

COAL SUPPLY AGREEMENT

BETWEEN

ACNR COAL SALES, INC.

AND

LOUISVILLE GAS AND ELECTRIC COMPANY

AND

KENTUCKY UTILITIES COMPANY

**ACNR COAL SALES, INC.
LG&E/KU Contract No. J26001**

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COAL SUPPLY AGREEMENT

This is a coal supply agreement (the "Agreement") dated June 3, 2024, between LOUISVILLE GAS AND ELECTRIC COMPANY ("LG&E") and KENTUCKY UTILITIES COMPANY ("KU"), each a Kentucky corporation, with a common address at 220 West Main Street, Louisville, Kentucky 40202 (LG&E and KU are each individually sometimes herein called a "Buyer" as more particularly described below) and ACNR COAL SALES, INC., an Ohio corporation, with an address at 46226 National Road, St. Clairsville, OH 43950 (herein called the "Seller").

WITNESSETH:

WHEREAS, LG&E and KU are electric utility companies which desire to purchase steam coal; and

WHEREAS, Buyer and Seller desire to enter into a coal supply agreement pursuant to which the Seller will supply coal to Buyer and Buyer will purchase coal from Seller under the terms as set forth herein.

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

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ARTICLE 1. GENERAL.

- (a) The above recitals are true and correct and comprise a part of this Agreement.
- (b) Seller acknowledges that, while there will be no effect on the Base Quantity set forth in Article 3 below, LG&E and KU will allocate the quantity of coal to be purchased and received hereunder between themselves and that such allocation may change from time to time, at the sole discretion of LG&E and KU. Therefore, the term "Buyer" as used herein shall mean: (a) with respect to any particular "Shipment" (as such term is defined in §6.2 below) actually received by either LG&E or KU, the party who actually received such Shipment; and (b) as may be determined by LG&E and KU, in their sole discretion with respect to any time or circumstance under this Agreement that the party or parties constituting "Buyer" is not determined pursuant to clause (a) immediately above (including, without limitation, matters involving exercise of rights or remedies by Buyer or enforcing obligations, duties and liability against Buyer by Seller not involving Shipments or prior to receipt of Shipments), LG&E or KU (and in such percentage allocation, if applicable) as may be determined by LG&E and KU in their sole discretion. As provided in §18.8 below. Seller agrees that the liability of each of LG&E and KU shall at all times be several and not joint. Each party shall have the obligations, duties and liability of a Buyer hereunder only to the extent (and in the percentage, if applicable) that each such party is determined to be a "Buyer" pursuant to this paragraph. Also, LG&E and KU each shall have the rights and remedies of a Buyer hereunder only to the extent (and in the percentage, if applicable) that each of them is determined to be a "Buyer" pursuant to this paragraph. In the event the determination of "Buyer" pursuant to this paragraph is found contrary to law or unenforceable by any court of law, or cannot

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be reasonably made with respect to any particular circumstance for any reason. the rights, remedies, obligations, duties and liabilities of Buyer shall be allocated to each of LG&E and KU, severally and not jointly, 50% to each party. Notwithstanding the foregoing, with regard to the failure of Buyer to take delivery of, and purchase of coal. under this Agreement, the obligations, duties and liabilities of Buyer shall be allocated to each of LG&E and KU, severally and not jointly, fifty percent (50%) to each party.

(c) Seller will sell and deliver to Buyer, and Buyer agrees to purchase and receive from Seller. steam coal subject to the terms and conditions set forth herein.

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

ARTICLE 2. TERM.

The term of this Agreement shall commence as of the date hereof and shall continue through December 31, 2029, unless sooner terminated pursuant to any of the terms set forth herein. Deliveries shall be made starting on or after the commencement of the term. The term may be extended as provided herein.

ARTICLE 3. QUANTITY.

§3.1 Base Quantity.

Subject to the terms and conditions set forth in this Agreement. Seller shall sell and deliver, or cause to be delivered, and Buyer shall purchase and receive, or cause to be received, a total of

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two million one hundred and fifty thousand (2,150,000) tons in accordance with the following annual base quantity of coal (“Base Quantity”):

<u>YEAR</u>	<u>BASE QUANTITY (TONS)</u>
2026	350,000
2027	600,000
2028	600,000
2029	600,000

§3.2 Make-Up Tons.

Notwithstanding the provisions of §3.1 above, if Seller or Buyer fails to supply to or to take delivery of (as applicable) the entire Base Quantity scheduled for a particular calendar year for any reason, including but not limited to Force Majeure Event (as provided in Article 10 hereof), then the non-defaulting party, may, at its sole option and without any obligation to do so, elect to make up such undelivered or unreceived quantities (“Make-Up Tons”) by having the defaulting party deliver or take delivery of the Make-Up Tons during the calendar year immediately following the calendar year in which such Make-Up Tons should have been delivered (the “Make-Up Year”). If necessary, the term of this Agreement will be automatically extended to include the Make-Up Year. Prior to making such election, the non-defaulting party may request from the defaulting party adequate assurances, satisfactory to non-defaulting party in its sole discretion, that the defaulting party is capable of delivering or receiving, and will deliver or receive (i) the Base

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Quantity established for the Make-Up Year by this Agreement and (ii) the Make-Up Tons during the Make-Up Year.

In the event the non-defaulting party makes the election to deliver or receive Make-Up Tons, as applicable, the defaulting party shall deliver or receive both the Base Quantity, and the Make-Up Tons during the Make-Up Year pursuant to a mutually-agreed upon delivery schedule incorporating the delivery of the additional Make-Up Tons. In such event, for accounting and payment purposes, the first tons delivered in the Make-Up Year shall be considered to be the Make-Up Tons, and deliveries of Make-Up Tons will not be considered a part of the Base Quantity established for the Make-Up Year.

If the defaulting party's failure to deliver or receive all of the Base Quantity during a particular calendar year constitutes a breach of or other violation under this Agreement, the existence of this §3.2 shall not act as a waiver by the non-defaulting party of such breach or violation, nor shall it act as a limitation on the non-defaulting party's remedies. However, if the non-defaulting party elects to deliver or receive the Make-Up Tons as provided in this §3.2, then such election and the receipt or delivery of the Make-Up Tons in the Make-Up Year shall be the non-defaulting party's sole and exclusive remedy. Nothing in this §3.2 shall limit the remedies of the non-defaulting party for any failure of the defaulting party to perform with regard to the delivery or receipt of Make-Up Tons.

§3.3 Delivery Schedule.

Shipments are to be made on a ratable basis during the year, as adjusted to reflect Buyer's outages, Seller's annual miner's vacation, and minor delays in transportation. The parties will

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cooperate in the development of any adjustments to the delivery schedule. Initial Shipments shall begin on or after the commencement date. Time is of the essence with respect to Seller's deliveries once a schedule is established.

All communications to Seller associated with Shipment scheduling shall be copied to the following email addresses:

Email: bargetraffic@acnrinc.com

Email: ckaluger@acnrinc.com

Email: acnrlogistics@acnrinc.com

ARTICLE 4. SOURCE.

§4.1 Source.

The coal sold hereunder, including coal purchased by Seller from third parties, shall be supplied from the mines listed in Exhibit I attached hereto (each individually a "Coal Property", and collectively the "Coal Properties"), except to the extent Seller provides substitute coal in accordance with the terms of this Agreement. Seller represents that its affiliated companies or the producers identified in Exhibit III (collectively, the "Producer") has title to or legal control over the Coal Properties and the coal located on the Coal Properties. Seller also represents and warrants that the coal, when delivered to Buyer, will be free and clear of all liens and encumbrances and that Buyer will have good and marketable title to the delivered coal.

§4.2 Assurance of Capacity, Operation and Reserves.

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Subject to the provisions of this Agreement, Seller represents and warrants that the Coal Properties contain coal of such quality and in such quantities as will be sufficient to satisfy all the requirements of this Agreement. Seller agrees and warrants that it or Producer will have at the Coal Properties adequate machinery, equipment and other facilities to produce, prepare and deliver coal in the quantities and of the quality required by this Agreement. Seller further agrees that it or Producer will operate and maintain such machinery, equipment and facilities in accordance with good mining practices so as to efficiently and economically produce, prepare and deliver such coal. Seller agrees that Buyer is not providing any capital for the purchase of such machinery, equipment and/or facilities and that Seller or Producer shall operate and maintain the same at its sole expense. Seller agrees that it or Producer has or timely will obtain, and will maintain, all required permits and licenses for the production and delivery of the coal as required by this Agreement. Seller recognizes that the process of obtaining permits may be subject to delays and regulatory uncertainties. Seller agrees and covenants that it or Producer will plan permit acquisitions so as to use best efforts to prevent any interruption in planned operations. Seller represents and warrants that it or Producer has the right and authority to, and does hereby, dedicate to this Agreement sufficient reserves of coal meeting the quality specifications hereof and lying on or in the Coal Properties to fulfill the Seller's obligations hereunder.

§4.3 Non-Diversion of Coal; No Resale.

Seller agrees and warrants that it and Producer will not, without Buyer's express prior written consent, use or sell coal from the Coal Properties so as to reduce the economically

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recoverable balance of coal in the Coal Properties to an amount less than that required to be supplied to Buyer hereunder.

Buyer agrees and warrants that it will not, without Seller's written consent, divert or resell all or any part of the coal purchased under this Agreement to any third party, provided however, that Buyer is authorized to and may make sales or transfers of coal to unaffiliated vendors or contractors owning or operating facilities located on its plant sites involved in the treatment, refinement or processing of coal for environmental, operational or other purposes.

§4.4 Seller's Preparation of Mining Plan.

Seller shall prepare or have prepared a complete mining plan for the Coal Properties with adequate supporting data to demonstrate Seller's capability to have coal produced from the Coal Properties which meets the quantity and quality specifications of this Agreement. Seller shall, upon Buyer's request, provide information to Buyer regarding such mining plan which shall contain maps and a narrative describing areas and seams of coal to be mined and shall include (but not be limited to) the following information: (i) reserves from which the coal will be produced during the term hereof and the mining sequence, by year (or such other time intervals as mutually agreed) during the term of this Agreement; (ii) methods of mining such coal; (iii) methods of transporting and of washing the coal to insure compliance with the quantity and quality requirements of this Agreement including a description and flow sheet of the preparation plant; (iv) quality data plotted on the maps depicting data points and isolines by ash, sulfur, and BTU/LB.; (v) quality control plans including sampling and analysis procedures to insure individual Shipments meet quality specifications; and (vi) Seller's and Producer's aggregate

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commitments, including only the total tonnage committed to all buyers as a group and not the buyers' names, prices, or any other information, to others to sell coal from the Coal Properties during the term of this Agreement.

Buyer's receipt of the mining plan or other information or data furnished by Seller (the "Mining Information") shall not in any manner relieve Seller of any of Seller's other obligations or responsibilities under this Agreement; nor shall Buyer's receipt or review of the Mining Information be construed as constituting knowledge, consent or approval of Seller's proposed mining plan for any purposes under this Agreement. Review by Buyer of Mining Information is solely for the purpose of allowing Buyer to evaluate Seller's capability to supply coal as required by this Agreement, and the provision of Mining Information by Seller shall not provide Buyer with any right, or impose upon Buyer any duty or obligation, to exercise any direction or control over Seller's mining or reclamation operations. Seller agrees that it shall not rely upon its provision of Mining Information in response or defense to any claim by Buyer that Seller has breached or failed to properly perform any of Seller's obligations under this Agreement, except for the obligation to provide the Mining Information. To the extent it can legally do so, Buyer shall maintain as confidential all Mining Information disclosed by Seller and shall not disclose or use such Mining Information for any purposes other than to evaluate Seller's performance and compliance with the provisions of this Agreement. Buyer acknowledges that nothing in this Agreement or otherwise shall prevent Seller, in Seller's sole discretion, from changing all or any portion of the Mining Information at any time based on prudent mining practices.

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Upon request, Buyer shall have the right to request a mining plan update ("Update") showing progress to date, Seller's conformity to original mining plan, then-known changes in reserve data, and planned changes in mining progression, plans or procedures.

§4.5 Substitute Coal.

In the event that Seller is unable to produce or obtain coal from the Coal Properties in the quantities and of the quality required by this Agreement, and such inability is not caused by a Force Majeure Event as defined in Article 10, then Seller will have the option, but not the obligation, to supply substitute coal, with Buyer's written consent which may be withheld in Buyer's reasonable discretion, from other facilities and mines under Seller's control or the control of Seller's affiliates in accordance with all the terms and conditions of this Agreement including, without limitation, the price provisions of Article 8, the quality specifications of §6.1, and the provisions of Article 5 concerning reimbursement to Buyer for increased transportation costs. The delivered price to Buyer (i.e. delivered price at Buyer's plants) of such substitute coal shall not exceed the delivered price at Buyer's plant(s), in dollars per million Btu, for coal to be supplied from the Coal Properties. Seller's delivery of coal not produced from the Coal Properties without having received the express written consent of Buyer shall constitute a material breach of this Agreement. The availability of substitute coal rights does not limit a party's other rights or remedies under this Agreement, including but not limited to those in Article 13.

§4.6 Authority.

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Seller or Producer shall have sole and exclusive authority to direct and control its respective activities and operations, and those of any subcontractors, undertaken in the performance of Seller's obligations under this Agreement. Seller and Producer shall each exercise full and complete control over its respective work force and labor relations policies. Buyer shall have no authority or control over either Seller's or Producer's operations or work force.

ARTICLE 5. DELIVERY.

§5.1 Barge Delivery Point.

The coal shall be delivered to Buyer F.O.B. barge at the Marshall County Dock at Mile Point 110.4 on the Ohio River or the Ohio County Dock at Mile Point 93.7 on the Ohio River (collectively, the "Barge Delivery Point"). Provided, however, if Buyer or Buyer's barge transportation contractor ("Contractor") is not permitted or able to take possession and control of the barge at such dock (for example, if the dock is part of a closed harbor), then the coal is not considered delivered hereunder unless and until Buyer or Contractor actually takes possession and control of such barge. In such case, the point where Buyer or Contractor actually takes possession and control of the barge shall be considered the Barge Delivery Point hereunder. Seller may deliver the coal at a mutually-agreeable location different from the Barge Delivery Point. In such a case, however, Seller, upon submittal by Buyer of appropriate documentation acceptable to Seller, whose acceptance shall not be unreasonably withheld, shall reimburse Buyer for any resulting increases in the cost of transporting the coal to the destination designated by Buyer. Any resulting savings in such transportation shall be retained by Buyer.

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§5.2 Barge Title and Risk of Loss.

Title to and risk of loss of coal sold will pass to Buyer, and the coal will be considered to be delivered, when barges containing the coal are disengaged by Contractor from the Barge Delivery Point or any alternative location agreed to by Buyer pursuant to §5.1.

§5.3 Barge Cost of Transportation.

Seller shall arrange and pay for all costs of: (i) transporting the coal from the Coal Properties or other authorized source mines as provided herein to the Barge Delivery Point, (including without limitation, all truck, rail, barge and transloading costs, and all fleeting, switching, harbor and other port charges) and (ii) loading and trimming the coal into barges to the proper draft and the proper distribution within the barges. Buyer shall arrange and pay for transporting the coal by barge from the Barge Delivery Point to the destination designated by Buyer. For transportation delays which are not the fault of Buyer or Contractor and that are the fault of Seller or Producer with respect to the scheduling, loading and release of barge Shipments to Contractor, Seller shall be responsible for the payment of any reasonable demurrage or other penalties assessed by Contractor or by Buyer which accrue at the Barge Delivery Point. Seller shall also be responsible for and promptly pay all reasonable penalties for loading less than the specified minimum tonnage per barge, or other reasonable penalties assessed for barges not loaded in conformity with applicable requirements. A copy of all such Contractor loading requirements shall be provided to Seller upon execution of this Agreement or upon later update or implementation. Buyer will notify Seller in writing of any changes to any Contractor loading

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requirements. Buyer shall provide a copy of Contractor's invoices evidencing such penalties and/or demurrage charges to Seller upon Seller's request.

§5.4 Barge Shipping Logistics.

Buyer shall be responsible to deliver barges in as clean and dry condition as practicable, and shall furnish suitable barges in accordance with a delivery schedule provided by Buyer to Seller. Upon delivery of the barges by Buyer's Contractor, Seller shall have the right to inspect the barges to determine whether the barges are in as clean and dry condition as practicable. Seller shall have the right to reject any barges not meeting the above standard as determined by Seller in its reasonable discretion. Seller shall provide Buyer's Contractor notice of any rejection and the reasons therefore. Seller shall require of the loading dock operator that: (i) the barges and towboats provided by Buyer or Contractor be provided convenient and safe berth, free of wharfage, dockage, fleeting, switching, and other harbor and port charges; (ii) that while the barges are in the care and custody of the loading dock, all U.S. Coast Guard regulations and other applicable laws, ordinances, rulings, and regulations shall be complied with, including adequate mooring and display of warning lights; (iii) that any water in the cargo boxes of the barges be pumped out by the loading dock operator prior to loading; and (iv) the loading operations be performed in a workmanlike manner and in accordance with the reasonable loading requirements of Buyer and Contractor.

ARTICLE 6. QUALITY.

§6.1 Specifications.

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The coal under this Agreement shall conform to the following specifications on an "as received" basis:

<u>Specifications</u>	<u>Guaranteed Monthly Weighted Average</u> ⁽¹⁾	<u>Rejection Limits (per Shipment)</u>
BTU/LB.	Min. <u>12,500</u>	< <u>12,100</u>
<u>LBS/MMBTU:</u>		
MOISTURE	Max. <u>7.2</u>	> <u>8.0</u>
ASH	Max. <u>8.0</u>	> <u>9.25</u>
SULFUR	Max. <u>2.75</u>	> <u>3.0</u>
CHLORINE	Max. <u>700 ppm</u>	> <u>900 ppm</u>
ARSENIC	Max. <u>7.8 ppm</u>	> <u>9 ppm</u>
NITROGEN (%)	Max. <u>1.45</u>	> <u>1.65</u>
<u>SIZE (3" x 0):</u>		
Top size (inches) ⁽²⁾	Max. <u>3"</u>	> <u>3"</u>
Fines (% by weight)	Max. <u>55%</u>	> <u>60%</u>
Passing 1/4" screen		
<u>% BY WEIGHT:</u>		
VOLATILE	Min. <u>36.5</u>	< <u>28.00</u>
FIXED CARBON	Min. <u>46.5</u>	< <u>40.00</u>
GRINDABILITY (HGI)	Min. <u>54</u>	< <u>48</u>
BASE ACID RATIO (B/A) ⁽³⁾	Max. <u>0.50</u>	> <u>0.60</u>
SLAGGING FACTOR ⁽⁴⁾	Max. <u>2.30</u>	> <u>2.60</u>
FOULING FACTOR ⁽⁵⁾	Max. <u>0.25</u>	> <u>0.30</u>
<u>ASH FUSION TEMPERATURE (°F) (ASTM D1857)</u>		
<u>REDUCING ATMOSPHERE</u>		
Initial Deformation	Min. <u>2,000</u>	< <u>1,950</u>
Softening (H=W)	Min. <u>2,075</u>	< <u>2,025</u>
Softening (H=1/2W)	Min. <u>2,175</u>	< <u>2,125</u>
Fluid	Min. <u>2,375</u>	< <u>2,325</u>
<u>OXIDIZING ATMOSPHERE</u>		

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Initial Deformation	Min. <u>2.475</u>	< <u>2.375</u>
Softening (H=W)	Min. <u>2.500</u>	< <u>2.400</u>
Softening (H=1/2W)	Min. <u>2.540</u>	< <u>2.440</u>
Fluid	Min. <u>2.560</u>	< <u>2.460</u>

(1) An Actual Monthly Weighted Average will be calculated as applicable for each specification for coal loaded during a calendar month.

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

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

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

Note: As used herein > means "greater than"

< means "less than"

(4) Slagging Factor (R_s) = (B/A) × (Percent Sulfur by Weight_{Dry})

(5) Fouling Factor (R_f) = (B/A) × (Percent Na₂O by Weight_{Dry})

Each Shipment shall have coal of substantially the same quality throughout.

§6.2 Definition of "Shipment".

As used herein, a "Shipment" shall mean one (1) barge load.

§6.3 Rejection.

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Buyer has the right, but not the obligation, to reject any Shipment which is subject to rejection based on any or all of the Rejection Limits set forth in §6.1 or which contains extraneous materials ("Non-Conforming Coal"). Buyer must reject Non-Conforming Coal within seventy-two (72) hours of Buyer's receipt of the coal analysis provided for in §7.2, or the right to reject such Non-Conforming Coal is waived. If Buyer rejects such Non-Conforming Coal, title to and risk of loss of the Non-Conforming Coal shall be considered to have never passed to Buyer ("Rejected Coal"), and Buyer shall return the coal to Seller, or at Seller's request, Buyer shall allow Seller to receive the Non-Conforming Coal or divert such coal to Seller's designee, all at Seller's sole cost and risk. Notwithstanding the foregoing, Buyer and Seller may mutually agree on a reduced price or other terms or conditions upon which Buyer will accept the Rejected Coal.

Within five (5) business days from notice of rejection, Seller shall replace the Rejected Coal with coal from the Coal Properties that is of a quality not subject to any of the Rejection Limits set forth in §6.1 ("Replacement Coal"). If Seller fails to replace the Rejected Coal within the five (5) business day period, or if the Replacement Coal is rightfully rejected, Buyer may purchase coal from any other third (3rd) party in order to replace the Rejected Coal ("Cover Coal"). In such a case, Seller, upon submission by Buyer of appropriate documentation acceptable to Seller, whose acceptance shall not be unreasonably withheld, shall reimburse Buyer for (i) any reasonable amount by which the actual delivered price to Buyer of such Cover Coal, in dollars per MMBTU delivered at Buyer's plant(s), exceeds the delivered price of Seller's coal (i.e. the delivered price in effect at the time), in dollar per MMBTU delivered at Buyer's plant(s); and (ii) any and all reasonable transportation, storage, or handling expenses that have been incurred by

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Buyer in connection with Rejected Coal and properly documented. Rejected Coal tonnages shall not be included in the calculation of the actual Monthly Weighted Average quality of the coal loaded during the Delivery Month (as defined in §8.2 below) or any quality price adjustments for the Delivery Month. Tonnages of Rejected Coal shall not be included in the total of tons delivered under this Agreement. Tonnages of Replacement Coal and/or Cover Coal shall be included in the total of tons delivered under this Agreement and Replacement Coal shall be included in the calculation of the actual Monthly Weighted Average and any quality price adjustments for the Delivery Month.

If Buyer fails to reject a Non-Conforming Coal which it had the right to reject, then such Non-Conforming Coal shall be deemed accepted by Buyer, and its quality characteristics shall be included in any quality calculations for the Delivery Month. However, Buyer shall have the option, in its sole discretion, to exclude accepted Non-Conforming Coal from the total annual tonnage of coal that Seller is obligated to sell to Buyer under this Agreement. Accepted Non-Conforming Coal shall nevertheless be considered "rejectable" for purposes of §6.4. For Shipments containing extraneous materials, which include, but are not limited to, slate, rock, wood, corn husks, mining materials, metal, steel, etc., the estimated weight of such materials shall be deducted from the weight of the applicable Shipment.

§6.4 Suspension and Termination.

If (a) the coal sold hereunder fails to meet one (1) or more of the Guaranteed Monthly Weighted Average specifications set forth in §6.1 for any two (2) Delivery Months in a six (6) month period. or (b) four (4) barge Shipments in a thirty (30) day period are rejectable by Buyer.

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then Buyer may, upon initial notice (which need not comply with Article 11) but promptly confirmed in writing and sent in accordance with Article 11 thereafter, suspend future Shipments of coal hereunder, except for coal already loaded into barges at the time notice is given. Seller shall, within ten (10) days of such notice, provide Buyer with reasonable assurances that future Shipments of coal will meet or be of a quality superior to the Guaranteed Monthly Weighted Average specifications set forth in §6.1 and will be of a quality superior to the rejection limits set forth in §6.1.

If Seller fails to provide such assurances within said ten (10) day period, Buyer may terminate this Agreement by giving written notice of such termination at the end of the ten (10) day period. If Seller provides such assurances to Buyer's reasonable satisfaction, Shipments hereunder shall resume, and any tonnage deficiencies resulting from suspension may be made up at Buyer's sole option. Buyer shall not unreasonably withhold its acceptance of Seller's assurances, or delay the resumption of Shipments.

If after deliveries resume, Seller's deliveries fail to meet any of the Guaranteed Monthly Weighted Average specifications for any one (1) Delivery Month within the next three (3) months or if three (3) barge Shipments in a thirty (30) day period are rejectable during such three (3) month period, then Buyer may terminate this Agreement and exercise all its other rights and remedies available to it under applicable law and in equity for Seller's breach.

If Buyer refrains from terminating this Agreement as a result of one or more Non-Conforming Shipments of coal as provided herein, Buyer shall not be deemed to have waived its right to terminate this Agreement for any future breach of the Agreement.

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ARTICLE 7. WEIGHTS, SAMPLING AND ANALYSIS.

§7.1 Weights.

Except as otherwise provided herein or if the parties agree otherwise, the weight of each coal Shipment under this Agreement shall be determined for payment purposes (the "Payment Weight") by Seller on the basis of certified belt scale ("Scale") weights at the Barge Delivery Point. Seller will transmit its loading weights and qualitative analysis for the relevant Shipment to Buyer as soon as possible.

If Seller's scale is inoperable, or if Seller fails to obtain a sample of the coal upon loading, Buyer's unloading weight shall be used for the relevant Shipment. Buyer shall be notified as soon as possible whenever Seller's scale or sampling equipment is out of operation, or when Seller fails to obtain a sample upon loading. In such cases, for coal delivered and unloaded at Buyer's Trimble County Generating Station, the unloaded weight for each Shipment shall be determined using a barge lot weighing method. If more than one (1) of Seller's barges are unloaded sequentially, an actual unloaded weight shall be recorded, on the basis of Buyer's scale weights for the total of all of Seller's barges unloaded in this sequence. The assigned unloaded weight for each such Shipment shall be proportioned based on Seller's load weight for each barge and the total weight for all of Seller's barges unloaded in that sequence.

Scales (whether Buyer's or Seller's) shall be operated in accordance with NIST Handbook 44. Such scales shall be duly reviewed by an appropriate testing agency and maintained in an accurate condition and certified (i.e. material tested) at least annually, in accordance with NIST

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Handbook 44, with third party oversight. Either party shall also have the right, at its expense and upon reasonable notice, to have the other party's scales checked for accuracy at any reasonable time or frequency.

If Seller's scales are found to be over or under the tolerance range allowable for the scale, based on industry-accepted standards, then Seller shall report such discrepancy to Buyer and recalculate the payments for coal weighed on those scales for the period of inaccuracy (not to exceed thirty (30) days) based on the unload weights for such coal provided by Buyer. Buyer or Seller, as applicable, shall pay to the other such amounts owed as a result of the recalculation, and Seller shall reimburse, if applicable, Buyer for the expenses incurred in checking the accuracy of said scales.

If Buyer's scales are used for payment purposes and are found to be over or under the tolerance range allowable for the scale based on industry-accepted standards (the "Tolerance"), then Buyer shall recalculate the payments for coal weighed on those scales for the period of inaccuracy (not to exceed thirty (30) days) based on the percentage of variance identified for the scales from the Tolerance, plus the amount of the Tolerance. Buyer or Seller, as applicable, shall pay to the other such amounts owed as a result of the recalculation, and Buyer shall reimburse, if applicable, Seller for the expenses incurred in checking the accuracy of said scales.

§7.2 Sampling and Analysis.

The sampling and analysis of each Shipment shall be performed by Seller in the process of loading individual Shipments, except as otherwise provided herein, and the results thereof shall be accepted and used as the defining quality and characteristics of the coal under this Agreement and

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shall be used in determining the payments for the relevant Shipments (the "Payment Analysis"). All analyses shall be made by an independent commercial testing laboratory, at Seller's expense, in accordance with ASTM standards where applicable, or industry-accepted standards in other cases. Samples for analyses shall be taken in accordance with ASTM standards or other methods mutually acceptable to both parties. Seller shall transmit its "as-loaded" quality analysis to Buyer as soon as possible. Buyer's "unloaded" quality shall be the Payment Analysis only when Seller's sampler and/or scales are inoperable, or if Seller fails to obtain a sample upon loading.

Seller shall notify Buyer in writing of any significant changes in Seller's sampling and analysis practices. Any such changes in Seller's sampling and analysis practices shall, except for ASTM or industry-accepted changes in practices, provide for no less accuracy than the sampling and analysis practices existing at the time of the execution of this Agreement, unless the parties otherwise mutually agree.

Each sample taken by Seller shall be divided into four (4) parts and put into airtight containers, properly labeled and sealed. One (1) part shall be used for analysis by Seller. One (1) part shall be used by Seller as a check sample, if Seller in its sole judgment determines it is necessary. One (1) part shall be retained by Seller until thirty (30) days after the sample is taken ("Disposal Date"), and shall be delivered to Buyer for analysis if Buyer so requests before the Disposal Date. One (1) part (the "Referee Sample") shall be retained by Seller until the Disposal Date.

Buyer, on reasonable notice to Seller, shall have the right to have a representative present to observe the sampling and analyses performed by Seller. Unless Buyer requests an analysis of

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the Referee Sample before the Disposal Date, Seller's analysis shall be used to determine the quality of the coal under this Agreement and shall be the Payment Analysis. The Monthly Weighted Averages of specifications referenced in §6.1 shall be based on the individual Shipment analyses.

If any dispute arises with regard to the analysis of any sample before the Disposal Date for such sample, the Referee Sample retained by Seller shall be submitted for analysis to an independent commercial testing laboratory ("Independent Lab") mutually chosen by Buyer and Seller.

For each coal quality specification in question, if the analysis of the Independent Lab differs by more than the applicable ASTM reproducibility standards, the Independent Lab results will govern, and the prior analysis shall be disregarded. All testing of the Referee Sample by the Independent Lab shall be at requestor's expense unless the Independent Lab results differ from the original Payment Analysis for any specification by more than the applicable ASTM reproducibility standards as to that specification. In such case, the cost of the analysis made by the Independent Lab shall be borne by the party who provided the original Payment Analysis.

§7.3 Failure to obtain a Weight or Sample.

If Buyer and Seller fail to obtain a certified weight or sample, then the parties will use commercially reasonable, mutually agreed-upon practices to determine the weight and/or analysis.

ARTICLE 8. PRICE.

§8.1 Base Price.

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(a) Base Price. The “Base Price” of the coal to be sold hereunder will be firm and will be determined by the cumulative volume range in which the coal is loaded, as defined in Article 3, in accordance with the following schedule:

<u>VOLUME RANGE</u> <u>(CUMULATIVE)</u>	<u>BASE PRICE (\$ PER TON)</u> <u>FOB Barge</u>
0 – 350,000 tons	\$46.00
350,001 – 950,000 tons	\$47.75
950,001 – 1,550,000 tons	\$50.00
1,550,001 – 2,150,000 tons	\$50.00

(b) Make-up Tons Pricing. Notwithstanding the foregoing, the Base Price for any Make-Up Tons (as such term is defined in §3.2 hereof) shall be based on the Base Price for the cumulative volume range in which such Make-Up Tons should have been loaded and not any other Base Price in the Make-Up Year (as such term is defined in §3.2 hereof).

§8.2 Quality Price Adjustments.

The price paid by Buyer for the coal sold hereunder, will be adjusted based on the quality of the coal as follows:

(a) BTU True Up. The Base Price for coal loaded hereunder in any particular calendar month (a “Delivery Month”) is based on the assumption that the actual “as received” Monthly Weighted Average BTU/LB (the “BTU AMWA”) for all the coal loaded during a Delivery Month is equal to the Guaranteed Monthly Weighted Average BTU/LB set forth in §6.1 (the “BTU GMWA”). If the BTU AMWA for the coal loaded in any Delivery Month deviates from the BTU

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GMWA for any Delivery Month, then the price applicable to such loaded coal will be adjusted to account for such variation in BTUs. The BTU adjustment for that Delivery Month will be determined as follows:

- (i) Calculate the per ton BTU adjustment for a Delivery Month using the following formula (where Price per Ton is the applicable Base Price set forth in §8.1 above):
$$((\text{BTU AMWA} - \text{BTU GMWA}) \div \text{BTU GMWA}) \times \text{Price per Ton} = \text{Per Ton BTU Adjustment}$$
- (ii) Determine the price adjustment for BTUs for the Delivery Month by multiplying the Per Ton BTU Adjustment (as calculated in (i) above) by the total number of tons actually loaded by Seller under this Agreement during the Delivery Month.

Depending on whether the BTU AMWA is greater than or less than the BTU GMWA in a Delivery Month, the Per Ton BTU Adjustment for the Delivery Month can be positive or negative. If the BTU adjustment (as calculated above) for a Delivery Month is positive, then Buyer shall pay the amount of such BTU adjustment to Seller. If the BTU adjustment (as calculated above) for a Delivery Month is negative, then Seller shall pay or credit the amount of such BTU adjustment to Buyer. Buyer shall be responsible for making the BTU adjustment calculations and shall send a written statement to Seller of the amount of the BTU adjustment for each Delivery Month. BTU adjustment payments shall be due when the next payment for coal is due hereunder.

For the avoidance of doubt, the parties agree to the following example. If the AMWA for a Delivery Month equals 12,000 BTU/LB, the GMWA equals 12,500 BTU/LB and the Base Price Per Ton is \$46.00/ton, then the Per Ton BTU Adjustment would be $((12,000 - 12,500) \div 12,500)$

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× \$46.00 = -\$1.84000 per ton. If a total of 40,000 tons were loaded during the Delivery Month, then the BTU adjustment would equal -\$73,600.00 (40,000 × -\$1.84000). Since it is negative, this amount would be due and owing to Buyer by Seller with respect to coal loaded during that Delivery Month.

(b) Other Quality Price Reductions. The Base Price is based on Buyer’s receipt of coal of a quality that is consistent with or superior to all of the GMWA specifications as set forth in §6.1. Quality price reductions shall be applied for each specification each Delivery Month to account for the Seller’s failure to provide coal of a quality superior to the “Discount Values” set forth below.

DISCOUNT VALUES

	<u>\$/MMBTU</u>
BTU/LB.	0.2604
	<u>\$/MMBTU PER LB./MMBTU</u>
SULFUR	0.1232
ASH	0.0083
MOISTURE	0.0016

For each specification during each Delivery Month with respect to the quality price discounts listed above, there shall be no discount if the AMWA for a specification meets the applicable Discount Point set forth below for that specification. If the AMWA fails to meet the Discount Point, then the applicable Discount Value shall apply, and the quality price reduction shall be calculated on the basis of the difference between the AMWA and the GMWA for such specification.

GUARANTEED MONTHLY WEIGHTED AVERAGE

DISCOUNT POINT

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BTU Min. 12,500 BTU/LB	12,300 BTU/LB
ASH Max. 8.0 LB/MMBTU	9.0 LB/MMBTU
MOISTURE Max. 7.20 LB/MMBTU	7.60 LB/MMBTU
SULFUR Max. 2.75 LB/MMBTU	3.0 LB/MMBTU

For example, if the AMWA of sulfur equals 3.14 lb./MMBTU, then the applicable discount would be $(3.14 \text{ lb.} - 3 \text{ lb.}) \times \$0.1232/\text{MMBTU per lb./MMBTU} = \$0.01725 \text{ per MMBTU}$.

§8.3 Payment Calculation.

Schedule 1 attached hereto shows the methodology for calculating the coal payment, the BTU adjustment and quality price reductions for the Delivery Month. If there are any such price adjustments, Buyer shall apply a credit for such adjustments to amounts owed Seller for the month the coal was loaded.

§8.4 Price Adjustments for Changes in Governmental Impositions.

The Base Price set forth in §8.1 above includes, as of May 3, 2024, all of Seller's and Producer's costs of complying with all Federal or state statutes, regulations and other governmental impositions in force on that date that are applicable to Seller's and Producer's operations in connection with the production, sale and delivery of the coal to be supplied hereunder, including but not limited to tax increases or decreases (other than taxes measured by income and taxes of a general commercial applicability). The Base Price shall be subject to adjustment pursuant to this section only in the event that the requesting party can clearly demonstrate that: (a) new Federal or state statutes, regulations or other governmental impositions affecting the coal to be supplied hereunder or the production thereof, including but not limited to

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tax increases or decreases (other than taxes measured by income and taxes of a general commercial applicability); or (b) amendments, modifications or changes to the text, interpretation, application or enforcement (excluding changes in frequency, rigor or thoroughness of enforcement) of any existing applicable Federal or state statutes, regulations, or other governmental impositions that occur after May 3, 2024 (each (a) and (b) collectively, as limited below, a "Requirement") which cause Seller's or Producer's direct cost of providing coal to Buyer under this Agreement to increase or decrease (generally an "Imposition"). As used herein, a Requirement shall mean a Federal or state statute, regulation or other governmental action that pertains to coal mining or handling practices, to health and safety of miners or associated workers or to air, water, or waste quality or disposal standards, but shall not include other Federal or state statute, regulation or other governmental imposition applicable to businesses generally (such as, by way of example only, general tax, wage benefit, health care, insurance or retirement requirements). In the event a party desires to obtain a price adjustment based on an Imposition, the affected party shall notify the other party in writing of the Requirement or potential Requirement within fifteen (15) days of the time such party becomes aware of such Requirement, setting forth the Requirement, specific legal basis for the Imposition, the anticipated or actual financial impact of the Imposition (to the extent then known) and the anticipated or actual effective date. Either Buyer or Seller may request a Base Price adjustment, which shall be comprised of no more than the actual costs directly associated with the effect of such change on the cost of producing the coal to be supplied hereunder. Additionally, any Imposition adjustment shall only be made hereunder if the price adjustment is allocated pro rata to all coal produced by Seller or Producer, including all coal that is produced

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from the Coal Property, so that Buyer is allocated only its proportionate share of such Imposition, and the Base Price shall likewise be decreased for any savings resulting from any Requirement or Imposition. There shall be no change to the Base Price based on reductions or loss of production or production capacity as a result of an Imposition.

By way of example, and not of limitation, an Imposition that requires the purchase of special or additional equipment shall be prorated over the number of years of useful life of the equipment and over the total tons in any year during the useful life of the equipment. In such a case, the change in the Base Price would not exceed the per-ton prorated cost of the equipment.

After Seller has determined the actual, direct cost impact of any Imposition, which may be after the conclusion of the applicable calendar year, Seller shall notify Buyer in writing of the amount and effective date of any claimed adjustment to the Base Price as a result of one or more Impositions and shall furnish Buyer with the specific legal basis for the Imposition and accurate and detailed computations and data reasonably necessary to substantiate the claimed adjustment. Buyer shall have the right to inspect all books and records of Seller or Producer relevant to the claimed adjustment upon reasonable notice to Seller. Buyer shall notify Seller of any disagreement Buyer has with the claimed adjustment within a reasonable time after receipt of such notice and computations, taking into account any audits or requests for additional information by Buyer. It is Seller's obligation to ensure that Imposition decreases are given to Buyer.

If the amount of the actual or anticipated Impositions exceeds one dollar (\$1.00) per ton on a cumulative basis for any particular calendar year, Buyer may terminate this Agreement upon not less than thirty (30) days written notice to Seller. Alternatively, Seller may elect, by forwarding

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written notice to Buyer within ten (10) days after receiving Buyer's notice of termination, to limit the cumulative amount of Impositions for any particular calendar year to a maximum of one dollar (\$1.00) per ton. In the event Seller makes such election, the increase shall be so limited, and the remainder of this Agreement shall continue in full force and effect.

Notwithstanding any other provisions of this section, neither a Requirement nor an Imposition shall include any change in, or costs relating to, a Federal, state or local penalties, fines or other amounts due upon non-compliance with statute, regulation or other rule.

ARTICLE 9. INVOICES, BILLING AND PAYMENT.

§9.1 Invoicing Address.

Invoices will be sent electronically to Buyer at the following address:
fuels.accounting@lge-ku.com.

§9.2 Invoice Procedures for Coal Shipments.

By the fifth (5th) working day of the month following the Delivery Month (the "Payment Month"), Buyer will provide Seller with a price calculation for all coal loaded during the Delivery Month based on the applicable Base Price, and taking into account all quality price adjustments provided for in Article 8 (the "Buyer's Statement"). By the tenth (10th) day of the Payment Month the Seller will provide Buyer with its invoice for all coal loaded during the Delivery Month, taking into account all quality price adjustments (the "Monthly Invoice").

§9.3 Payment Procedures for Coal Shipments.

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For all coal loaded between the first (1st) and fifteenth (15th) days of any Delivery Month, Buyer shall make a "Preliminary Payment" of one-hundred percent (100%) of the Base Price for such coal (based on the assumption that the coal will meet all GMWA parameters) by the twenty-fifth (25th) day of such Delivery Month. All Preliminary Payments shall be calculated based solely on the then-current Base Price on a dollar-per-ton basis. By the fifteenth (15th) day of the Payment Month, Buyer will pay for all coal loaded between the sixteenth (16th) and the last day of any Delivery Month plus any quality adjustments for the Delivery Month as provided in §8.2 above.

For example, Buyer will make a Preliminary Payment by August 25 for coal loaded between August 1 through August 15. On or before the fifth (5th) working day of September, Buyer will provide Seller with the Buyer's Statement. On or before the tenth (10th) day of September, Seller shall provide Buyer the Monthly Invoice for all coal loaded in August. The Monthly Invoice for August loadings, to the extent it is verified by Buyer, will be paid by the fifteenth (15th) day of September. In every case referenced in this section for payment, if a specific day is not a banking day and regular work day for Buyer, payment shall be made on the next regular work day for Buyer.

Notwithstanding loading, Rejected Coal shipments shall not be included in the invoicing and payment with respect to coal during the Delivery Month. As-loaded Replacement Coal and/or Cover Coal shall be included in the invoicing and payment with respect to coal during the Delivery Month.

Buyer shall electronically transfer funds to Seller's Account based on the account information (including Bank name, ABA number and Account Number) provided in writing, in a

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form reasonably acceptable to Buyer, prior to the first (1st) Shipment under this Agreement. Seller reserves the right to modify such account information on prior written notice reasonably acceptable to Buyer.

Buyer's payment obligations for coal delivered by Seller and accepted by Buyer shall survive the termination or expiration of this Agreement.

§9.4 Withholding.

Buyer shall have the right to withhold from payment of any billing or billings: (i) any sums which it is not able in good faith to verify or which it otherwise in good faith disputes, (ii) any damages resulting from any breach of this Agreement by Seller; and (iii) any amounts owed to Buyer from Seller pursuant to this Agreement. Buyer shall immediately notify Seller in writing of the basis for the dispute and pay the portion of such statement not in dispute no later than the due date. If any amount withheld under dispute by Buyer is ultimately determined to be due Seller, it shall be paid within five (5) business days after such determination.

Payment by Buyer, whether knowing or inadvertent, of any amount in dispute shall not be deemed a waiver of any claims or rights by Buyer with respect to any disputed amounts or payments made.

§9.5 Guaranty.

Seller's Guarantor, American Consolidated Natural Resources, Inc. ("Guarantor"), shall provide a guarantee in form consistent with the attached Exhibit II, prior to the execution of this Agreement.

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ARTICLE 10. FORCE MAJEURE.

§10.1 General Force Majeure.

If either party hereto, is delayed in or prevented in whole or part, from performing any of its obligations or from utilizing the coal sold under this Agreement as a result of one or more events or occurrences which are both: (a) beyond the reasonable control of the affected party (including any affiliated entity with which the affected party has contracted) exercising reasonable care in accordance with normal and prudent industry standards, and (b) not the result of the fault or negligence of the affected party or an affiliated entity with which the affected party has contracted (a "Force Majeure Event"), then the obligations of both parties hereto, other than the obligation to make payments for coal loaded, shall be suspended to the extent made necessary by such Force Majeure Event; provided that the affected party gives written notice to the other party as early as practicable of the existence, nature and probable duration of the Force Majeure Event and makes all commercially reasonable efforts in accordance with normal and prudent industry standards to terminate and/or limit the effect of the Force Majeure Event. As used herein, the term Force Majeure Event shall include but not be limited to acts of God, war, terrorism, riots, civil insurrection, acts of the public enemy, strikes, lockouts, industry-wide labor shortages, labor disputes which cause work stoppages, industry-wide shortages of materials and supplies, adverse geological conditions in coal seams not discernable by prudent engineering, fires, floods, earthquakes, pandemic disease or other emergency situations declared by a relevant jurisdiction, notices or declarations of Force Majeure by transportation carriers or coal terminals, embargoes.

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legislation, court orders, governmental regulation, or orders or acts of any government or military authority (in each case to the extent causing material disruption of the claiming party's operations that is greater than such disruption existing at the time of execution of the Agreement), or other causes, whether of a similar or dissimilar nature and otherwise meeting the requirements earlier set forth in this section. Force Majeure shall not include any interruption to or interference with a party's performance that are the result of (i) regular or routine maintenance of equipment or operations, (ii) delays in obtaining, or violations under, any necessary permits, licenses or approvals, to the extent the same are specific to the operations of Seller or Producer as opposed to the coal mining industry as a whole, or (iii) any failure to employ prudent practices that are standard in the impacted party's industry. The party declaring force majeure shall keep the other party advised as to the continuance of the Force Majeure Event.

During any period in which Seller's ability to perform hereunder is affected by a Force Majeure Event, Seller shall not deliver any coal of similar specifications as set forth in §6.1 from each Coal Property to any other buyers other than "Other FM Buyers" (as herein after defined). With respect to any given month and each particular Coal Property, "Other FM Buyers" are other buyers to whom Seller is contractually committed to make deliveries to in that particular month under a contract which (a) includes such Coal Property and (b) has been in place at the onset of the Force Majeure Event (a "Permitted Contract"). Further, if Seller is delivering coal to Other FM Buyers during the period of Force Majeure Event, Seller shall during each month deliver to Buyer under this Agreement at least a pro rata portion of its monthly aggregate production from each Coal Property, in accordance with the below methodology:

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$$\text{Required Monthly Delivery to Buyer} = \frac{\text{mBQ}}{(\sum \text{mOBQ} + \text{mBQ})} \times \text{STMP}$$

(During Each FM Month for Each Coal Property)

Where:

- OFMB = Other Force Majeure Buyers for such Coal Property
 PC = Permitted Contracts for such Coal Property
 BQ = Annual Base Quantity (including any Make Up Tons called for under this Agreement)
 mBQ = BQ / 12
 STMP = Seller's total production of coal meeting similar specifications set forth in §6.1 during such month from such Coal Property
 OBQ = Annualized contractual base quantities under OFMB's PCs at time of FM Event
 mOBQ = OBQ / 12
 FM = Force Majeure

For purposes of this calculation:

In any particular monthly calculation, OBQ (and its sum \sum OBQ) shall not include (a) any base quantities for OFMB whose PC base quantity delivery months have since expired or (b) any base quantities for OFMB whose PC base quantity delivery months have not yet commenced. Further, for PCs with terms of greater or less than one (1) year OBQ shall use an annualized base quantity amount for such PC.

In any particular monthly calculation, STMP shall be the aggregate tons of coal produced by Seller in that month from such Coal Property. The term "production" hereunder shall be defined and calculated consistently with the use of that term in the federal Quarterly Mine Employment

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and Coal Production Report (MSHA Form 7000-2) as reported to the Department of Labor's Mine Safety and Health Administration.

In any particular monthly calculation, Seller shall not be required to deliver to Buyer an amount in excess of the ratable annual Base Quantity hereunder (namely mBQ).

Example: Calculation of Monthly Tonnage Allocation During Force Majeure Event

If during Month 1, Coal Property Source A experiences a Force Majeure event that limits or prevents the production of coal used to supply Contract 1 and 4, then the calculation of the monthly allocation of coal production to Buyer under Contract 1 would be as follows (see the following page):

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<u>Company</u>	<u>Contract #</u>	<u>Coal Properties</u>	<u>BQ</u>	<u>mBQ</u>
LG&E-KU	1	A, B, C, D	400,000	33,333
<u>OFMB</u>	<u>PC</u>		<u>OBO</u>	<u>m OBO</u>
x	2	B, C, D	300,000	25,000
y	3	C, D	200,000	16,667
z	4	A	150,000	12,500

ALLOCATION OF STMP to CONTRACT # 1

<u>Coal Properties</u>	<u>STMP</u>	<u>Allocation</u>
A	0	0
B	30,000	17,143
C	10,000	4,444
D	15,000	6,667
		28,254

Allocation of STMP not to exceed mBQ or mOBO

$$\frac{\text{mBQ}}{(\sum \text{mOBO}) + \text{mBQ}} \times \text{STMP}$$

Allocation of A:

$$\frac{33,333}{45,833} \times 0 = 0$$

(Contract 1, 4)

Allocation of B:

$$\frac{33,333}{58,333} \times 30,000 = 17,143$$

(Contract 1, 2)

Allocation of C:

$$\frac{33,333}{75,000} \times 10,000 = 4,444$$

(Contract 1, 2, 3)

Allocation of D:

$$\frac{33,333}{75,000} \times 15,000 = 6,667$$

(Contract 1, 2, 3)

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An event which affects the Seller's ability to produce or obtain coal from a mine other than the Coal Properties will not be considered a Force Majeure Event hereunder. In addition, Seller shall use its commercially reasonable best efforts (including changes to processing, preparation and blending) to increase its production capacity at similar unaffected properties constituting Coal Properties to supply coal as provided herein during the Force Majeure Event. Where Seller has provided notice to Buyer that Seller's ability to produce or obtain coal from the Coal Properties has been impacted by a Force Majeure Event, Seller shall, upon Buyer's request, be required to provide Buyer with the monthly pro rata allocation calculations shown above. Seller shall, upon Buyer's request and upon completion of suitable confidentiality agreements in Seller's discretion which should not be unreasonably withheld or delayed, provide Buyer with supporting documentation, data, and calculations.

Changes in market conditions, commercial frustration, commercial impracticability or the occurrence of unforeseen events rendering performance of this Agreement uneconomical for either party shall not constitute a Force Majeure Event. Minor transportation delays which can be resolved by an amendment to the delivery schedule without materially disrupting future Shipments will not be considered Force Majeure Events, but shall be resolved by schedule amendments.

Tonnage deficiencies resulting from a Force Majeure Event shall be made up at sole option of the non-affected party and shall be treated as Make-Up Tons pursuant to §3.2 above, and to the extent necessary, the term of this Agreement will automatically be extended for the period necessary for the receipt or delivery of the Make-Up Tons; provided, however, the non-affected

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party shall be required to provide written notice to the other party of its intent to make up such deliveries within ninety (90) days of the cessation of the Force Majeure Event.

If a Force Majeure Events continues for more than one hundred and eighty (180 days), the non-affected party shall have the right to terminate this Agreement, in its sole discretion, without further obligation on the part of either party, except for obligations incurred prior to such termination.

§10.2 Environmental Law Force Majeure.

In addition to, and not in limitation of, the provisions of §10.1 above, if Buyer reasonably concludes that any new environmental law is enacted or new rule, or regulation is promulgated (including without limitation, an amendment to or a new interpretation of an existing law, rule or regulation) after the date of execution of this Agreement which becomes effective during the term of this Agreement, which makes it impossible, commercially impracticable or uneconomical for Buyer to utilize this or like kind and quality coal, or full quantities thereof, which thereafter would be delivered under this Agreement, Buyer shall so notify Seller. Thereupon, Buyer and Seller shall promptly consider whether corrective actions can be taken in the mining and preparation of the coal at Seller's mine and/or in the handling and utilization, or quantities, of the coal at Buyer's generating stations. If in Buyer's sole judgment any such actions will not, without unreasonable expense to Buyer, make it possible, commercially practicable and economical for Buyer to use the coal which would be delivered hereunder without violating any applicable law, regulation, policy or order, Buyer shall have the right, upon the later of sixty (60) days' notice to Seller or the

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effective date of such restriction, to terminate this Agreement without further obligation hereunder on the part of either party except for obligations incurred prior to the time of such termination.

§10.3 Limitation on Environmental Force Majeure.

Notwithstanding anything to the contrary set forth in §10.2 above, a delay or other failure, to the extent due to Seller's negligence or failure to diligently apply, pursue, or maintain, in the issuing of one or more permits (that are necessary on the date hereof pursuant to an existing environmental law, regulation, policy and/or restriction to commence operations with respect to an Coal Properties) shall not be the basis, in whole or in part, of any claim by Seller under §10.2, whether such delay or failure relates to the reinterpretation of existing environmental laws, regulations, policies and/or restrictions, to a change in the interpretation, or to the enforcement thereof; provided however, this §10.3 shall not apply with respect to delays or other failures in the issuing of one or more necessary permits to the extent such permits are new permits required pursuant to a change in existing or a future environmental law, regulation, restriction or policy (or a change in the enforcement or interpretation thereof) adapted after the date of execution of this Agreement with respect to Coal Properties or other facilities of Seller or Producer then being utilized to provide coal hereunder.

ARTICLE 11. NOTICES.

§11.1 Form and Place of Notice.

Any official notice, request for approval or other document required to be given under this Agreement shall be in writing, unless otherwise provided herein, and shall be deemed to have been

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sufficiently given when delivered in person, transmitted by facsimile or other electronic media, delivered to an established mail service for same day or overnight delivery, or dispatched in the United States mail, postage prepaid, for mailing by first class, certified, or registered mail, return receipt requested, and addressed as follows:

If to Buyer: Louisville Gas and Electric Company/Kentucky Utilities Company
220 West Main Street
Louisville, Kentucky 40202
Attn: Director Coal Supply and By-Products Marketing

If to Seller: ACNR Coal Sales, Inc.
46226 National Road
St. Clairsville, OH 43950
Attn: Todd Adkins
Email: toddadkins@acnrinc.com

With Copies to: ACNR Coal Sales, Inc.
46226 National Road
St. Clairsville, OH 43950
Attn: Coal Contract Administration
Email: acnrcoalsales@acnrinc.com
Facsimile No.: (740) 338-3405

ACNR Coal Sales, Inc.
46226 National Road
St. Clairsville, OH 43950
Attn: General Counsel
Email: legal@acnrinc.com
Phone: (740) 338-3100
Fax: (740) 338-3405

Notice will be deemed received when actually received by the addressee.

§11.2 Change of Person or Address.

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Either party may change the person or address specified above upon giving written notice to the other party of such change.

§11.3 Electronic Data Transmittal.

Seller hereby agrees, at Seller's cost, to electronically transmit shipping notices and/or other data to Buyer in a format acceptable to and established by Buyer upon Buyer's request. Buyer shall provide Seller with the appropriate format and will inform Seller as to the electronic data requirements at the appropriate time.

ARTICLE 12. INDEMNITY AND INSURANCE.

§12.1 Indemnity.

Seller agrees to indemnify and save harmless Buyer, its officers, directors, employees, affiliates and representatives from any responsibility or liability for any and all third party claims, demands, costs, charges, losses, legal actions for personal injuries, property damage or pollution (including without limitation reasonable inside and outside attorney's fees) (collectively "Claims") arising from or relating in any manner to the performance or failure to perform any of its Seller's obligations under this Agreement, regardless of when the same accrues, arises, or is asserted. Seller's indemnity shall include but not be limited to Claims: (i) relating to Seller's title to any coal delivered by Buyer hereunder, (ii) relating to the barges provided by Buyer or Buyer's Contractor while such barges are in the care and custody of the loading dock or loading facility, (iii) due to any failure of Seller or Producer to comply with laws, regulations or ordinances related to the production of coal and Seller's performance under this Agreement, or (iv) due to the

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negligent or willful acts or omissions of Seller or Producer in the performance of this Agreement. With regard to Claims related to pollution, Seller's indemnification to Buyer is limited to pollution occurring at the Coal Property or Barge Delivery Point, except to the extent later-occurring pollution arising from (a) acts or omissions of Seller or Producer which constitute a breach of this Agreement or (b) non-permitted, non-coal substances introduced or included by Seller or Producer in the performance of this Agreement.

Buyer agrees to indemnify and save harmless Seller, its officers, directors, employees, affiliates and representatives from any responsibility or liability for any and all Claims from or relating in any manner to the performance or failure to perform any of Buyer's obligations under this Agreement, regardless of when the same accrues, arises or is asserted. Buyer's indemnity shall include but not be limited to claims (i) due to any failure of Buyer or Buyer's Contractor or its representatives or agents to comply with laws, regulations or ordinances related to Buyer's performance under the Agreement, or (ii) due to the negligence of any representatives, agents or employees of Buyer who inspect the Coal Properties; or (iii) due to the acts or omissions of Buyer or Buyer's Contractor in the performance of this Agreement; (iv) relating to the barges actually provided by Buyer or Buyer's Contractor during the period after title and risk of loss have passed to Buyer; or (v) relating to negligent or willful acts or omissions of Buyer or Buyer's Contractor in dropping off or picking up barges at the Barge Delivery Point.

The parties' respective obligations of indemnity set forth herein shall survive the termination, expiration or cancellation of this Agreement for a period of five (5) years from the date thereof.

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§12.2 Insurance.

In addition to any indemnity obligations, and not in lieu thereof, Seller or Seller's contractor shall carry insurance coverage with minimum limits and as follows:

- a) **Commercial General Liability**, which shall have minimum limits of \$1,000,000 each occurrence; including \$2,000,000 Products/Completed Operations Aggregate each occurrence; \$1,000,000 Personal and Advertising Injury each occurrence. \$1,000,000 Contractual Liability, in all cases subject to \$2,000,000 in the General Aggregate for all such claims, and including:
 - i. **Thirty (30) Day Cancellation Clause;**
 - ii. **Blanket Written Contractual Liability to the extent covered by the policy against liability assumed by Seller under this Agreement;**
 - iii. **Include Additional Insured endorsement GC 2010 or CG2037, or its equivalent;**
 - iv. **Commercial General Liability coverage shall include sudden & accidental Pollution Liability unless Seller carries a separate Pollution Liability policy;**
- b) **Commercial Automobile General Liability**, covering the use of all owned, non-owned, and hired automobiles, with a bodily injury, including death and property damage combined single minimum limit of \$1,000,000 each occurrence:
 - i. **Pollution Liability to be included (unless provided by Seller's separate Pollution Liability Policy);**
 - ii. **MCS-90 for commercial haulers, if Seller operates or contracts commercial hauling;**

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- c) In addition, Seller shall carry Umbrella/Excess Liability Insurance with minimum limits of \$5,000,000 per occurrence, and \$5,000,000 in aggregate, to apply to Employer's Liability, Commercial General Liability, Commercial Automobile Liability, and Marine Liability.
- d) Workers' Compensation and Employer's Liability coverage, which shall include:
- i. Workers' Compensation (Coverage A);
 - ii. Employer's Liability (Coverage B) with minimum limits of \$1,000,000 Bodily Injury by Accident, each Accident, \$1,000,000 Bodily Injury by Disease, each Employee;
 - iii. 30 Day Cancellation Clause;
 - iv. All States Endorsement;
 - v. U.S. Longshore and Harbor ("USL&H") Workers' Compensation Act coverage is required at all times workers of Seller or Seller's subcontractors are performing work that falls under such Act any time during the contract term;
 - vi. Maritime Employers Liability (MEL) including Jones Act coverage (required at all times workers of Seller or Seller's subcontractors are working on commercial vessels);
- e) Marine Liability & Maritime Employers Liability coverage is required with limits of \$5,000,000 per occurrence. Such coverage shall include Marine General Liability, Contractual Liability, Protection & Indemnity, Landing Owners', Stevedores, Wharfinger's, Collision & Towers Liability, Jones Act, Tankerman's Legal, and Pollution Liability, including coverage for bodily injury (including death and mental anguish).

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property damage, defense costs and cleanup costs; provided that if all of the Marine work is performed solely by subcontractors, Seller may satisfy this requirement by requiring all applicable subcontractors to carry this coverage. Coverage will be primary and non-contributory.

Coverage Conditions. Except with regard to Workers' Compensation coverage, Seller shall name Buyer and all of its affiliates as additional insured. All policies shall waive any rights of subrogation against Buyer and all of its affiliates and their insurance carriers where applicable by law. All policies shall be primary/non-contributory in favor of Buyer and all of its affiliates. Conditions in this paragraph do not apply to Seller's contractors.

Quality of Insurance Coverage. The policies shall be written by insurance companies which have a Best Rating of not less than "A-, VII". These policies shall not be materially changed or canceled except with 30 days' written notice to Buyer from Seller and Seller's insurance carrier. Evidence of coverage, notification of cancellation or other changes shall be mailed to: Attention: Manager LG&E and KU Fuels, LG&E and KU Services Company, 220 W. Main St., Louisville, Kentucky 40202.

Insurance Policies. Upon Buyer's request, Seller shall provide Buyer with insurance policies from Seller's insurer evidencing the insurance coverage specified in this Agreement. Any receipt of such documents or review by Buyer shall not relieve Seller from or be deemed a waiver of Buyer's rights to insist on strict fulfillment of Seller's

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obligations under this Agreement. Conditions in this paragraph do not apply to Seller's contractors.

Claims Made Policies. For any of the foregoing policies that are issued on a claims-made basis, such policy shall have a retroactive date that is satisfactory to Buyer. For the retroactive date to be satisfactory, it needs to be prior to the effective date of the Agreement.

After termination of this Agreement, Seller shall maintain such policies in place (and/or provide comparable tail coverage) for at least one (1) year after all of Seller's obligations under all contracts have been fulfilled.

Conditions in the preceding two (2) paragraphs do not apply to Seller's contractors.

Certificates of Insurance. Seller, or Seller's contractor (if such contractor is providing a service necessary for performance under the Agreement and also providing pertinent insurance coverage required by the Agreement) shall provide certificates of insurance to Buyer for each policy of insurance required above, and, with respect to coverage provided by Seller but not Seller's contractors, such certificates of insurance shall evidence the items noted below.

- i. Each certificate shall properly identify the certificate holder as Buyer and its affiliates;
- ii. Certificate shall evidence thirty (30) days' prior notice of cancellation;
- iii. Certificate shall verify additional insured status on all coverages outlined above:

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- iv. Certificate shall verify Blanket Waiver of Subrogation - All policies of insurance shall include waivers of subrogation, under subrogation or otherwise, against Buyer and its affiliates, except where not applicable by law;
- v. Certificate shall verify Primary/Non-contributory wording in favor of Buyer and its affiliates;
- vi. Certificate shall identify policies which are written on a claims-made coverage form, and state the retroactive date.

Self-Insured Retentions. Self-Insured Retentions are not acceptable without Buyer's consent, except for the \$10,000 maintenance retention on the Umbrella coverage, \$5,000,000 under the General Liability policy, and \$5,000,000 under the Pollution Liability policy.

Seller's Insurance. Each policy of insurance required to be maintained by Seller under this Agreement (except the Workers' Compensation and Employer's Liability Policy) shall cover all losses and claims of Seller regardless of whether they arise directly to Seller or indirectly through Seller's contractors. The insurance requirements under this Agreement represent only the minimum insurance requirements and do not mitigate or reduce liability required by the indemnity agreement, nor should it be deemed to be the full responsibility of Seller or Seller's subcontractors for liability.

§12.3 Buyer's Insurance.

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In addition to any indemnity obligations, and not in lieu thereof, Buyer or Buyer's Contractor shall carry insurance coverage with minimum limits and as follows:

- i. Workers Compensation and Employers' Liability Insurance, and if any of Buyer's workers are engaged in maritime employment, U.S. Longshore & Harbor Workers Insurance with employers' liability limits of not less than \$1,000,000 per occurrence, Occupational Disease Coverage, Other States Insurance, and Voluntary Compensation.
- ii. Business Auto Insurance on ISO Form CA 00 01 or equivalent with Liability, Bodily Injury and Property Damage, covering all owned, non-owned, hired, and used vehicles, with limits of not less than \$1,000,000 per occurrence combined single limits.
- iii. Commercial General Liability Insurance, or equivalent, and if applicable, commercial umbrella insurance with following form coverage, to achieve Bodily Injury and Property Damage limits of not less than \$5,000,000 per occurrence, with defense costs not limited by policy limits, written on ISO occurrence form CG 00 01, or equivalent, covering liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, liability assumed under an insured contract (including the tort liability of another assumed in a business contract) – through ISO Broad Form Contractual Liability (or its equivalent).
- iv. For barge deliveries, Buyer's Contractor will carry and maintain at its own cost:
 - (a) Protection and Indemnity Insurance, including Tower's Liability, Collision Liability, and Wharfinger's Liability, in the amount of at least \$5,000,000 per occurrence.

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day written notice to Seller in advance of cancellation of any of Buyer's insurances in accordance with policy provisions, and (iv) evidencing that the waivers of subrogation and the additional insured status required herein, are in full force and effect.

ARTICLE 13. TERMINATION FOR DEFAULT.

Subject to the provisions of §6.4, if either party hereto commits a material breach of any of its obligations under this Agreement at any time, including, but not limited to, a breach of a representation and warranty set forth herein, then the other party may give written notice describing such breach ("Notice of Default"). If such material breach is not curable or the breaching party fails to cure such material breach within thirty (30) days following receipt of the Notice of Default then, at the option of the non-breaching party, this Agreement shall terminate, in addition to all the other rights and remedies available to the non-breaching party under this Agreement and at law and in equity. A material breach, as described above, includes but is not limited to any one or more of the following:

- (i) Any of Seller, Guarantor, or any Producer files a petition in bankruptcy;
- (ii) Any of Seller, Guarantor, or any Producer makes a general assignment for the benefit of creditors;
- (iii) A bankruptcy petition is filed against any of Seller, Guarantor, or any Producer, and is not dismissed within sixty (60) days;
- (iv) A receiver is appointed for Seller, Guarantor, or any Producer or any assets of Seller, Guarantor, or Producer;

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- (v) Any attempts to deliver coal to a delivery point other than that specified in Section 5.1;
- (vi) Any failure to deliver coal based on the relevant schedule for two months in a six month consecutive period;
- (vii) The provision of substitute coal from a source other than geological seam Pittsburgh #8, absent advance written consent which may be given in Buyer's sole discretion;
- (viii) Any attempts to deliver coal qualifying as, or which could potentially qualify as, Make-Up Tons, other than in accordance with Section 3.2;
- (ix) Any of Buyer, Seller, Guarantor, or any Producer fails to perform any other material obligation under this Agreement subject to applicable notice and cure provisions hereof; or
- (x) Material breach of the representations and warranties set forth herein and failure to cure such material breach under applicable notice and cure provisions herein.

All of Buyer's rights and remedies set forth in Section 9.4 and otherwise as to offset or withholding of funds due to Buyer from payments otherwise due to Seller are fully preserved and remain in force provided.

All of each party's rights and remedies upon default set forth in this Agreement, under the applicable Uniform Commercial Code, and under other applicable law are fully preserved and remain in place.

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Notwithstanding anything herein to the contrary, Buyer may at its option, terminate this Agreement immediately upon voluntary bankruptcy filing by any of Seller, Guarantor, or any Producer, or an Order For Relief being entered following an involuntary bankruptcy petition being filed against any of them.

ARTICLE 14. TAXES, DUTIES AND FEES.

Seller shall pay when due, and the price set forth in Article 8 of this Agreement shall be inclusive of, all taxes, duties, fees, royalties and other assessments of whatever nature imposed by governmental authorities with respect to the transactions contemplated under this Agreement. Buyer shall be solely responsible for all assessments, fees, costs, expenses, and taxes imposed by governmental authorities or other third parties relating to the coal purchased hereunder that accrue or are levied after the transfer of title to the coal to Buyer.

ARTICLE 15. DOCUMENTATION AND RIGHT OF AUDIT.

Seller and Buyer shall maintain all records and accounts pertaining to payments, quantities, quality analyses, and source for all coal supplied under this Agreement for a period lasting through the term of this Agreement and for two (2) years thereafter. Buyer and Seller shall have the right to audit, copy and inspect such records and accounts of the other party at any reasonable time upon reasonable notice during the term of this Agreement and for two (2) years thereafter. Each party shall cooperate at no additional cost to the other party, but each party shall be responsible for actual out-of-pocket copying costs and all costs associated with travel by each party or either party's

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auditor. For a period of two (2) years following termination of this Agreement, except to the extent required by law or regulatory agency, each party shall maintain as confidential all Confidential Information disclosed by the other party and shall not disclose (except to affiliates, subsidiaries, advisors or consultants ("Representatives")) subject to confidentiality arrangements substantially similar hereto) or use such Confidential Information for any purposes other than to evaluate or enforce each party's performance and compliance with the provisions of this Agreement and directly-related governance, credit-worthiness, internal controls and archival purposes. "Confidential Information" shall not include any information which is or was independently available to, acquired by or developed by either party or which was or comes to be publicly available, in each case, other than by reason of a breach or default by either party of the confidentiality restrictions herein. Each party shall be responsible for any acts or omissions of its Representatives constituting a breach of this Article.

ARTICLE 16. EQUAL EMPLOYMENT OPPORTUNITY.

To the extent applicable, Seller and Buyer shall comply with all of the following provisions which are incorporated herein by reference: Equal Opportunity regulations set forth in 41 CFR § 60-1.4(a) and (c) prohibiting discrimination against any employee or applicant for employment because of race, color, religion, sex, or national origin; Vietnam Era Veterans Readjustment Assistance Act regulations set forth in 41 CFR § 50-250.4 relating to the employment and advancement of disabled veterans and veterans of the Vietnam Era; Rehabilitation Act regulations set forth in 41 CFR § 60-741.4 relating to the employment and advancement of qualified disabled

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employees and applicants for employment: the clause known as "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals" set forth in 15 USC § 637(d)(3); and subcontracting plan requirements set forth in 15 USC § 637(d).

ARTICLE 17. COAL PROPERTIES INSPECTIONS.

Buyer and its representatives, and others as may be required by applicable laws, ordinances and regulations in connection with Buyer ("Visitors") shall have the right at all reasonable times, upon reasonable prior notice to Seller consistent with past practices, and at their own expense to inspect the Coal Properties, including the loading facilities, scales, sampling system(s), wash plant facilities, and mining equipment (collectively "Facilities") for conformance with this Agreement. Visitors shall be accompanied at all times by Seller's representative during the aforementioned inspection of Seller's Facilities, and Seller shall ensure such representatives are available. Seller shall cooperate with such inspections at no additional cost to Buyer. Seller shall undertake reasonable care and precautions to prevent personal injuries to any Visitors who inspect the Coal Properties or the Facilities. All Visitors shall comply with Seller's regulations and rules regarding conduct on the work site (to the extent they are made known to Visitors prior to entry), as well as training and safety measures mandated by state or federal rules, regulations and laws. Subject to the terms of this Agreement, Buyer understands that coal mines and related facilities are inherently high-risk environments and inspects the Coal Properties at its own risk. Buyer's inspection of (or failure to inspect) the Coal Properties or Facilities or to object to defects therein at the time of any

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such inspection shall not relieve Seller of any of its responsibilities nor be deemed to be a waiver of any of Buyer's rights hereunder.

ARTICLE 18. MISCELLANEOUS.

§18.1 Applicable Law.

This Agreement shall be construed in accordance with the laws of the Commonwealth of Kentucky without regard to any conflicts of laws that would result in the application of the laws of any other jurisdiction, and all questions of performance of obligations hereunder shall be determined in accordance with such laws.

§18.2 Headings.

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

§18.3 Waiver.

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

§18.4 Remedies Cumulative.

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

§18.5 Severability.

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

§18.6 Binding Effect.

This Agreement shall bind and inure to the benefit of the parties and their successors and assigns.

§18.7 Relationship of the Parties.

Seller agrees that it is not and will not hold itself out as a partner, joint venture, employee, agent or representative of Buyer. Nothing herein contained shall be construed as creating a single enterprise, joint venture, agency, partnership, joint employer, owner-contractor, or lessor-lessee relationship between Buyer and Seller or between Buyer and Producer.

§18.8 Several Liability.

LG&E and KU shall be severally but not jointly liable for obligations of Buyer hereunder, and shall be liable only for such obligations that pertain to a particular party constituting Buyer.

§18.9 Limitation of Remedies.

NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, AND EXCEPT TO THE EXTENT A CLAIM, DEMAND, LOSS, OR LEGAL ACTION ("CLAIM") BROUGHT BY A THIRD PARTY INCLUDES ONE OR MORE SUCH ITEMS FOR WHICH THERE IS AN INDEMNITY OBLIGATION UNDER THIS AGREEMENT WITH RESPECT TO SUCH CLAIM, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, PUNITIVE,

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EXEMPLARY, SPECIAL OR INDIRECT DAMAGES, LOST REVENUES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES; PROVIDED HOWEVER THAT A PARTY MAY BE LIABLE FOR ACTIONS FOR PRICE OR PROFITS SOLELY TO THE LIMITED EXTENT, IF ANY, UNDER THE KENTUCKY UNIFORM COMMERCIAL CODE, ARTICLE 2-SALES, AS IN EFFECT FROM TIME-TO-TIME. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH HEREIN, SELLER EXPRESSLY NEGATES ANY OTHER REPRESENTATION, WRITTEN OR ORAL, EXPRESS OR IMPLIED, INCLUDING ANY REPRESENTATION OR WARRANTY WITH RESPECT TO MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. SELLER MAKES NO WARRANTY CONCERNING THE SUITABILITY OF COAL DELIVERED HEREUNDER FOR USE IN BUYER'S PLANTS, OR OTHER ELECTRIC GENERATION STATIONS.

§18.10 Forward Contract.

The parties agree that the transactions for the sale and purchase of coal hereunder are and shall constitute "forward contracts," and that the parties hereto are and shall be considered "forward contract merchants" within the meaning of the United States Bankruptcy Code.

§18.11 Counterparts.

This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Delivery of the manual, conformed, or other executed signature pages by facsimile, email, electronic, or other transmission will constitute effective and binding execution and delivery of this Agreement.

§18.12 Assignment.

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Seller shall not, without Buyer's prior written consent, which may be withheld in Buyer's sole discretion, make any assignment or transfer of this Agreement, by operation of law or otherwise, including without limitation any assignment, encumbrance or transfer as security for any obligation, and shall not assign or transfer the performance of or right or duty to perform any obligation of Seller hereunder; provided, however, that Seller may (a) assign the right to receive payments for coal directly from Buyer to a lender as part of any accounts receivable financing or other credit arrangement which Seller may have now or at any time during the term of this Agreement and (b) transfer or assign this Agreement to a parent company or an affiliate. For the purposes of this Agreement, "affiliate" means, with respect to any person, any other person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. For this purpose, "control" means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock of other equity interests having ordinary voting power.

Buyer shall not, without Seller's prior written consent, which may not be unreasonably withheld, assign this Agreement or any right or duty to perform any obligation of Buyer hereunder; except that, without such consent, Buyer may assign this Agreement in connection with a transfer by Buyer of all or a part interest in the generating station, or as part of a merger or consolidation involving Buyer.

Any transaction or series of transactions which result in the transfer of a controlling interest in Seller, or any entity which directly or indirectly owns a controlling interest in Seller, whether

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such transfer is voluntary, involuntary or by operation of law, shall be deemed an assignment for which appropriate consent as required by this section shall be required.

In the event of an assignment or transfer contrary to the provisions of this section, the non-assigning party may terminate this Agreement immediately.

Buyer's rights or duties under this Agreement may be performed by one or more agents, including without limitation, LG&E and KU Services Company.

§18.13 Entire Agreement.

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

§18.14 Amendments.

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

§18.15 Schedules.

Schedule 1 is shown for sample purposes only and not intended to reflect individual year pricing.

[SIGNATURE PAGE FOLLOWS].

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement, intending it to be binding as of the date(s) indicated below and to be performed as set out herein.

SELLER:

ACNR COAL SALES, INC.

By: 

Name: Robert D. Moore

Title: President

Date: 4/6/24

BUYER:

LOUISVILLE GAS AND ELECTRIC COMPANY

By:  

Name: David Sinclair

Title: V.P. – Energy Supply & Analysis

Date: 6/7/2024 | 7:08 AM EDT

BUYER:

KENTUCKY UTILITIES COMPANY

By:  

Name: David Sinclair

Title: V.P. – Energy Supply & Analysis

Date: 6/7/2024 | 7:08 AM EDT

ACNR COAL SALES, INC.
LG&E/KU Contract No. J26001

SCHEDULE 1. SAMPLE COAL PAYMENT CALCULATIONS

	Section I	Base Data
1)	Base FOB Price per Ton:	\$46.00 /ton
1a)	Tons of coal loaded:	_____ tons
2)	Guaranteed monthly weighted avg. heat content:	12,500 BTU/lb.
2a)	As received monthly weighted avg. heat content:	_____ BTU/lb.
2b)	Total BTUs loaded in the month:	_____ MMBTUs
3)	Guaranteed monthly weighted avg. Sulfur	2.75 LBS./MMBTU
3a)	As received monthly weighted avg. Sulfur	_____ LBS./MMBTU
4)	Guaranteed monthly weighted avg. Ash	8.0 LBS./MMBTU
4a)	As received monthly weighted avg. Ash	_____ LBS./MMBTU
5)	Guaranteed monthly weighted avg. Moisture	7.20 LBS./MMBTU
5a)	As received monthly weighted avg. Moisture	_____ LBS./MMBTU
6)	BTU True Up: $\{[(\text{line } 2a - \text{line } 2)] \div \text{line } 2\} \times \text{line } 1$	_____ Dollars/Ton
6a)	BTU True Up Dollars: (line 6 \times line 1a)	_____ Dollars
	Section II	Discounts
	Assign a (-) to all discounts (round to (5) decimal places)	
7)	BTU/LB.: If line 2a < 12,300 BTU/lb. then: $\{1 - \{(\text{line } 2a) / (\text{line } 2)\} \times \$0.2604/\text{lb.}/\text{MMBTU}$ $\{1 - () / ()\} \times \$0.2604 =$	\$ _____ / MMBTU \$ _____ / MMBTU
7a)	SULFUR: If line 3a is greater than 3.0 lbs./MMBTU $[(\text{line } 3a) - (\text{line } 3)] \times \$0.1232/\text{MMBTU per lb. Sulfur}/\text{MMBTU}$ $[() - ()] \times \$0.1232 =$	\$ _____ / MMBTU
7b)	ASH: If line 4a is greater than 9.0 lbs./MMBTU $[(\text{line } 4a) - (\text{line } 4)] \times \$0.0083/\text{MMBTU per lb. Ash}/\text{MMBTU}$ $[() - ()] \times \$0.0083 =$	\$ _____ / MMBTU
7c)	MOISTURE: If line 5a is greater than 7.60 lbs./MMBTU $[(\text{line } 5a) - (\text{line } 5)] \times \$0.0016/\text{MMBTU per lb. Moist.}/\text{MMBTU}$ $[() - ()] \times \$0.0016 =$	

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<u>Section III</u>		<u>Total Price Adjustments</u>
Determine total discounts as follows:		
8)	BTU/lb. Discount Dollars (line 7 × line 2b)	\$ _____ Dollars
9)	Sulfur Discount Dollars (line 7a × line 2b)	\$ _____ Dollars
10)	Ash Discount Dollars (line 7b × line 2b)	\$ _____ Dollars
11)	Moisture Discount Dollars (line 7c × line 2b)	\$ _____ Dollars
12)	Total Discount Dollars: Sum of lines 8 thru 11:	\$ _____ Dollars
<hr/>		
Total Coal Payment Calculation		
13)	Total coal payment for month: [(line 1 × line 1a) + line 6a] – line 12	\$ _____ Dollars

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EXHIBIT I. COAL PROPERTIES LISTING

<u>Mine Name</u>	<u>County</u>	<u>State</u>	<u>Type of Operation</u>	<u>Seam(s)</u>
Marshall County Mine	Marshall	WV	Underground	Pittsburgh #8
Ohio County Mine	Marshall	WV	Underground	Pittsburgh #8

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EXHIBIT II. PARENT GUARANTY

This Guaranty (this "Guaranty") is made by American Consolidated Natural Resources, Inc., a Delaware corporation (the "Guarantor"), in favor of Louisville Gas and Electric Company and Kentucky Utilities Company (collectively the "Beneficiary") in consideration of the Beneficiary entering into agreement(s) with ACNR Coal Sales, Inc. (the "Counterparty").

- 1. Guaranty:** Guarantor does hereby unconditionally and absolutely guarantee to Beneficiary the full and faithful (i) payment by Counterparty of any amounts due to the Beneficiary under and pursuant to that certain Coal Supply Agreement No. J26001 dated on or about June 3, 2024 and any amendments thereto, (the "Agreement") to be entered into from time to time by the Counterparty with Beneficiary related to the purchase, sale and/or exchange of coal and (ii) performance of all obligations of Counterparty now existing or hereafter arising under the Agreement, including obligations that would exist under the Agreement but for operation of any applicable provision of Title 11 (bankruptcy) of the United States Code or similar laws affecting creditor rights, or under applicable law or by agreement of Counterparty (the payment and performance obligations described in clauses (i) and (ii) above are referred to herein collectively as the "Guaranteed Obligations"). Notwithstanding anything herein to the contrary, Guarantor shall have no performance obligation to sell, deliver, supply or transport coal or any other commodity under the Agreement from any property other than the Coal Properties.

This Guaranty shall replace, supersede and render null and void any existing guaranties currently in force with respect to the Agreement.

- 2. Guaranty Absolute:** The Guarantor guarantees that the Guaranteed Obligations will be paid or performed strictly in accordance with the terms of the Agreement, regardless of any law, regulation or order now or hereafter in effect in any jurisdiction affecting any of such terms or the rights of Beneficiary with respect thereto. The obligations of the Guarantor under this Guaranty are independent of, but related to, the Counterparty's obligations under the Agreement and a separate action or actions may be brought and prosecuted against the Guarantor to enforce this Guaranty, irrespective of whether any action is brought against one or more of the parties constituting Counterparty or whether one or more of the parties constituting Counterparty is joined in any such action or actions. The liability of the Guarantor under this Guaranty shall be irrevocable, absolute and unconditional irrespective of, and the Guarantor hereby irrevocably waives any defenses it may now or hereafter have in any way relating to, any or all of the following:
 - a.** any lack of validity or enforceability of the Agreement or any agreement or instrument relating thereto;

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- b. any change in the time, manner or place of payment of, or in any other term of, all or any of the Guaranteed Obligations under the Agreement. any modification, extension or waiver of any of the terms of the Agreement, or any other amendment or waiver of or any consent to departure from any term of the Agreement;
- c. any taking, exchange, release or non-perfection or the taking or failure to take any other action with respect to any collateral, or any taking, release or amendment or waiver of or consent to departure from any other guaranty, for all or any of the Guaranteed Obligations;
- d. any requirement that Beneficiary proceed against one or more of the parties constituting Counterparty, any other person or entity, any collateral or any manner of application of any collateral, or proceeds thereof, to all or any of the Guaranteed Obligations, or any manner of sale or other disposition of any collateral for all or any of the Guaranteed Obligations;
- e. any change, restructuring or termination of the corporate structure or existence of one or more of the parties constituting Counterparty or any of its Subsidiaries;
- f. any lack or failure of notice or any failure of Beneficiary to disclose to one or more of the parties constituting Counterparty or the Guarantor any information relating to the financial condition, operations, properties or prospects of one or more of the parties constituting Counterparty or the Guarantor. or relating to the Agreement, as the case may be, now or in the future known to Beneficiary (the Guarantor waiving any duty on the part of Beneficiary to disclose such information); or
- g. any other circumstance (including, without limitation, any statute of limitations) or any existence of or reliance on any representation by Beneficiary that might otherwise constitute a defense available to, or a discharge of, one or more of the parties constituting Counterparty, the Guarantor or any other guarantor or surety.

Notwithstanding any provision to the contrary contained herein, Guarantor's liability hereunder shall be and is specifically limited as expressly set forth in Section 1 above, and, except to the extent specifically provided in the Agreement, in no event shall Guarantor be subject hereunder to consequential, exemplary, equitable, loss of profits, punitive, tort, or any other damages, costs, or attorney's fees.

This Guaranty shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any of the Guaranteed Obligations is rescinded or must otherwise be returned by Beneficiary or any other Person upon the insolvency, bankruptcy or reorganization of one or more of the parties constituting Counterparty or the Guarantor or otherwise, all as though such payments had not been made. The obligations of the Guarantor under this Guaranty shall

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at all times rank at least pari passu in right of payment with all other unsecured and unsubordinated indebtedness (actual or contingent) of the Guarantor, except as may be required by law. This Guaranty shall continue to be effective if one or more of the parties constituting Counterparty merges or consolidates with or into another entity, loses its separate legal identity or ceases to exist.

This Guaranty is a continuing guaranty of the payment (and not of collection) and of the performance by each of the parties constituting Counterparty of its obligations under the Agreement. In no event shall Guarantor's liability to Beneficiary exceed Counterparty's liability under the Agreement, notwithstanding the effect of the insolvency, bankruptcy or reorganization of Counterparty. The Guarantor agrees that its obligations under this Guaranty shall not be impaired, modified, changed, released or limited in any manner whatsoever by any impairment, modification, change, release or limitation of the liability of one or more parties constituting Counterparty (or the estate in bankruptcy of one or more parties constituting Counterparty) resulting from the operation of any present or future provision of the federal bankruptcy law or other similar statute.

- 3. Waivers and Acknowledgments:** The Guarantor hereby waives presentment, protest, acceleration, dishonor, promptness, diligence, filing of claims with a court in the event of insolvency or bankruptcy of the one or more parties constituting Counterparty, notice of acceptance of this Guaranty and any other notice with respect to any of the Guaranteed Obligations and this Guaranty and any requirement that Beneficiary protect, secure, perfect or insure any lien or any property subject thereto or exhaust any right or take any action against one or more of the parties constituting Counterparty or any other Person or entity, or any collateral. The Guarantor hereby waives any right to revoke this Guaranty, and acknowledges that this Guaranty is continuing in nature and applies to all Guaranteed Obligations, whether existing now or in the future.

No delay of Beneficiary in the exercise of, or failure to exercise, any rights hereunder shall operate as a waiver of such rights, a waiver of any other rights or a release of Guarantor from any obligations hereunder nor shall any single or partial exercise by Beneficiary of any right, remedy or power hereunder preclude any other or future exercise of any right, remedy or power. Each and every right, remedy and power hereby granted to Beneficiary or allowed it by law or other agreement shall be cumulative and not exclusive of any other, and may be exercised by Beneficiary from time to time.

- 4. Expenses:** Guarantor agrees to pay on demand any and all out-of-pocket costs, including reasonable legal fees and expenses, and other expenses incurred by Beneficiary Counterparty in enforcing Guarantor's obligations under this Guaranty.
- 5. Subrogation:** The Guarantor will not exercise any right that it may now or hereafter acquire against Counterparty that arise from the existence, payment, performance or enforcement of

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the Guarantor's Obligations under this Guaranty, including, without limitation, any right of subrogation, reimbursement, exoneration, contribution or indemnification and any right to participate in any claim or remedy of Beneficiary against Counterparty or any collateral, whether or not such claim, remedy or right arises in equity or under contract, statute or common law, including, without limitation, the right to take or receive from Counterparty, directly or indirectly, in cash or other property or by setoff or in any other manner, payment or security on account of such claim, remedy or right, unless and until all of the obligations of Counterparty under the Agreement and all other amounts payable under this Guaranty shall have been performed or paid in full in cash (and not subject to disgorgement in bankruptcy or otherwise). If any amount shall be paid to the Guarantor in violation of the preceding sentence at any time prior to the later of the payment in full in cash of the Guaranteed Obligations and all other amounts payable under this Guaranty, the Guarantor shall hold such amount as agent for the benefit of Beneficiary, which amount shall forthwith be paid to Beneficiary to be credited and applied to the Guaranteed Obligations and all other amounts payable under this Guaranty, whether matured or unmatured, in accordance with the terms of the Agreement, or to be held as collateral for any Guaranteed Obligations or other amounts payable under this Guaranty thereafter arising. If (i) the Guarantor shall make payment to Beneficiary of all or any part of the Guaranteed Obligations and (ii) all of the Guaranteed Obligations and all other amounts payable under this Guaranty shall be paid in full in cash, Beneficiary will, at the Guarantor's request and expense, execute and deliver to the Guarantor appropriate documents, without recourse and without representation or warranty by Beneficiary, of all of Beneficiary's rights and benefits under the Agreement. In the event Guarantor performs part or all of Counterparty's obligations, Guarantor shall be entitled to Counterparty's rights and benefits under the Agreement and shall be subrogated to Counterparty's rights to Beneficiary with respect to such of Counterparty's obligations so performed by Guarantor.

6. **Reservation of Defenses:** Guarantor agrees that except as expressly set forth herein, it will remain bound upon this Guaranty notwithstanding any defenses which, pursuant to the laws of suretyship, would otherwise relieve a guarantor of its obligations under a guaranty. Guarantor does reserve the right to assert defenses which Counterparty may have to payment of any Guaranteed Obligation other than defenses arising from the bankruptcy or insolvency of Counterparty and other defenses expressly waived hereby.
7. **Notices:** All demands, notices and other communications provided for hereunder shall, unless otherwise specifically provided herein, (a) be in writing addressed to the party receiving the notice at the address set forth below or at such other address as may be designated by written notice, from time to time, to the other party, and (b) be effective upon receipt, when mailed by U.S. mail, registered or certified, return receipt requested, postage prepaid, or personally delivered. Notices shall be sent to the following addresses:

If to Guarantor:

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American Consolidated Natural Resources, Inc.
Attn: Robert D. Moore
46226 National Road
St. Clairsville, OH 43950

With Copies To:

American Consolidated Natural Resources, Inc.
Attn: General Counsel
46226 National Road
St. Clairsville, OH 43950

And

ACNR Coal Sales, Inc.
46226 National Road
St. Clairsville, OH 43950
Attn: Contract Administration
Email: acnrcoalsales@acnrinc.com

If to Beneficiary:

Louisville Gas and Electric Company
220 West Main Street
Louisville, Kentucky 40202
Attn: Director Coal Supply and By-Products Marketing
Phone: 502-627-4668; Fax: 502-627-2194

and

Kentucky Utilities Company
220 West Main Street
Louisville, Kentucky 40202
Attn: Director Coal Supply and By-Products Marketing
Phone: 502-627-4668; Fax: 502-627-2194

8. **Demand and Payment:** Any demand by Beneficiary for performance or payment hereunder shall be in writing, signed by a duly authorized officer of Beneficiary and delivered to the Guarantor pursuant to Section 7 hereof, and shall (a) reference this Guaranty, (b) specifically identify Beneficiary, the Guaranteed Obligations to be performed or paid and the amount of such Guaranteed Obligations and (c) if applicable, set forth payment instructions. There are

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no other requirements of notice, presentment or demand. Guarantor shall perform or pay, or cause to be performed or paid, such Guaranteed Obligations within thirty (30) business days of receipt of such demand.

9. Representations and Warranties of Guarantor: Guarantor represents and warrants that:

- a) American Consolidated Natural Resources, Inc. is a Delaware corporation duly organized and validly existing under the laws of the State of Ohio and has the power and authority to execute, deliver and carry out the terms and provisions of this Guaranty and has the power and authority to execute, deliver and carry out the terms and provisions of this Guaranty;
- b) no authorization, approval, consent or order of, or registration or filing with, any court or other governmental body having jurisdiction over Guarantor is required on the part of Guarantor for the execution and delivery of this Guaranty; and
- c) this Guaranty constitutes a valid and legally binding agreement of Guarantor, except as the enforceability of this Guaranty may be limited by the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws effecting creditors' rights generally and by general principles of equity.

10. Miscellaneous:

Default. Guarantor represents and warrants that to its best information, knowledge and belief, no default(s) of the Agreement are known to exist as of the date of this Guaranty. In the event Counterparty defaults in the performance of any Guaranteed Obligations under the Agreement, Beneficiary shall give written notice to Guarantor. Promptly thereafter, Guarantor shall perform or cause to be performed such obligation of Counterparty as required by the Agreement.

Term. This Guaranty shall continue in full force and effect until termination or expiration of the Agreement. Notwithstanding the foregoing, upon termination or expiration hereof, Guarantor agrees that the obligations and liabilities hereunder, and Beneficiary's rights to enforce them, shall survive and continue in full force and effect with respect to any Guaranteed Obligations that have been contracted for or arise prior to the termination or expiration date, whether such Guaranteed Obligations become due and payable prior to or after the expiration or termination date.

Assignment. The Guarantor shall not assign this Guaranty without the express written consent of the Beneficiary and any purported assignment absent such consent is void. The Beneficiary shall be entitled to assign its rights under this Guaranty in its sole discretion.

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Severability. If any provision or portion of a provision of this Guaranty is declared void and/or unenforceable, such provision or portion shall be deemed severed from this Guaranty which shall otherwise remain in full force and effect.

Amendments. No amendment of this Guaranty shall be effective unless in writing and signed by Guarantor, Counterparty and Beneficiary. No waiver of any provision of this Guaranty nor consent to any departure by Guarantor therefrom shall in any event be effective unless such waiver or consent shall be in writing and signed by Beneficiary. Any such waiver shall be effective only in the specific instance and for the specific purpose for which it was given.

Successors and Assigns. This Guaranty shall be binding upon Guarantor, its successors and permitted assigns and inure to the benefit of and be enforceable by Beneficiary, its successors and assigns.

Prior Agreements. The Guaranty embodies the entire agreement and understanding between Guarantor and Beneficiary and supersedes all prior agreements and understandings relating to the subject matter hereof.

Headings. The headings in this Guaranty are for purposes of reference only, and shall not affect the meaning hereof.

11. **Limitation by Law:** All rights, remedies and powers provided in this Guaranty may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law, and all the provisions of this Guaranty are intended to be subject to all applicable mandatory provisions of law that may be controlling and to be limited to the extent necessary so that they will not render this Guaranty invalid, unenforceable, in whole or in part, or not entitled to be recorded, registered or filed under the provisions of any applicable law.
12. **Governing Law:** This Guaranty shall in all respects be governed by and construed in accordance with the laws of the Commonwealth of Kentucky, without regard to principles of conflicts of laws.

[SIGNATURE PAGE FOLLOWS].

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IN WITNESS WHEREOF, Guarantor has caused this Guaranty to be duly executed and delivered by its duly authorized officer effective as of this 6th day of June, 2024 ("Effective Date").

Guarantor: AMERICAN CONSOLIDATED NATURAL RESOURCES, INC.

By: 

Name: Robert D. Moore

Title: President and Chief Executive Officer

Date: 6/6/24

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EXHIBIT III. PRODUCER'S INFORMATION

Producer Name	State of Organization	Business Address	Mines
Marshall County Coal Resources, Inc.	Delaware	46226 National Road St. Clairsville, OH 43950	Marshall County Mine
Ohio County Coal Resources, Inc.	Delaware	46226 National Road St. Clairsville, OH 43950	Ohio County Mine