(E)":

- (A) For Contract Year 2017, the Contracted Half-Year SO₂ Specification shall be calculated based on 667,000 Tons at 6.50 lbs. SO₂ and 666,000 Tons at 6.00 lbs. SO₂.
- (B) For Contract Year 2018, the Contracted Half-Year SO₂ Specification shall be calculated based on 666,000 Tons at 6.00 lbs. SO₂, and 667,000 Tons at 6.70 lbs. SO₂.
- (C) For Contract Year 2019, the Contracted Half-Year SO₂ Specification shall be calculated based on 667,000 Tons at 6.80 lbs. SO₂ and 333,000 Tons at 6.80 lbs. SO₂.
- (D) For Contract Year 2020, the Contracted Half-Year SO₂ Specification shall be calculated based on 333,000 Tons at 6.50 lbs. SO₂, with the remainder to be determined during Negotiation Period 2018 and 2019, and weight averaged together for a final Contracted Half-Year SO₂ Specification.

SCHEDULE 3.1-B
APPROVED PRODUCTION SOURCE(S), APPROVED RESERVE(S) OF COAL,
AND DESIGNATED DELIVERY POINT(S)

The Approved Production Source(s) to which reference is made in Section 3.1 of Article III consist(s) of the following:

McElroy Mine (now known as the Marshall County Mine) (MSHA ID # 4601437) consisting of deep mines, extracting the reserves consisting of the Pittsburgh No. 8 seam of coal in Marshall County, West Virginia.

American Energy Corporation's Century Mine (MSHA ID # 3301070) underground mine, extracting the reserves consisting of the Pittsburgh No. 8 seam of coal in Belmont and Monroe Counties, Ohio.

The approved barge loading facilities to which reference is made in this Agreement are:

<u>Name</u>	<u>Location</u>
The Powhatan Transportation Center Dock	Mile Post 110.8, Ohio River
Ireland Dock	Mile Post 110.4, Ohio River

SCHEDULE 5.2(c)(ii)
CALCULATION OF EQUIVALENT OFFER PRICE

Calculation of McElroy/Non-Mitchell Price Based on Third Party Offer(s)

Third Party Offer Price \$/Ton		\$ XX.XX
Plus: Transportation of Third Party tons to Mitchell Plant		X.XX
Total Delivered \$/Ton		\$ XX.XX
Total Delivered C/MMBtu	(1)	XXX.XX
Plus: Cost to Scrub Third Party Coal (C/MMBtu)	(2)	XX.XX
Plus: Cost of Third Party Allowances (C/MMBtu)	(3)	XX.XX
Total Quality Adj. Delivered C/MMBtu		XXX.XX
		XXX.XX
Less: Cost to Scrub McElroy Coal (C/MMBtu)	(4)	XX.XX
Less: McElroy Allowance Cost (C/MMBtu)	(5)	XX.XX
Total McElroy Delivered C/MMBtu		XXX.XX
Total McElroy Delivered \$/Ton	(6)	\$ XX.XX
Less: McElroy Transportation to Mitchell Plant		XX.XX
McElroy/Non-Mitchell FOB Mine Equivalent Offer Price		\$ XX.XX

(1) Calculated by \$ per ton ÷ Third Party Proposed Btu's per pound ÷ 0.00002

(2) Third Party Scrubber Cost =

$$\frac{\text{Actual Scrubbing Cost}^*}{20} \times (\text{Third Party Proposed SO}_2 \times 0.97^{**})$$

(3) Third Party Allowance Cost =

$$\frac{\text{SO}_2 \text{ Allowance Value}^{***}}{20} \times (\text{Third Party Proposed SO}_2 \times 0.03^{****})$$

(4) McElroy Scrubber Cost =

$$\frac{\text{Actual Scrubbing Cost}^*}{20} \times (\text{McElroy SO}_2 \text{ as provided by Seller} \times 0.97^{**})$$

(5) McElroy Allowance Cost =

$$\frac{\text{SO}_2 \text{ Allowance Value}^{***}}{20} \times (\text{McElroy SO}_2 \text{ as provided by Seller} \times 0.03^{****})$$

(6) McElroy C/MMBtu × 12,400 Btu's per pound × 0.00002

Footnotes to Calculation of Third Party Offer:

- * Based on Mitchell Plant’s quarterly average actual scrubbing cost for the year prior to the negotiations, determined by calculating the cost to remove one (1) Ton of SO₂ for each quarter during such year. Attached as “Exhibit A” to this Schedule 5.2(c)(ii), is an example of the current methodology and types of costs Buyer currently utilizes in determining such actual scrubbing cost.
- ** Equal to the Mitchell Plant’s designed scrubber efficiency (fixed at 97%).
- *** Equal to the average price of SO₂ allowances for the immediately preceding calendar month of the offer, expressed in dollars per ton of SO₂ in the table entitled “SO₂ Allowances” under the caption “Assessment Averages” published (or if not published, the average of the SO₂ Daily Prices for the immediately preceding calendar month of delivery) in Argus Air Daily, or its successor publication, as published on the first Monday following such month.
- **** Equal to 1 minus the Mitchell Plant’s designed scrubber efficiency.

EXHIBIT A

SO2 SUMMARY COST FOR PLANT:

Mitchell Plant

Date: 1/1/2016 thru 12/31/16

Source	SO2			Aux. Power		Financial Data			Total Cost Formula E,G,H	Cost per ton of SO2 removed Formula I,C
	Removal Eff %	Removed Tons	# Lime / Limestone Per # SO2	Aux Power MW	Aux Power Cost	Operations, Maintenance, Fuel Handling and Commodities Cost	Landfill/By Product			
	Column AL	Column AM	Column AO	Column AP	Column AR	Column N + AC	Column AK			
1st Quarter	97.10	39,646	1.529	56,323	1,401,467	4,002,678	-58,172	5,345,973	134.84	
2nd Quarter	97.48	27,225	1.673	44,739	1,124,287	2,901,043	-85,263	3,940,067	144.72	
3rd Quarter	97.19	32,395	1.925	47,838	1,398,145	4,192,763	449,326	6,040,234	186.46	
4th Quarter	97.73	33,445	1.712	39,535	1,112,910	4,153,069	229,543	5,495,522	164.32	
Total Year	97.36	132,711	1.701	188,435	5,036,810	15,249,552	535,435	20,821,797	156.90	

SCHEDULE 7.2 QUALITY ADJUSTMENTS

In order for the Selling Price to accommodate variations in calorific value, sulfur dioxide value, and ash value of the Coal delivered hereunder, there shall be an amount(s) added to or subtracted from the Contract Prices as provided for in this Article. These price adjustments shall be in addition to any rights that Buyer may have as provided or referenced under Article II of this Agreement. Additionally, if Buyer modifies its methodology for evaluating coal (such as Buyer determining a need to change the evaluation method for sulfur dioxide or ash or to evaluate additional Coal characteristics (e.g., mercury, arsenic, etc.)), Buyer may request that a new methodology for calculating quality adjustments on such Coal characteristics be incorporated into this Agreement. If, upon evaluation of Buyer's request, Seller reasonably determines that it cannot comply with such new methodology for calculating quality adjustments on such Coal characteristics, then, within thirty (30) days following Seller's receipt of Buyer's request, Seller shall notify Buyer of Seller's inability to comply with Buyer's request. Buyer or Seller may then elect to terminate this Agreement by providing written notice to the non-terminating Party within seven (7) calendar days following Buyer's request. If Seller is the non-terminating Party, then Seller may nullify Buyer's termination by providing written notice to Buyer within seven (7) calendar days following its receipt of Buyer's notice that Seller will comply with Buyer's request. If Buyer is the non-terminating Party, then Buyer may nullify Seller's termination by providing written notice to Seller within seven (7) calendar days following its receipt of Seller's notice that Seller will not be required to comply with Buyer's request.

(a) If the weighted average Calorific Value of the Coal unloaded and taken into account hereunder in a Half-Month is not equal to the Contract Half-Month Weighted Average Btu Specification, then there shall be an amount added to the Contract Price (if the calculated number is positive) or subtracted from the Contract Price (if such number is negative), as determined by the following formula, to arrive at the adjusted price for such Coal:

$$\begin{array}{l} \text{Amount Per Ton of Increase or} \\ \text{Decrease for Calorific Value} \end{array} = \frac{(\text{Actual Btu} - \text{Contracted Btu})}{\text{Contracted Btu}} \times \text{Contract Price}$$

provided, however, no premium will be paid for Calorific Value which exceeds the Contracted Half-Month Weighted Average Btu/lb. by 300 Btu per pound.

(b) Within thirty (30) days following each Contract Half-Year an adjustment in the price per Ton for the actual SO₂ received shall be compared to the applicable Contract SO₂ specification, and any difference, positive or negative, shall be calculated based upon the relevant SO₂ removal costs at the Plant, including, but not limited to, the cost of Emission Allowances for applicable percentage of SO₂ not removed, as follows:

$$\begin{aligned}
 \text{SO}_2 \text{ Adjustment} &= \frac{\text{CS} \times (\text{Contracted Half-Year SO}_2 \text{ Specification} - \text{Actual lbs. SO}_2^*) \times \text{Actual Btu's/lb.}^* \times (\text{PSE})}{20 \times 50,000} \\
 \text{(Dollars per Ton)} &= \quad \quad \quad + \\
 &= \frac{\text{E} \times (\text{Contracted Half-Year SO}_2 \text{ Specification} - \text{Actual lbs. SO}_2^*) \times \text{Actual Btu's/lb.}^* \times (1 - \text{PSE})}{20 \times 50,000}
 \end{aligned}$$

Where:

CS = the average cost to Buyer to remove one ton of SO₂ from the Mitchell Plant's emissions for the prior Contract Year.

PSE = the average "actual" scrubber efficiency percentage for the Mitchell Plant for the prior Contract Year.

E = the average price of SO₂ allowances for the six calendar months of delivery within the applicable Contract Half-Year, expressed in the average dollars per ton of SO₂ in the table entitled "SO₂ Allowances" under the caption "Assessment Averages" published in Argus Air Daily, or its successor publication, as published on the first Monday following such month for the six calendar months within the applicable Contract Half-Year (or if not published, the average of the SO₂ Daily Prices for the applicable Contract Half-Year).

* = refers to the Half-Year weighted average "As Received" Btu or lbs. SO₂/mmBtu.

However, for each source (i.e. McElroy/Non-Mitchell and McElroy/Mitchell) the maximum Contract Half-Year SO₂ premium shall not exceed the premium that would be payable for Coal containing 1.0 lb. SO₂ per mmBtu less than the applicable Contracted Half-Year SO₂ Specification.

An amount of three dollars (\$3.000) per Ton shall be deducted from the Contract Price for each Applicable Lot of Coal having an SO₂ value greater than 7.25 lbs. SO₂/mmBtu.

(c) For each Applicable Lot of Coal tested to have an ash content greater than the Applicable Lot Suspension Limit, the Contract Price for Coal in such Applicable Lot will be decreased by \$0.30 for each 1.0% ash increment, or portion thereof, by which the Applicable Lot's ash content is tested to be above the Applicable Lot Suspension Limit. (For example, if the Ash Applicable Lot Suspension Limit is 13.00% and an Applicable Lot has a percent ash value of 13.70%, then the Contract Price decrease shall be \$0.30 per Ton.)