

**COAL SUPPLY AGREEMENT**

**BETWEEN**

**ALLIANCE COAL, LLC**

**AND**

**LOUISVILLE GAS AND ELECTRIC COMPANY**

**AND**

**KENTUCKY UTILITIES COMPANY**

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**COAL SUPPLY AGREEMENT**

This is a coal supply agreement (this “Agreement”) dated January 26, 2021, (the Effective Date”), by and 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 called a “Buyer” as more particularly described below) and ALLIANCE COAL, LLC, a Delaware limited liability company, having an address of 1717 South Boulder Avenue, Tulsa, Oklahoma 74119-4886 (hereinafter referred to as “Seller”). Buyer and Seller are sometimes referred to herein individually as a “Party” and collectively as the “Parties”.

**RECITALS:**

- A. Buyer is the owner and/or operator of the Mill Creek Generating Station, located in Jefferson County, Kentucky; the Trimble County Generating Station located in Trimble County, Kentucky; and the Ghent Generating Station located in Carroll County, Kentucky.
- B. Seller owns or controls certain coal mining companies and/or coal mine operations, including those described in §4.1 below.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements contained herein, the Parties agree as follows:

**SECTION 1. GENERAL.**

§1.1. Seller agrees to 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.

§1.2. Seller acknowledges that, while there will be no effect on the Base Quantity set forth in Section 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), the party or parties (and in such percentage allocation, if applicable), subject to the limitations on suspension of performance obligations and right of termination set forth in §10.1 and §10.2. As provided in §19.12 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 the “Buyer” pursuant to this paragraph is found contrary to law or unenforceable by any court of law, or cannot 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.

**SECTION 2. TERM.**

§2.1. The term of this Agreement shall commence as of the date hereof and shall continue through December 31, 2025, unless sooner terminated pursuant to any of the terms set forth herein. Deliveries shall be made starting on or after April 1, 2021. The term may be extended as provided herein.

**SECTION 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 3.50 million tons in accordance with the following annual base quantity of coal nominated by Buyer (“Base Quantity”) on a quarterly basis:

<u>YEAR</u>	<u>BASE QUANTITY (TONS)</u>	<u>QUARTERLY NOMINATION (TONS)</u>
2021	500,000 – 600,000	166,667 – 200,000
2022	500,000 – 700,000	125,000 – 175,000
2023	500,000 – 700,000	125,000 – 175,000
2024	1,000,000 – 1,300,000	250,000 – 325,000
2025	200,000 – 1,000,000	50,000 – 250,000

The Base Quantity of coal scheduled to be nominated and delivered in a given calendar year as set forth in the table above, plus any Make-Up Tons required to be delivered pursuant to §3.2 (the Base Quantity plus any Make-Up Tons being hereafter collectively referred to as the “Annual

Quantity”) shall be nominated for and delivered during that calendar year. The minimum and maximum Base Quantities or Annual Quantities (including quarterly nominations) may be modified as mutually-agreed in writing by the parties from time-to-time, to achieve 3.50 million tons delivered and received by December 31, 2025, subject to a Party’s applicable rights or obligations pursuant to other terms and conditions herein including, but not limited to, Make-Up Tons, Force Majeure, and applicable suspension or termination rights. Seller will deliver additional quantities of coal above the maximum Base Quantities or Annual Quantities (including quarterly nominations) as mutually agreed in writing by the parties in their discretion from time-to-time, to achieve an accelerated delivery of the 3.50 million tons.

§3.2. Make-up Tons. Notwithstanding the foregoing, if Seller does not deliver to Buyer all of such adjusted Base Quantity scheduled for a particular year for any reason (except to the extent such failure to deliver is caused by Buyer’s unexcused failure to accept or is due to an environmental force majeure, as provided in Section 10), then Buyer, at its sole option (except in certain Force Majeure instances provided in Section 10), may elect to make up such undelivered quantities (“Make-up Tons”) by having Seller deliver the undelivered quantities to Buyer in the calendar year immediately following the calendar year in which such Make-up Tons should have been delivered (the “Make-up Year”). Prior to making such election, Buyer may request from Seller adequate assurances, satisfactory to Buyer, that Seller is capable of delivering and will deliver to Buyer both the Base Quantity set forth for the Make-up Year and the Make-up Tons in the Make-up Year. Notwithstanding the foregoing, if Buyer does not accept from Seller all of such adjusted Base Quantity scheduled for a particular year for any reason (except to the extent such failure to accept delivery is caused by Seller’s unexcused failure to deliver or is due to an environmental force majeure as provided in Section 10), then Seller, at its sole option (except in certain Force Majeure

instances provided in Section 10), may elect to make up such Make-up Tons by having Buyer accept delivery of the undelivered quantities from Seller in the Make-up Year. Prior to making such election, Seller may request from Buyer adequate assurances, satisfactory to Seller, that Buyer is capable and will accept delivery from Seller both the Base Quantity set forth for the Make-up Year and the Make-up Tons in the Make-up Year.

In the event of an election described in the preceding paragraph, the quantity of the Make-up Tons shall be added to and shall increase the Base Quantity for the Make-up Year, and such new Base Quantity (with adjustments, if any, as provided elsewhere herein and including the Make-up Tons) shall be delivered and received pursuant to a new mutually-agreed 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 the Make-up Tons, and deliveries will not be considered a part of the original Base Quantity for the Make-up Year unless and until Seller has sold and delivered to Buyer and Buyer has purchased and accepted delivery of all of the Make-up Tons which should have been delivered in the previous year. The term of this Agreement shall be extended automatically to accommodate delivery of Make-up Tons, if any, from the final calendar year of the Agreement in the following calendar year. If Seller's failure to deliver or Buyer's failure to accept delivery of, as the case may be, all of the Base Quantity during a particular year constitutes a breach of or other violation under this Agreement, nothing in this §3.2 shall act as a waiver of such breach or violation or shall act as a limitation on Buyer's or Seller's remedies; provided however, that if a Party elects to make up the Make-up Tons, then such election and the receipt or acceptance, as the case may be, of the Make-up Tons in the Make-up Year shall be that Party's sole and exclusive remedy for the other Party's failure to deliver or accept delivery of, as the case may be, the Make-up Tons in that particular year.



§3.3. Quarterly Nominations and Delivery Schedule. Quarterly nominations by Buyer, which may be made by facsimile or email to contact(s) agreed upon by the parties, will be made by November 15, February 15, May 15, and August 15 for the subsequent calendar quarters beginning on January 1, April 1, July 1 and October 1. Shipments will be scheduled, on as nearly a ratable basis as practicable, by Buyer, taking into account Buyer's outages, Seller's annual miner's vacation, and minor delays in transportation. In the event that no quarterly nomination is made for a calendar quarter prior to the start of a calendar quarter, the minimum quarterly nomination shall apply. The parties will cooperate in the development of any adjustments to the delivery schedule. Initial Shipments shall begin on or after April 1, 2021. Time is of the essence with respect to the Seller's deliveries once a schedule is established.

**SECTION 4. SOURCE.**

§4.1.(a) Source. Seller shall, at its option but subject to the limitations on delivery locations set forth in §5.1 hereof, supply the coal sold hereunder from the following source: from the Western Kentucky No. 9 and/or No. 11 seams via the River View mine, as operated by the coal mining operations of Seller's affiliate, River View Coal, LLC (the "Producer"), located in Union County, Kentucky, (the "Coal Property" when and if plural, the "Coal Properties"). Seller represents that it or the relevant Producer has title to or legal control over the Coal Properties and the coal located thereon. Seller also represents and warrants that the coal, when delivered, will be free and clear of all liens and that Buyer will have good and marketable title to the delivered coal.

§4.1.(b) River View Mine Inventory. Seller shall use reasonable commercial efforts to maintain a minimum inventory equivalent to five (5) days of River View mine's total aggregate normal production ("Five (5) Day Inventory"). If, at any time during the term of this Agreement,

River View's mine inventory falls below the Five (5) Day Inventory, Seller shall, within two (2) business days, provide notice and a brief description of the amount and cause of such shortfall and provide adequate assurances reasonably satisfactory to Buyer regarding its operations and its capacity to promptly restore the inventory to the Five (5) Day Inventory. If Seller fails to provide such notice and adequate assurances to Buyer's reasonable satisfaction or should the River View mine inventory remain below the Five (5) Day Inventory for more than fifteen (15) consecutive days, Buyer shall have the right, but not the obligation, to obtain coal from the Alternate Source Mines consistent with the provisions of §4.3(b) until such time Seller has restored the inventory to the Five (5) Day Inventory (such right and period, collectively, an "Inventory Event").

The remedies set forth in this §4.1(b) shall be Buyer's sole and exclusive remedies for failure to maintain the Five (5) Day Inventory.

§4.2. Assurance of Capacity, Operation and Reserves. 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 will have, or cause the Producer to 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 to, or cause the Producer to, operate and maintain such machinery, equipment and facilities in accordance with good mining practices so as to efficiently 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 shall operate and maintain same at its sole expense, including all required permits and licenses.

§4.3.(a) Substitute Coal. Upon providing prior written notice to Buyer, and after receiving Buyer's written consent, which shall not be unreasonably withheld, Seller may, but shall not be

required to, supply coal from sources other than the Coal Properties which meets the quality specifications set forth in Section 6 (“Substitute Coal”). The delivered price to Buyer 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 conditional right to furnish Substitute Coal shall not affect its right to claim force majeure because of events occurring at the mines on any of the Coal Properties. In the event Seller is providing Substitute Coal and experiences a force majeure event at the Substitute Coal source, Seller shall supply Buyer with coal from one or more of the Coal Properties sources.

All Substitute Coal supplied hereunder shall be supplied pursuant to all the terms and conditions of this Agreement, including, but not limited to, the quantity provisions of Section 3, the delivery provisions of Section 5, the quality specifications of Section 6 and the price provisions of Section 8. The availability of Substitute Coal rights, Alternate Source Mines rights and Inventory Event rights does not limit a party’s other rights or remedies under this Agreement, including but not limited to those in Section 14.

§4.3.(b) Substitute Coal in Event of River View Mine Force Majeure or Inventory Event.

During any period in which Seller declares, or seeks to declare, a Force Majeure Event at the River View mine or an Inventory Event exists as provided for in §4.1(b), Seller agrees to make available coal (or coal production or inventory capacity) for Buyer to purchase, and Seller shall deliver to Buyer hereunder, up to such quantity of tons from the Seller’s Warrior, Tunnel Ridge, Gibson South and Hamilton mines (collectively “Alternate Source Mines”) as scheduled by Buyer in its discretion hereunder, up to Buyer’s existing or future applicable quarterly or annual nomination quantities. These rights and duties shall be in addition to, and not in limitation of, the rights and duties of the parties set forth in §4.1(b) and §10.1.

Buyer shall have the option to select the quantities of coal it wishes to purchase from any one or more of the Alternate Source Mines provided however, Seller shall not be obligated to deliver (i) more than ten percent (10%) from the Gibson mine, (ii) more than twenty percent (20%) from the Hamilton mine and (iii) more than fifty percent (50%) from any individual remaining Alternate Source Mine. Buyer shall have the option to limit the coal it purchases from the Alternate Source Mines during a River View mine Force Majeure Event or Inventory Event. Within the above parameters and without limitation to the Seller's obligation to provide such Alternate Source Mine coal, the parties shall cooperate in good faith to develop specific Alternate Source Mine quantities, delivery schedules and other matters.

The quality specifications for coal produced from the Alternate Source Mines are set forth in Exhibit C to this Agreement, including applicable GMWA, Rejection Limits and Discount Points. The Base Price for coal purchased from the Alternate Source Mines shall be equal to the River View mine coal cents per MMBTU delivered-at-the-Buyer's plant(s) price in effect at the time of the River View mine Force Majeure Event or Inventory Event, converted to a price per ton FOB delivery point at the Alternate Source Mines and adjusted for quality as per §8.2(b).

During any period in which Seller declares, or seeks to declare, a Force Majeure Event or in which an Inventory Event exists at the River View mine, the ability of Seller to claim relief from delivery obligations under this Agreement due to such Force Majeure Event or Inventory Event shall be limited and tolled to the extent of Seller's obligations to deliver Alternate Source Mine coal hereunder. During such River View mine Force Majeure Event or Inventory Event periods, to the extent purchased from by Buyer in its discretion, the Alternate Source Mines shall be considered Coal Properties, their coal as Substitute Coal and their mine operators as Producers, under this Agreement, with the respective rights and duties relating thereto.

The quantity of coal purchased by Buyer from the Alternate Source mines during the period of a River View mine Force Majeure Event or Inventory Event shall count as tonnage delivered in meeting the parties' Base Quantity obligations, as applicable.

Notwithstanding the foregoing, if a River View Force Majeure Event continues for a duration longer than 180 days, either party, by providing thirty (30) days' prior written notice to the other party, may terminate the Agreement without further obligation or liability, except for those which apply up through the date of termination.

§4.4. Non-Diversion of Coal. Seller agrees that it will not, without Buyer's express prior written consent, use or sell coal from the Coal Properties in a way that will reduce the quantity of coal to less than the quantity required to be supplied hereunder to Buyer.

§4.5. Authority. Seller 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 shall 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 operations or work force.

## **SECTION 5. DELIVERY.**

§5.1. Barge Delivery Point. The coal shall be delivered to Buyer F.O.B. barge at the River View Mine Dock at Mile Point 843 on the Ohio River (the "Barge Delivery Point"). Provided, however, if the 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 costs shall be retained by Buyer.

§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 the fault of Seller, Seller shall promptly pay any documented demurrage or other penalties incurred by Buyer which are assessed or accrue at the Barge Delivery Point. Seller shall also be responsible for and promptly pay all documented penalties for loading less than the specified minimum tonnage per barge, or other documented penalties assessed for barges not loaded in conformity with applicable requirements.

§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. All barges shall be open bulk hopper barges. At the time of receipt of barges, Seller may reject barges that are not suitable for loading, including, without limitation, barges which are not substantially free from impurities or substantially free of water. Any cost incurred by Seller above normal operating cost to clean or handle barges which are not suitable for loading due to fault of Buyer or Contractor, shall be for Buyer's account. 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.

§5.5. Delivery Schedule. The coal shall be delivered under mutually agreed to monthly shipping schedules. The coal shall be delivered in approximately ratable monthly quantities, to the extent practicable, taking into account each party's loading and unloading logistics, unexpected constraints in the day-to-day operations, stockpile management and storage capabilities, and planned outages at Buyer's generating stations. Accordingly, each party shall exert all reasonable efforts to accommodate changes in delivery schedules requested by the other party due to such events. Barges delivered earlier than the mutually agreed upon delivery schedule may be loaded earlier than the agreed upon date(s) by mutual agreement of the Parties.

**SECTION 6. QUALITY.**

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

Specifications	Guaranteed Monthly Weighted Average (1)	Rejection Limits (per shipment)
BTU/LB.	min. <u>11,400</u>	< <u>11,100</u>
<u>LBS/MMBTU</u>		
MOISTURE	max. <u>11.75</u>	> <u>13.25</u>
ASH	max. <u>8.75</u>	> <u>10.75</u>
SULFUR	max. <u>2.75</u>	> <u>3.00</u>
SULFUR	min. <u>2.30</u>	< <u>1.65</u>
NITROGEN	max. <u>1.43</u>	> <u>1.48</u>
CHLORINE	max. <u>1,400 PPM</u>	> <u>1,775 PPM</u>
ARSENIC	max <u>6 PPM</u>	> <u>8 PPM</u>
% CALCIUM OXIDE in ASH	max. <u>7.72</u>	> <u>8.72</u>
<u>SIZE (2.5" x 0")*:</u>		
Top size (inches)	max <u>2.5"</u>	> <u>3"</u>
Fines (% by wt.)		
Passing 1/4" screen	max. <u>55</u>	> <u>60</u>
<u>% BY WEIGHT:</u>		
VOLATILE	min. <u>36.20</u>	< <u>33.90</u>
FIXED CARBON	min. <u>40</u>	< <u>38.10</u>
GRINDABILITY (HGI)	min. <u>52</u>	< <u>47</u>
BASE ACID RATIO (B/A)	max <u>0.60</u>	> <u>0.74</u>
SLAGGING FACTOR**	max. <u>1.80</u>	> <u>2.09</u>
FOULING FACTOR***	max. <u>0.55</u>	> <u>0.68</u>
<u>ASH FUSION TEMPERATURE (°F) (ASTM D1857)</u>		
<u>REDUCING ATMOSPHERE</u>		
Initial Deformation	min. <u>1940</u>	min. <u>1900</u>
Softening (H=W)	min. <u>2005</u>	min. <u>1975</u>
Softening (H=1/2W)	min. <u>2050</u>	min. <u>2000</u>
Fluid	min. <u>2150</u>	min. <u>2100</u>



OXIDIZING ATMOSPHERE

Initial Deformation	min. <u>2260</u>	min. <u>2230</u>
Softening (H=W)	min. <u>2310</u>	min. <u>2290</u>
Softening (H=1/2W)	min. <u>2340</u>	min. <u>2310</u>
Fluid	min. <u>2440</u>	min. <u>2410</u>

(1) An Actual Monthly Weighted Average will be calculated for each specification based upon the aggregate quantity of coal loaded during a calendar month.

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

\*\* Slagging Factor ( $R_s$ )=(B/A) × (Percent Sulfur by Weight<sub>Dry</sub>)

\*\*\* Fouling Factor ( $R_f$ )=(B/A) × (Percent Na<sub>2</sub>O by Weight<sub>Dry</sub>)

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.

§6.2. Definition of "Shipment". As used herein, a "shipment" shall mean one (1) barge load of coal.

§6.3. Rejection. 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 above or which contains extraneous materials ("Non-Conforming Coal"). Buyer must reject such shipment of coal within three (3) business days of receipt of the coal analysis provided for in §7.2 or such right to reject shall be waived with respect to such shipment of coal. In the event Buyer rejects such shipment of Non-Conforming coal, title to and risk of loss of the coal with respect to such shipment shall be considered to have never passed to Buyer ("Rejected Coal"), and Buyer shall return such

Non-Conforming coal to Seller or, at Seller's request, divert such Non-Conforming coal to Seller's designee, all at Seller's cost and risk.

Seller shall replace the Rejected Coal within five (5) business days from notice of rejection with coal of a quality superior to the Rejection Limits set forth in §6.1 ("Replacement Coal"). If Seller fails to replace the Rejected Coal within such five (5) business day period or the Replacement coal is rightfully rejected, Buyer may purchase coal from another source in order to replace the Rejected Coal ("Cover Coal"). Provided that Buyer acted in a commercially reasonable manner to mitigate its loss, Seller shall reimburse Buyer for (i) any amount by which the actual delivered price to Buyer of such Cover Coal in dollars per MMBTU at the Buyer's plant(s) exceeds the delivered price in effect at the time for River View mine coal in dollars per MMBTU at the Buyer's plant(s), and (ii) any and all transportation, storage, handling, or other expenses that have been incurred by Buyer for rightfully Rejected Coal. 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.

If Buyer fails to reject a shipment of Non-Conforming coal which it had the right to reject for failure to meet any or all of the Rejection Limits set forth in §6.1 or because such shipment contained extraneous materials, then such shipment of Non-Conforming coal shall be deemed accepted by Buyer; however, the price shall be adjusted in accordance with §8.2 and the quantity Seller is obligated to sell to Buyer under this Agreement may or may not be reduced by the amount of each such Non-Conforming shipment at Buyer's sole option. Further for shipments containing

extraneous materials, which include, but are not limited to, slate, rock, wood, corn husks, mining materials, metal, and/or steel, the estimated weight of such materials shall be deducted from the weight of that shipment.

The remedies set forth or contemplated in this §6.3 shall be Buyer's sole and exclusive remedies for rightfully rejected coal Shipments.

§6.4. Suspension and Termination. If the coal sold hereunder fails to meet the same applicable Guaranteed Monthly Weighted Average specification set forth in §6.1 for any two (2) months in a six (6) month period, or if five (5) shipments are rejectable for any Rejection Limits specification set forth in §6.1 in any thirty (30) day period, then Buyer may upon telephone or e-mail notice to Seller, and subsequently confirmed in writing and sent to Seller by mail, suspend future shipments except shipments already loaded. Seller shall, within ten (10) days, provide Buyer with reasonable assurances that subsequent monthly deliveries of coal shall meet or be of a quality superior to the Guaranteed Monthly Weighted Averages set forth in §6.1 and that the coal will meet or be of a quality superior to the rejection limits. 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 and exercise all rights and remedies it may have hereunder, at law or at equity. A waiver of this right for any one (1) period by Buyer shall not constitute a waiver for subsequent periods. 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 Seller, after giving such assurances, fails to meet the same Guaranteed Monthly Weighted Average specification set forth in §6.1 which gave rise to Buyer's right of suspension for any one

(1) month within the next six (6) months or if three (3) shipments in a thirty (30) day period are rejectable for the same applicable Rejection Limits specification set forth in §6.1 which gave rise to Buyer's right of suspension during such six (6) month period, then Buyer may terminate this Agreement and exercise all its other rights and remedies 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-confirming 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.

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

§7.1. Weights. The weight of the coal under this Agreement shall be determined by Seller on a per-shipment basis, on the basis of certified scale weights at the River View Dock, unless another method is mutually agreed upon by the parties (the "Payment Weight").

If Seller's scale is inoperable or if Seller fails to obtain a sample of the coal for qualitative analysis upon loading, Buyer's weights determined at Buyer's destination point shall be used for the relevant shipment, and Buyer's analysis shall be the analysis used in determining the payment for the relevant shipment (the "Payment Analysis"). Buyer will be notified as soon as possible whenever the Seller's belt scale or sampling equipment is out of operation. Seller will transmit its loading weights and qualitative analysis for the relevant shipment to Buyer as soon as possible.

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 every twelve (12) months in accordance with NIST Handbook 44 with third party oversight. Buyer shall have the right, at Buyer's expense and upon reasonable notice, to have the Seller's scales checked for accuracy at any reasonable time

or frequency. Seller shall use commercially reasonable efforts to notify Buyer as soon as it knows the date and time for such testing, calibration, and certification and Buyer shall have the right to witness such events at Buyer's expense.

If the Seller's scales are used for payment purposes and are found to be over or under the tolerance range allowable for the scale based on guidelines outlined in NIST Handbook 44 (the "Tolerance"), the Buyer shall recalculate the payments for coal weighed on those scales for the period of inaccuracy (not to exceed thirty (30) days before the time any inaccuracy of the scale is determined) 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 the expenses incurred in checking the accuracy of said scales shall be paid for by Seller.

If the Buyer's scales are used for payment purposes and found to be over or under the tolerance range allowable for the scale based on guidelines outlined in NIST Handbook 44, then the Buyer shall recalculate the payments for coal weighed on those scales for the period of inaccuracy (not to exceed thirty (30) days before the time any inaccuracy of the scale is determined) based on the percentage of variance identified for the scales from the Tolerance, plus the amount of the Tolerance. Buyer or the Seller, as applicable, shall pay to the other such amounts owed as a result of that recalculation, and the expenses incurred in checking the accuracy of said scales shall be paid for by Buyer.

§7.2. Sampling and Analysis. The Seller has sole responsibility for quality control of the coal and shall forward the loading quality to Buyer within two (2) business days after loading. The sampling and analysis of the coal shall be performed by Seller or by an independent commercial laboratory appointed by Seller, on a per-Shipment basis, as defined hereinabove, and the results

thereof shall be accepted and used for the quality and characteristics of the coal under this Agreement, except as otherwise provided herein. Buyer's "as-received" 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. All analyses shall be made in Seller's laboratory or at an independent commercial laboratory, at Seller's expense in accordance with ASTM standards. Samples for analyses shall be taken in accordance with ASTM standards, may be composited and shall be taken with a frequency and regularity sufficient to provide reasonably accurate representative samples of the deliveries made hereunder.

Seller shall notify Buyer in writing of any significant changes in Seller's sampling and analysis practices within five (5) business days after any such change. Any such changes in Seller's sampling and analysis practices shall, except for ASTM 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 the twenty fifth (25<sup>th</sup>) of the month following the month of unloading (the "Disposal Date") and shall be delivered to Buyer for analysis if Buyer so requests before the Disposal Date; and one (1) part ("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 a Referee Sample analysis 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 shall be determined by utilizing the individual Shipment analyses.

If any dispute arises before the Disposal Date, 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, a dispute shall be deemed not to exist, and Seller's analysis shall prevail and the analysis of the Independent Lab shall be disregarded if the analysis of the Independent Lab differs from the analysis of Seller by less than applicable ASTM reproducibility standard.

For each coal quality specification in question, if the analysis of the Independent Lab differs from the analysis of Seller by an amount more than the ASTM reproducibility standards, then the analysis of the Independent Lab shall prevail and the original Payment Analysis shall be disregarded. The cost of the analysis made by the Independent Lab shall be borne by Buyer to the extent that Seller's analysis prevails and by Seller to the extent that the analysis of the Independent Lab prevails.

Seller agrees to ensure that its sampling equipment is properly maintained and adjusted in accordance with ASTM standards so that each sample taken is proportionate and representative of the coal delivered. Seller's sample system shall be bias tested (batch interval of all system components), and shown to be free of statistically significant bias, at least every twelve (12) months. Seller shall furnish to Buyer the results of bias tests on its sampling system within thirty (30) days of the date of such tests. If a bias test reflects a bias, thereafter, Buyer's weights, sampling and analysis shall be used for all Shipments until Seller's sample system is shown to be free of statistically significant bias.

§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.

**SECTION 8. PRICE.**

§8.1. 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 Section 3 in accordance with the following schedule:

<u>VOLUME RANGE (CUMULATIVE)</u>	<u>BASE PRICE (\$ PER TON)</u>
0 - 500,000 tons	\$37.50
500,001 – 1,000,000 tons	\$38.00
1,000,001 - 1,500,000 tons	\$39.50
1,500,001 – 2,500,000 tons	\$40.50
2,500,001 – 3,500,000 tons	\$41.25

The Base Price, as adjusted pursuant to §8.4, shall be referred to as the “Adjusted Base Price.”

Notwithstanding the foregoing, (i) the price for any Make-up Tons (as such term is defined in §3.2 hereof) elected by Buyer to be delivered shall be the Base Price for the cumulative volume range (or the Adjusted Base Price, as the case may be) in effect at the time such Make-up Tons should have been delivered and not the Base Price for the cumulative volume range (or the Adjusted Base Price, as the case may be) in effect at the time such Make-up Tons are actually delivered and (ii) the price for any Make-up Tons (as such term is defined in §3.2 hereof) elected by Seller to be delivered shall be the Base Price for the cumulative volume range (or the Adjusted Base Price, as the case may be) in effect at the time such Make-up Tons are actually delivered and



not the Base Price for the cumulative volume range (or the Adjusted Base Price, as the case may be) in effect at the time such Make-up Tons should have been delivered.

§8.2. Quality Price Adjustments. The price paid 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 minimum 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 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 of coal actually loaded at the Barge Delivery Point 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 11,650 BTU/LB, the GMWA equals 11,400 BTU/LB and the Base Price Per Ton is \$37.50/ton, then the Per Ton BTU Adjustment would be  $((11,650 - 11,400) \div 11,400) \times \$37.50 = \$0.82237$  per ton. If a total of 100,000 tons were loaded during the Delivery Month, then the BTU adjustment would equal \$82,237.00  $(100,000 \times \$0.82237)$ . Since it is positive, this amount would be due and owing to Seller by Buyer 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 Point(s)" set forth below:

MONTHLY 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 reductions 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 applicable

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.

	<u>Guaranteed Monthly Weighted Average</u>	<u>Discount Point</u>
BTU/LB	Min. 11,400	11,200
<u>LB/MMBTU:</u>		
ASH	Max. 8.75	9.25
MOISTURE	Max. 11.75	12.55
SULFUR	Max. 2.75	2.90

For example, if the Actual Monthly Weighted Average of sulfur equals 3.10 lb./MMBTU, then the applicable discount would be  $(3.10 \text{ lb./MMBTU} - 2.75 \text{ lb./MMBTU}) \times \$0.1232/\text{MMBTU}$  per lb. Sulfur/MMBTU =  $\$0.04312/\text{MMBTU}$ .

(c) Notwithstanding loading, Rejected Coal shipments shall not be included in the calculation of the AMWA quality of the coal during the Delivery Month or any quality price adjustments under 8.2(a) and (b) above. As loaded Replacement Coal shall be included in the calculation of the AMWA.

§8.3. Payment Calculation. Exhibit A 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 coal was loaded (and not later rejected by Buyer).

§8.4. Price Adjustment for Changes in Governmental Impositions. When used herein the term “Governmental Imposition” means all reasonable direct costs of compliance with all applicable new or revised federal, state and local laws and regulations or changes in enforcement or interpretation thereof as they are interpreted or enacted or revised or enforced after September 23,

2020, and during the Term hereof with respect to coal (excluding any non-compliance existing as of September 23, 2020, financing costs, income tax or property tax related costs, penalties, interest, fines, costs of arbitration, mediation, litigation, or any other type of dispute resolution through all stages of appeal, payment of judgments against Seller or Seller's affiliates) or on instruments or documents evidencing the same or on the proceeds thereof (excluding financing documents), and any law, governmental order, rule, ordinance, regulation, stipulation, decree, or other governmental requirement of any kind, or interpretation thereof, but only to the extent such Governmental Impositions pertain to coal mining practices, health and safety of miners (excluding wages, benefits, health care, insurance and retirement), or air and water quality standards, provided (a) such Governmental Impositions are imposed against the coal mining industry either on a regional, state or national basis; and (b) Seller identifies the specific obligations in connection with any Governmental Imposition claim made hereunder. Additionally, a Governmental Imposition adjustment shall only be made hereunder if the price adjustment is allocated evenly to all coal produced by Seller, including to all coal that is produced from the Coal Properties, so that Buyer is allocated only its proportionate share of such Governmental Imposition, and the Base Price shall likewise be decreased for any savings resulting from changes in such Governmental Imposition.

If the Base Price is increased pursuant to this §8.4 by more than one dollar (\$1.00) per ton on a cumulative basis for any particular calendar year due to one (1) or more Governmental Impositions, Buyer may terminate this Agreement upon not less than thirty (30) days' written notice to Seller. Alternatively, Seller may elect, by forwarding written notice to Buyer within ten (10) days after receiving Buyer's notice of termination, to limit the cumulative Base Price increase pursuant to this §8.4 due to one (1) or more Governmental Impositions for any year to a maximum of one

dollar (\$1.00) per ton above such Base Price. 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.

If the Base Price is decreased pursuant to this §8.4 by more than one dollar (\$1.00) per ton on a cumulative basis for any particular calendar year due to one (1) or more Governmental Impositions, Seller may terminate this Agreement upon not less than thirty (30) days' written notice to Buyer. Alternatively, Buyer may elect, by forwarding written notice to Seller within ten (10) days after receiving Seller's notice of termination, to limit the cumulative Base Price decrease pursuant to this §8.4 due to one (1) or more Governmental Impositions for any year to a maximum of one dollar (\$1.00) per ton below such Base Price. In the event Buyer makes such election, the decrease shall be so limited and the remainder of this Agreement shall continue in full force and effect.

Notwithstanding any other provisions of this Section, there shall be no price adjustment under this Section as a result of any noncompliance as of September 23, 2020 with any Governmental Imposition currently existing or hereafter enacted, or for any penalties or interest imposed. Additionally, adjustments shall be made hereunder only if the price adjustment is allocated evenly to all coal that is produced from the Coal Properties, so that Buyer is allocated only its proportionate share of such Governmental Imposition.

If, as and when any changes in a Governmental Imposition occurring after September 23, 2020 affect the costs of the coal produced from the Coal Properties or other source mines used to produce the coal sold hereunder, the applicable adjustment shall be adjusted (increased or decreased) in the same amount that the actual cost per ton of producing, mining, removing, preparing, loading, and selling the coal and/or coal supplied to Buyer pursuant to this Agreement is increased or decreased as a result of compliance in a reasonably cost effective manner with the Governmental Imposition. Any adjustments made under the provisions of this §8.4 shall include adjustments to

offset Seller's change in costs for royalty, severance tax, and any other surcharge, if any, measured as a percentage of Base Price(s).

After Seller has determined the cost impact of any Government Imposition, which may be after the conclusion of each calendar year, Seller shall notify Buyer in writing of the amount and effective date of any adjustment to the applicable Base Price pursuant to the provisions of this §8.4 and shall furnish Buyer in writing of the amount and effective date of any Government Impositions serving as the basis for adjustment to the applicable Base Price pursuant to the provisions of this §8.4 and shall furnish Buyer with accurate and detailed computations and data reasonably necessary to substantiate such adjustment. Buyer shall have the right to inspect all books and records of Seller pertaining to the right to receive an applicable Base Price decrease or increase. Buyer shall notify Seller of any dispute with such adjustment within a reasonable time after receipt of such adjustment, taking into consideration any audits or requests for additional information by Buyer. It is Seller's obligation to ensure that Governmental Imposition decreases are given to Buyer.

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

§9.1. Invoicing. Invoices for coal will be sent by Seller to Buyer electronically at the following address: fuels.accounting @lge-ku.com.

§9.2. Invoice Procedures for Coal Shipments. By the fifth (5<sup>th</sup>) working day of the month following the Delivery Month (the "Payment Month"), the 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 Section 8 (the "Buyer's Statement"). By the tenth (10<sup>th</sup>) 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. For all coal loaded at the Barge Delivery Point(s) 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 Guaranteed Monthly Weighted Average 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 at the Barge Delivery Point(s) 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 (5<sup>th</sup>) working day of September, Buyer will provide Seller with the Buyer’s Statement. On or before the tenth (10th) day of September, the Seller shall provide Buyer the Monthly Invoice for all coal loaded in August. The Monthly Invoice for August deliveries, 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 workday 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 via ACH to Seller's Account based on the account information (including Bank name, ABA number and Account Number) provided in writing, in a form reasonably acceptable to Buyer, prior to the first (1<sup>st</sup>) Shipment under this Agreement. Seller reserves the right to modify such account information on prior written notice reasonably acceptable to Buyer.

In the event Seller notifies Buyer that a pattern has developed whereby payments are not being paid when due, as set forth herein, Buyer shall review its internal approval and payment procedures and remedy such payment practices, if any develop. The foregoing notwithstanding, the amount of any correct invoice not paid within five (5) business days when due, shall bear interest at the Interest Rate (as defined in §9.4) from the date the correct invoice was due through the date that the invoice is paid.

§9.4. Withholding. Buyer shall have the right to withhold from payment of any billing or billings any sums which it is not able in good faith to verify or which it otherwise in good faith disputes. Buyer shall notify Seller promptly in writing of any such issue, stating the basis of its claim and the amount it intends to withhold. Should any bona fide dispute involving the amounts payable hereunder extend to only a portion of any amount claimed due hereunder, the undisputed portion shall be paid as and when due. If any amount disputed by Buyer is determined to be due to Seller (whether by agreement of the Parties or final determination by a court of competent jurisdiction), it shall be paid within five (5) business days of such determination, along with interest accrued at the Interest Rate from the original due date until the date paid. As used herein, the term "Interest Rate" shall mean, for any date, the lesser of (i) the Prime Rate plus two percent (2%), and (ii) eighteen percent (18%), but in any event, no more than the highest rate permitted by applicable



law. The term “Prime Rate” shall mean the rate of interest quoted by Citibank, N.A., New York branch, from time to time as its “prime” or “base” lending rate.

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. To the extent of a payment by Buyer of an amount in dispute at the time of payment which is later determined not to be due or owing by Buyer to Seller shall bear interest at the Interest Rate (as defined in §9.4) from the date the amount was paid through the date that the amount is refunded to Buyer by Seller.

§9.5. Financial Covenants. If the credit rating of either Buyer (if the Buyer has a public rating) or Buyer’s affiliates that have public ratings falls below investment grade (BBB-as defined by Standard & Poor’s or the equivalent as defined by other public ratings agencies), Buyer shall, within thirty (30) days after Seller’s written request, provide Seller with a mutually agreed upon form of credit enhancement (e.g., letter of credit, guaranty from an investment grade entity, etc.) Until the mutually acceptable assurances of good credit are received, Seller has the right to require payment in cash at the time of delivery. Such mutually acceptable assurances of good credit shall not be more than the average monthly outstanding net balance for the prior two (2) months.

§9.6. Guaranty. Seller’s Guarantor, Alliance Resource Partners, L.P., shall provide a guarantee in a form consistent with the attached Exhibit B, prior to the execution of this Agreement.

**SECTION 10. FORCE MAJEURE.**

The Parties acknowledge and agree that Seller’s Force Majeure rights hereunder are limited and qualified to the extent provided for in §4.1(b) and §4.3(b) above.

§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, and (b) not the result of fault or negligence of the affected party (a “Force Majeure Event”), then the obligations of both parties hereto (other than payment for prior performance, except in case of a bona fide dispute) 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 commercially reasonable efforts to avoid or terminate the cause of the Force Majeure Event.

Seller’s obligation to make commercially reasonable efforts to avoid the cause of the Force Majeure Event shall not be interpreted to require Seller to deliver coal to Buyer from Seller’s affiliate mine operations and/or substitute coal sources. Buyer’s obligation to make commercially reasonable efforts to avoid the cause of the Force Majeure Event shall not be interpreted to require Buyer to accept coal from Seller for delivery to any of Buyer’s other generating stations (as listed in Recitals A) which are not affected by the Force Majeure Event or find alternate markets for Seller’s coal. The provisions of this paragraph, however, are not intended to alter the outcome, calculation or binding nature of a relevant excused tonnage amount of Seller or Buyer, respectively, in the case of a Force Majeure Event, which calculations are described further in this §10.1.

As used herein and subject to the qualifications in (a) and (b) above, 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, breakdown of equipment, adverse geological conditions in coal seams which were not detected despite prudent and reasonable mine planning and mining practices, explosions, mine accidents, 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, legislation, court orders, governmental regulation, or orders or acts of any governmental 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 be based on the inability to obtain necessary mining permit(s) after applying for such with prudent and reasonable diligence and other similar or dissimilar events or occurrences that otherwise satisfy the definition of a Force Majeure Event herein. 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 to any other buyers to whom Seller's ability to supply is similarly affected by such Force Majeure Event unless contractually committed to do so at the beginning of the Force Majeure Event; and further shall deliver to Buyer under this Agreement at least a pro rata portion (on a per ton basis) of its total contractual commitments for the Force Majeure period to all its buyers to whom Seller's ability to supply is similarly affected by such Force Majeure Event in place at the beginning of the Force Majeure Event, in accordance with the calculation below. If any Force Majeure Event affects Seller's ability to produce or obtain coal from its affiliate mine operations and/or substitute coal sources which are supplying coal hereunder, such events shall be considered a Force Majeure Event hereunder.

During any period in which Buyer's ability to perform hereunder is affected by a Force Majeure Event, Buyer shall not accept delivery of any coal from any other suppliers to whom Buyer's ability to accept delivery is similarly affected by such Force Majeure Event unless contractually committed to do so at the beginning of the Force Majeure Event; and further shall

accept delivery of coal from Seller under this Agreement at least a pro rata portion (on a per ton basis) of its total contractual commitments to all its suppliers to whom Buyer's ability to accept delivery of coal is similarly affected by such Force Majeure Event in place at the beginning of the Force Majeure Event, in accordance with the calculation below. If any Force Majeure Event affects Buyer's ability to accept delivery of coal at its power generating stations which are receiving coal hereunder, such events shall be considered a Force Majeure Event hereunder.

For the purpose of any partial or total Force Majeure Event claimed by Seller under this Agreement, it will be presumed that, except for the Force Majeure Event, total production at the Coal Property would have occurred at a rate per day equal to the Base Quantity, or the Base Quantity adjusted to include Make-up Tons, if any, for the calendar year in which the Force Majeure Event occurs, divided by 240, which represents the average number of work days at the Coal Property in a calendar year. For purposes of any partial or total Force Majeure Event claimed by Buyer under this Agreement, it will be presumed that, except for the Force Majeure Event, total shipments to Buyer from the Coal Property would have occurred at a rate equal to the Base Quantity, or the Base Quantity adjusted to include Make-up Tons, if any, for the calendar year in which the Force Majeure Event occurs divided by 326, which represents the average number of operating days at the generating stations in a calendar year.

During any period in which Seller's ability to perform hereunder is affected by a Force Majeure Event, Seller's obligation to deliver coal shall be suspended only in an amount or amounts not to exceed the quantity that was scheduled to be delivered from the Coal Property pursuant to §5.1. For example of a total Force Majeure Event, if Seller's Coal Property was scheduled to deliver 1.0 million tons of Base Quantity coal as established pursuant to §3.1 prior to a Force Majeure Event, and the Coal Property experienced a total Force Majeure Event for a period of ten (10) work days,

Seller shall be excused from making delivery of up to 41,670 tons of coal from the Coal Property.

Calculation as follows:

$$\begin{aligned} 1,000,000 \text{ tons} / 240 \text{ work days} &= 4,167 \text{ tons per day} \\ 4,167 \text{ tons} \times 10 \text{ work days} &= 41,670 \text{ tons Force Majeure Event excused tonnage limit.} \end{aligned}$$

For example of a partial Force Majeure Event, if Seller's Coal Property was scheduled to deliver 1.0 million tons of Base Quantity coal as established pursuant to §3.1 prior to a Force Majeure Event, and the Coal Property experienced a partial Force Majeure Event and was only able to produce twenty-five percent (25%) of its normal production for a period of ten (10) work days during that calendar quarter, Seller shall be excused from making delivery of up to 31,250 tons of coal from the Coal Property. Calculation as follows:

$$\begin{aligned} 1,000,000 \text{ tons} \times 75\% &= 750,000 \text{ tons} \\ 750,000 \text{ tons} / 240 \text{ work days} &= 3,125 \text{ tons per day} \\ 3,125 \text{ tons} \times 10 \text{ work days} &= 31,250 \text{ tons Force Majeure Event excused tonnage limit.} \end{aligned}$$

During any period in which Buyer's ability to perform hereunder is affected by a Force Majeure Event, Buyer's obligation to accept delivery of coal shall be suspended only in an amount or amounts not to exceed the quantity that was scheduled to be delivered under §3.1 to the generating station affected by the Force Majeure Event (the "Affected Generating Station"). For example of a total Force Majeure Event, if Buyer was scheduled to accept delivery of 1.0 million tons of Base Quantity coal as established pursuant to §3.1 prior to a Force Majeure Event, and if Buyer's Affected Generating Station was scheduled to accept delivery of forty percent (40%) of the quantity of coal prior to a Force Majeure Event, and the Affected Generating Station experienced a total Force Majeure Event for a period of fifteen (15) operating days, Buyer shall be excused from accepting delivery of up to 18,405 tons of coal to the Affected Generating Station. Calculation as follows:

$$\begin{aligned} 1,000,000 \times 40\% &= 400,000 \text{ tons} \\ 400,000 \text{ tons} / 326 \text{ operating days} &= 1,227 \text{ tons per day} \\ 1,227 \text{ tons} \times 15 \text{ operating days} &= 18,405 \text{ tons Force Majeure Event excused tonnage limit.} \end{aligned}$$

For example of a partial Force Majeure Event, if Buyer was scheduled to accept delivery of 1.0 million tons of Base Quantity coal as established pursuant to §3.1 prior to a Force Majeure Event, and if Buyer's Affected Generating Station was scheduled to accept delivery of forty percent (40%) of the quantity of coal prior to a Force Majeure Event, and the Affected Generating Station experienced a partial Force Majeure Event and was only able to operate at twenty-five percent (25%) of its normal generation for a period of fifteen (15) operating days, Buyer shall be excused from accepting delivery of up to 13,804 tons of coal to the Affected Generating Station. Calculation as follows:

$$\begin{aligned} 1,000,000 \times 40\% &= 400,000 \text{ tons} \\ 400,000 \times 75\% &= 300,000 \text{ tons} \\ 300,000 \text{ tons} / 326 \text{ operating days} &= 920 \text{ tons per day} \\ 920 \text{ tons} \times 15 \text{ operating days} &= 13,804 \text{ tons Force Majeure Event excused tonnage limit.} \end{aligned}$$

Buyer and Seller shall each have the sole discretion to claim Force Majeure Event excused tonnage in an amount less than the amount as determined by the formulas set forth in this §10.1.

Tonnage deficiencies resulting from a Seller's or Buyer's declared Force Majeure Event during the first thirty (30) days or less of such Force Majeure Event may be made up at the non-claiming party's sole option on a mutually-agreed schedule during a reasonable period of time taking into account the tonnage impact of the Force Majeure Event; provided, however, the non-claiming 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. Tonnage deficiencies resulting from a Seller's or Buyer's declared Force Majeure Event after the first thirty (30) days may be made up only by mutual agreement of the parties. Tonnage deficiencies resulting from a Force Majeure Event which are made up 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.

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

The price for any tonnage deficiencies made up following a Seller Force Majeure shall be the Base Price (or the Adjusted Base Price, as the case may be) in effect at the time such tonnage deficiencies should have been delivered and not the Base Price (or the Adjusted Base Price, as the case may be) in effect at the time such tonnage deficiencies are actually delivered if the price is different than the price when the tonnage should have been delivered. The price for any tonnage deficiencies made up following a Buyer Force Majeure shall be the Base Price (or the adjusted Base Price, as the case may be) in effect at the time such tonnage deficiencies are actually delivered and not the Base Price (or the adjusted Base Price, as the case may be) in effect at the time such tonnage deficiencies should have been delivered if the price is different than the price when the tonnage is actually delivered.

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 a mutually acceptable amendment to the delivery schedule without materially disrupting future shipments will not be considered Force Majeure Events, but shall be resolved by mutually acceptable schedule amendments and acceptance for such amendments shall not be unreasonably withheld.

§10.2. Environmental Law Force Majeure. In addition to, and not in limitation of, the provisions of §10.1 above, if Buyer 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 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 of the coal at Buyer's generating station. 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 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.

Provided, however, and the foregoing notwithstanding, in the event such impossibility or commercial impracticability does not affect all of Buyer's generating stations referenced in Recital A hereof, Buyer's right of termination shall be limited to that percentage of the adjusted Base Quantity that was delivered hereunder to the generating station or stations affected by such impossibility or commercial impracticability during the most recent twelve months preceding such termination (or since the beginning of deliveries hereunder, if less than twelve (12) months).

If as a result of the adoption or reinterpretation of laws, regulations, policies or restrictions, or changes in the interpretation or enforcement thereof, Seller decides that it will be impossible,



commercially impracticable, or uneconomical for Seller to produce the coal required hereunder, Seller shall so notify Buyer. 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. If in Seller's sole judgment any such actions will not, without unreasonable expense to Seller, make it possible, commercially impracticable or uneconomical for Seller to sell the coal which would be delivered hereunder without violating any applicable law, regulation, policy or order, Seller shall have the right, upon the later of sixty (60) days' notice to Buyer of the 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.

**SECTION 11. NOTICES.**

§11.1. Form and Place of Notice. Any 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 sufficiently given when delivered in person, when successfully transmitted by facsimile or by electronic media, the business day after it is delivered to an established mail service for same day or overnight delivery, or when received if 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 Corporate Fuels and By-Products  
  Fax No: 502-627-3243

If to Seller:                   Alliance Coal, LLC  
  1717 South Boulder Avenue, Suite 400  
  Tulsa, Oklahoma 74119

Attn: Assistant General Counsel  
Fax No: 918-295-7361

With a copy to the General Counsel:  
Alliance Coal, LLC  
1717 South Boulder Avenue, Suite 400  
Tulsa, OK 74119

With Copy To:  
Alliance Coal, LLC  
104 N. Elm Street, Unit 204  
Corydon, IN 47112  
Attn: General Sales Manager - Central Region

§11.2. Change of Person or Address. Either party may change the person or address specified above upon giving written notice to the other party of such change.

**SECTION 12. NO RESALE.**

Buyer explicitly agrees Buyer shall not resell any of the coal purchased hereunder during the Term of this Agreement, provided however, that Buyer may make sales or transfers of coal to vendors or contractors owning or operating facilities located on its plant sites for the treatment, refinement or processing of coal for environmental, operational or other purposes.

**SECTION 13. INDEMNITY AND INSURANCE.**

§13.1. Indemnity. Seller agrees to indemnify and save harmless Buyer, its officers, directors, employees and representatives from any responsibility and liability for any and all claims, demands, losses, legal actions for personal injuries, property damage and pollution (excluding inside and outside attorney's fees), including but not limited to those made by third parties (i) relating to the barges provided by Buyer or Contractor while such barges are in

the care and custody of the loading facility, (ii) due to any failure of Seller to comply with laws, regulations or ordinances, or (iii) due to the acts or omissions of Seller in the performance of this Agreement.

Buyer agrees to indemnify and save harmless Seller, its officers, directors, employees and representatives from any responsibility and liability for any and all claims, demands, losses, legal actions for personal injuries, property damage and pollution (excluding inside and outside attorney's fees), including but not limited to those made by third parties (i) due to acts or omissions of Buyer or Buyer's contractors relating to the barges provided by Buyer or Contractor to Seller, (ii) due to any failure of Buyer to comply with laws, regulations or ordinances, or (iii) due to the acts or omissions of Buyer in the performance of this Agreement.

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 hereof.

§13.2. Insurance. For the duration of this Agreement, Seller, at its own expense agrees to carry, or caused to be carried, insurance coverage, or provide acceptable proof of self-insurance with minimum limits as follows:

- (1) Workers' Compensation and Employer's Liability Policy, 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. All States Endorsement;
  - iv. U.S. Longshore and Harbor Workers Compensation Act coverage (required when Seller performs work that falls under the U.S. Longshore and Harbor Workers Compensation Act);

- v. Jones Act coverage (coverage can be carried by Seller's barge fleeting service contractor ("Fleeting Contractor") also known as a tugboat service contractor provided Seller solely utilizes contractors for such activities)
- (2) Commercial General Liability Policy, which shall have minimum limits of \$1,000,000 each occurrence, \$2,000,000 Products/Completed Operations Aggregate, \$1,000,000 Personal and Advertising Injury each occurrence, in all cases subject to \$2,000,000 in the general aggregate for all such claims, and including:
- i. Blanket Written Contractual Liability to the extent covered by the policy against liability assumed by Seller under this Agreement;
  - ii. Include Additional Insured endorsement GC 2010 or CG2037, or its equivalent;
- (3) Commercial Automobile Liability Policy, covering the use of all owned, non-owned, and hired automobiles, with bodily injury coverage, including death and property damage, combined single minimum limit of \$1,000,000 each occurrence with respect to Seller's or Seller's contractor(s)'s vehicles.
- (4) Seller shall carry Umbrella/Excess liability insurance with minimum limits of \$5,000,000 per occurrence, \$5,000,000 in aggregate, to apply to Employer's Liability, Commercial General Liability, Commercial Auto Liability, and Marine Liability coverage.
- (5) Marine Liability and Maritime Employer's Liability insurance is required at all times during the contract term, and should be carried by Seller or Fleeting Contractor. Coverage required includes limits of \$5,000,000 per occurrence and \$5,000,000 in aggregate; coverage shall include marine general liability, contractual liability, protection & indemnity, landing owners', stevedoring, wharfingers, collision & towers liability, Jones Act, Tankerman's Legal and pollution liabilities, including coverage for bodily injury (including death and mental anguish), property damage, defense

costs and clean-up costs. Coverage shall be primary and non-contributory. To the extent that the work related to marine liability and maritime employer's liability is performed solely by Seller's contractors or subcontractors, Seller may satisfy this requirement by requiring all applicable contractors or subcontractors carry this coverage.

Except with regard to Workers' Compensation coverage, all of the above policies shall name Buyer as an additional insured. Coverage shall be primary/non-contributory in favor of Buyer. Self-Insured Retentions are not acceptable without the Buyer's consent, except for a \$10,000 maintenance retention on the Umbrella coverage and a \$1,000,000 self-insured retention on the General Liability coverage. If any of the above policies are written on an occurrence basis, then the retroactive date of the policy or policies will be no later than the effective date of this Agreement. If any of the above policies are written on a claims-made basis, then such policy or policies shall be maintained in full force and effect by Seller for a period of no less than eighteen (18) months after any termination or expiration of this Agreement. Certificates of insurance satisfactory in form to Buyer and signed by Seller's insurer shall be mailed to: Attention: Manager, LG&E and KU Fuels, LG&E and KU Services Company, 220 W. Main St., Louisville, Kentucky 40202. Seller shall cause its insurer to waive all subrogation rights against Buyer respecting all losses or claims arising from performance hereunder, where applicable by law. The policies shall be written by insurance companies which have a Best Rating of not less than "A -, VII-". 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 their 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 obligations under this Agreement.

Seller shall provide certificates of insurance to Buyer for each policy of insurance required above, and evidence the items noted below:

- i. Each certificate shall properly identify the certificate holder as Buyer;
- ii. Certificate shall verify additional insured status on all coverages outlined above;
- iii. Certificate shall verify the blanket waiver of subrogation, except where not applicable by law;
- iv. Certificate shall verify Primary/Non-contributory wording in favor of Buyer;
- v. Certificate shall identify policies which are written on a claims-made basis, and state the expiration date of the policy.

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 (e.g., Seller's Commercial General Liability policy must cover Seller and additional insureds against negligent acts of a subcontractor, etc.). This Agreement only represents minimum insurance requirements; it does not mitigate or reduce liability required by the indemnity agreement, nor should it be deemed to be the full responsibility of the Seller or Seller's contractor(s) for liability. Seller is responsible for Seller's contractors' insurance meeting the requirements of the Agreement.

**SECTION 14. 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 Buyer, Seller, Guarantor, or any Producer files a petition in bankruptcy;
- (ii) Any of Buyer, Seller, Guarantor, or any Producer makes a general assignment for the benefit of creditors;
- (iii) A bankruptcy petition is filed against any of Buyer, Seller, Guarantor, or any Producer, and is not dismissed within sixty (60) days;
- (iv) A receiver is appointed for Buyer, Seller, Guarantor, or any Producer or any assets of Buyer, Seller, Guarantor, or Producer;
- (v) Any attempts to deliver coal to a delivery point other than that specified in §5.1;
- (vi) Any failure to deliver coal other than in accordance with the nominations for two months in a six month consecutive period, except as specifically permitted pursuant to other provisions in this Agreement or consented to in writing among the parties;
- (vii) Any failure to accept delivery of coal based on the nominations for two months in a six month consecutive period, except as specifically permitted pursuant to other provisions in this Agreement or consented to in writing among the parties;
- (viii) The provision of Substitute Coal from a source other than geological seam Western Kentucky No. 9 and/or No. 11, absent advance written consent which may be given in Buyer's sole discretion;

- (ix) Any attempts to deliver coal qualifying as, or which could potentially qualify as, Make-Up Tons, other than in accordance with §3.2;
- (x) 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
- (xi) 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 §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.

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.

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

Buyer shall pay when due, and the price set forth in Section 8 of this Agreement, as it may be adjusted, shall be inclusive of, all taxes, duties, fees and other assessments of whatever nature imposed by governmental authorities with respect to the transactions contemplated under this Agreement.



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

Buyer and Seller shall maintain all records and accounts pertaining to payments, quantities, quality analyses, source, permits and mine plans for all coal supplied under this Agreement for a period lasting through the term of this Agreement and for two (2) years thereafter. Either Buyer or Seller shall have the right at their expense, and at no additional expense to the other party, to audit, copy and inspect such records and accounts at any reasonable time upon reasonable notice during the term of this Agreement and for two (2) years thereafter.

**SECTION 17. EQUAL EMPLOYMENT OPPORTUNITY.**

To the extent applicable, Seller shall comply with all of the following provisions and laws: 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 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).

**SECTION 18. COAL PROPERTIES INSPECTIONS.**

Buyer and its representatives, and others as may be required by applicable laws, ordinances and regulations shall have the right at all reasonable times and at their own expense to inspect each and every one of the Coal Properties, including the loading facilities, scales sampling systems, wash plant facilities, mining equipment, permits and mine plans for conformance with this Agreement. Seller shall cooperate with Buyer's request to inspect the Coal Properties at no additional cost to Buyer and shall undertake reasonable care and precautions to prevent personal injuries to any representatives, agents or employees of Buyer (collectively, "Visitors") who inspect any such Coal Properties. Any such Visitors shall comply with Seller's regulations and rules regarding conduct on the work site, made known to Visitors prior to entry, as well as safety measures mandated by local, state or federal rules, regulations and laws. Buyer understands that coal related facilities are inherently high-risk environments. Buyer's failure to inspect any one or more of the Coal Properties or to object to defects therein at the time Buyer inspects the same shall not relieve Seller of any of its responsibilities nor be deemed to be a waiver of any of Buyer's rights hereunder. Buyer and/or its representatives shall provide Seller with prior notice of any request to inspect the Coal Properties.

**SECTION 19. MISCELLANEOUS.**

§19.1. Applicable Law. This Agreement shall be construed in accordance with the laws of the Commonwealth of Kentucky, and all questions of performance of obligations hereunder shall be determined in accordance with such laws.

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

§19.3. 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.

§19.4. Remedies Cumulative. Except as otherwise specifically provided herein, the remedies provided under this Agreement shall be cumulative and in addition to other remedies provided under this Agreement or by law or in equity.

§19.5. Severability. 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.

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

§19.7. Assignment. Neither Buyer nor Seller may assign or otherwise transfer (whether voluntarily, involuntarily or by operation of law) this Agreement or any rights or obligations hereunder without the prior written consent of the non-assigning party.

In the event of an attempted assignment or other transfer contrary to the provisions of this section, such assignment or other transfer is void and 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.

Buyer acknowledges that Seller's right to engage its subcontractors in performing certain obligations hereunder shall not be deemed to constitute an assignment of this Agreement. Also, the

encumbering, mortgaging, hypothecating or otherwise pledging the proceeds of this Agreement and any rights hereunder by a party as security in connection with a financing transaction of such party shall not be deemed to constitute an assignment or other transfer hereunder.

§19.8. Limitation of Remedies. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, EXCEPT TO THE EXTENT A CLAIM, DEMAND, LOSS, OR LEGAL ACTION BROUGHT BY A THIRD PARTY INCLUDES ONE OR MORE SUCH ITEMS AND FOR WHICH THERE IS AN INDEMNITY OBLIGATION UNDER THIS AGREEMENT WITH RESPECT TO SUCH THIRD PARTY CLAIM, DEMAND, LOSS OR LEGAL ACTION, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, PUNITIVE, EXEMPLARY, SPECIAL OR INDIRECT DAMAGES, LOST REVENUES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. EXCEPT AS EXPRESSLY SET FORTH HEREIN, SELLER EXPRESSLY NEGATES ANY OTHER REPRESENTATION OR WARRANTY, WRITTEN OR ORAL, EXPRESS OR IMPLIED, INCLUDING ANY REPRESENTATION OR WARRANTY WITH RESPECT TO CONFORMITY TO MODELS OR SAMPLES, MERCHANTABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE.

§19.9. 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.

§19.10. 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.

§19.11. Amendments. Except as otherwise provided herein, this Agreement may not be amended, supplemented or otherwise modified except by written instrument signed by both Parties.

§19.12. 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.

§19.13. 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 employee, owner-contractor, or lessor-lessee relationship between Buyer and Seller or Buyer and Producer.

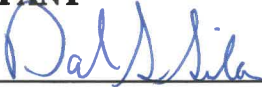
§19.14. Forward Contract. The parties agree that the transactions for the sale and purchase of coal hereunder are and shall constitute “forward contracts”, and that the parties hereto are and shall be considered “forward contract merchants” within the meaning of the United States Bankruptcy Code.

§19.15. Exhibits. Exhibit A is shown for example purposes only and not intended to reflect individual year pricing.

IN WITNESS WHEREOF, the Parties have executed this Agreement intending it to be binding as of the dates indicated below and to be performed as set out herein.

**BUYER:**


**LOUISVILLE GAS AND ELECTRIC COMPANY**

By:   
David Sinclair  
VP – Energy Supply and Analysis

Date: 2-2-21

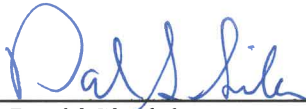
**SELLER:**

**ALLIANCE COAL, LLC**

By:   
Timothy J. Whelan  
Senior VP – Sales & Marketing

Date: 1-26-21

**KENTUCKY UTILITIES COMPANY**

By:   
David Sinclair  
VP - Energy Supply and Analysis

Date: 2-2-21

*Att  
JPF*

*Att  
JPF*

**Exhibit A**

**SAMPLE COAL PAYMENT CALCULATIONS**

	<b>Section I</b>	<b>Base Data</b>
1)	Base F.O.B. price per ton:	\$37.50 /ton
1a)	Tons of coal loaded:	_____ tons
2)	Guaranteed monthly weighted avg. heat content:	11,400 BTU/LB.
2a)	As received monthly weighted avg. heat content:	_____ BTU/LB.
2b)	Total Energy (BTUs) loaded in the month:	_____ MMBTUs
	[(Line 1a) *2,000 lb./ton*(Line 2a)] *MMBTU/1,000,000 BTU	
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	8.75 LBS./MMBTU
4a)	As received monthly weighted avg. ash	_____ LBS./MMBTU
5)	Guaranteed monthly weighted avg. max. moisture	11.75 LBS./MMBTU
5a)	As received monthly weighted avg. moisture	_____ LBS./MMBTU
6)	BTU True Up Adjustment: $\{[(\text{line } 2a - \text{line } 2)] \div \text{line } 2\} \times \text{line } 1$	_____ Dollars/Ton
6a)	BTU True Up Adjustment Dollars (line 6 $\times$ line 1a)	_____ Dollars
	<b>Section II</b>	<b>Discounts</b>
7)	Assign a (-) to all discounts (round to (5) decimal places) BTU/LB.: If line 2a is less than 11,200 BTU/lb. then: $\{1 - (\text{line } 2a) / (\text{line } 2)\} * \$0.2604/\text{MMBTU}$ $\{1 - ( ) / ( )\} * 0.2604 =$	\$ _____ / MMBTU
7a)	SULFUR: If line 3a is greater than 2.90 lbs./MMBTU $[(\text{line } 3a) - (\text{line } 3)] * 0.1232/\text{MMBTU per lb. Sulfur/MMBTU}$ $[( ) - ( )] * 0.1232 =$	\$ _____ / MMBTU
7b)	ASH: If line 4a is greater than 9.25 lbs./MMBTU $[(\text{line } 4a) - (\text{line } 4)] * 0.0083/\text{MMBTU per lb. Ash/MMBTU}$ $[( ) - ( )] * 0.0083 =$	\$ _____ / MMBTU
7c)	MOISTURE: If line 5a is greater than 12.55 lbs./MMBTU $[(\text{line } 5a) - (\text{line } 5)] * 0.0016/\text{MMBTU per lb. Moist./MMBTU}$ $[( ) - ( )] * 0.0016 =$	\$ _____ / MMBTU

**Section III**

**Total Price  
Adjustments**

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 |

**Total Coal Payment Calculation**

- |     |   |                  |
|-----|---|------------------|
| 13) | Total coal payment for month:<br>[(line 1 × line 1a) + line 6a] – line 12 | \$ _____ Dollars |
|-----|---|------------------|



**EXHIBIT B**

**GUARANTY**

**This Guaranty** (the "Guaranty") is made by **Alliance Resource Partners, L.P.** (the "Guarantor"), a Delaware limited partnership, 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 Alliance Coal, LLC (the "Counterparty").

1. **Guaranty:** Guarantor does hereby unconditionally and absolutely guarantee to Beneficiary the full and faithful payment by Counterparty of any amounts (including any damages or amounts for nonperformance or indemnification) due to the Beneficiary under and pursuant to that certain Coal Supply Agreement dated January 26, 2021 (identified as Contract J21010) and any amendments thereto that may be entered into from time to time hereafter, (the "Agreement") (the payment obligations described above are referred to herein collectively as the "Guaranteed Obligations"). In no event shall Guarantor have any obligation to perform any nonpayment obligations of Counterparty under the Agreement.
2. **Guaranty Absolute:** The Guarantor guarantees that the Guaranteed Obligations will be paid 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.

Notwithstanding any provision to the contrary contained herein, Guarantor's liability hereunder shall be and is specifically limited to payment obligations as expressly set forth in Section 1 above, and in no event shall Guarantor be liable for the payment of consequential, exemplary, equitable, loss of profits, punitive, or any other special or indirect damages, costs, or 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 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) 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; provided, however, that Guarantor reserves the right to any defenses available to Counterparty or Guarantor other than defenses arising from the bankruptcy, insolvency, incapacity, liquidation or dissolution of Counterparty. During the term hereof, 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:** In the event that Beneficiary is required to institute litigation to enforce Guarantor's obligations under this Guaranty, Beneficiary shall be entitled to make application to the court for an award of reasonable attorneys' fees actually incurred in the enforcement of same; provided, however, that attorneys' fees shall only be awarded if the court determines that Guarantor's defenses to enforcement of said obligations were presented for improper purpose, were frivolous, and/or had no reasonable basis in law or in fact.
- 5. Subrogation:** The Guarantor will not exercise any right that it may now or hereafter acquire against Counterparty that arise from the existence, payment, or enforcement of

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 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 payment 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 Guarantee 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:**

Alliance Resource Partners, L.P.  
Chief Financial Officer

1717 S. Boulder Avenue, Suite 400  
Tulsa, Oklahoma 74119

**With a copy to:**

Alliance Resource Partners, L.P.  
General Counsel  
1717 S Boulder Avenue, Suite 400  
Tulsa, Oklahoma 74119

**If to Counterparty:**

Alliance Coal, LLC  
Assistant General Counsel  
1717 S. Boulder Avenue, Suite 400  
Tulsa, Oklahoma 74119

**If to Beneficiary:**

Louisville Gas and Electric Company  
220 West Main Street  
Louisville, Kentucky 40202  
Attn: Director Corporate Fuels and By-Products

Kentucky Utilities Company  
220 West Main Street  
Louisville, Kentucky 40202  
Attn: Director Corporate Fuels and By-Products

8. **Demand and Payment:** If Counterparty fails to pay any obligation and Beneficiary elects to exercise its rights under this Guaranty, Beneficiary shall make a written demand on Guarantor (a "Payment Demand"). Any Payment Demand by Beneficiary 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. Guarantor shall pay, or cause to be paid, such Guaranteed Obligations within thirty (30) business days of receipt of such Payment Demand.
9. **Representations and Warranties of Guarantor:** Guarantor represents and warrants that:
- (a) it is a limited partnership duly organized and validly existing under the laws of the State of Delaware and has the power and authority to execute, deliver and carry out the terms and provisions of the 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 payment obligation of Counterparty as required by the Agreement.

Term. This Guaranty shall continue in full force and effect until the termination or expiration of the Agreement. Notwithstanding the foregoing, upon termination or expiration hereof, Guarantor agrees that the obligations and liabilities hereunder 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. Neither party shall assign its rights or obligations under this Guaranty without the express written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed, and any purported assignment absent such consent is void.

Severability. If any provision or portion of a provision of this agreement is declared void and/or unenforceable, such provision or portion shall be deemed severed from this agreement 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 State of Delaware, without regard to principles of conflicts of laws.

**IN WITNESS WHEREOF,** Guarantor has caused this Guaranty to be duly executed and delivered by its duly authorized officer effective as of this 26th day of January, 2021 ("Effective Date").

Guarantor: **ALLIANCE RESOURCE PARTNERS, L.P.**

By: Alliance Resource Management GP, LLC

Its: General Partner

By:  \_\_\_\_\_

Name: Timothy J. Whelan

Title: Senior Vice President Sales & Marketing

**EXHIBIT C**

**ALTERNATE SOURCE MINES COAL SPECIFICATION**

The coal delivered from the **Gibson South Mine** shall conform to the following specifications on an "as received" basis:

Specifications	Guaranteed Monthly Weighted Average (1)	Rejection Limits (per shipment)
BTU/LB.	min. <u>11,425</u>	< <u>11,125</u>
<u>LBS/MMBTU</u>		
MOISTURE	max. <u>13.00</u>	> <u>14.50</u>
ASH	max. <u>7.50</u>	> <u>9.50</u>
SULFUR	max. <u>1.90</u>	> <u>2.10</u>
SULFUR	min. <u>1.40</u>	< <u>1.10</u>
NITROGEN	max. <u>1.63</u>	> <u>1.82</u>
% Calcium Oxide in Ash	max. <u>5.51</u>	> <u>6.51</u>
CHLORINE	max. <u>2000 PPM</u>	> <u>2375 PPM</u>
ARSENIC	max <u>29 PPM</u>	> <u>31 PPM</u>
SIZE (3" x 0")*:		
Top size (inches)	max <u>2.5 x 0</u>	> <u>3 x 0</u>
Fines (% by wt.)		
Passing 1/4" screen	max. <u>55</u>	> <u>60</u>
<u>% BY WEIGHT:</u>		
VOLATILE	min. <u>30</u>	< <u>29</u>
FIXED CARBON	min. <u>44</u>	< <u>42</u>
GRINDABILITY (HGI)	min. <u>53</u>	< <u>50</u>
BASE ACID RATIO (B/A)	max <u>.50</u>	> <u>.62</u>
SLAGGING FACTOR**	max. <u>1.00</u>	> <u>1.25</u>
FOULING FACTOR***	max. <u>.60</u>	> <u>.74</u>
<u>ASH FUSION TEMPERATURE (°F) (ASTM D1857)</u>		
<u>REDUCING ATMOSPHERE</u>		
Initial Deformation	min. <u>2000</u>	< <u>1980</u>
Softening (H=W)	min. <u>2050</u>	< <u>2030</u>
Softening (H=1/2W)	min. <u>2140</u>	< <u>2120</u>
Fluid	min. <u>2270</u>	< <u>2250</u>
<u>OXIDIZING ATMOSPHERE</u>		
Initial Deformation	min. <u>2370</u>	< <u>2350</u>
Softening (H=W)	min. <u>2390</u>	< <u>2370</u>
Softening (H=1/2W)	min. <u>2410</u>	< <u>2390</u>
Fluid	min. <u>2430</u>	< <u>2410</u>

**EXHIBIT C (Cont.)**

**ALTERNATE SOURCE MINES COAL SPECIFICATION**

The coal delivered from the **Warrior Mine** shall conform to the following specifications on an "as received" basis:

Specifications	Guaranteed Monthly Weighted Average (1)	Rejection Limits (per shipment)
BTU/LB.	min. <u>11,500</u>	< <u>11,200</u>
<u>LBS/MMBTU</u>		
MOISTURE	max. <u>8.50</u>	> <u>10.00</u>
ASH	max. <u>12.50</u>	> <u>15.20</u>
SULFUR	max. <u>3.00</u>	> <u>3.20</u>
SULFUR	min. <u>2.40</u>	< <u>2.00</u>
NITROGEN	max. <u>1.34</u>	> <u>1.53</u>
% Calcium Oxide in Ash	max. <u>5.46</u>	> <u>6.46</u>
CHLORINE	max. <u>2,300 PPM</u>	> <u>2,500 PPM</u>
ARSENIC	max <u>6 PPM</u>	> <u>8 PPM</u>
SIZE (3" x 0")*:		
Top size (inches)	max <u>2.5 x 0</u>	> <u>3 x 0</u>
Fines (% by wt.)		
Passing 1/4" screen	max. <u>55</u>	> <u>60</u>
<u>% BY WEIGHT:</u>		
VOLATILE	min. <u>31</u>	< <u>30</u>
FIXED CARBON	min. <u>40</u>	< <u>39</u>
GRINDABILITY (HGI)	min. <u>52</u>	< <u>49</u>
BASE ACID RATIO (B/A)	max <u>0.62</u>	> <u>0.75</u>
SLAGGING FACTOR**	max. <u>1.95</u>	> <u>2.25</u>
FOULING FACTOR***	max. <u>0.65</u>	> <u>0.80</u>
<u>ASH FUSION TEMPERATURE (°F) (ASTM D1857)</u>		
<u>REDUCING ATMOSPHERE</u>		
Initial Deformation	min. <u>1940</u>	< <u>1900</u>
Softening (H=W)	min. <u>2020</u>	< <u>1975</u>
Softening (H=1/2W)	min. <u>2050</u>	< <u>2000</u>
Fluid	min. <u>2150</u>	< <u>2100</u>
<u>OXIDIZING ATMOSPHERE</u>		
Initial Deformation	min. <u>2300</u>	< <u>2200</u>
Softening (H=W)	min. <u>2320</u>	< <u>2280</u>
Softening (H=1/2W)	min. <u>2425</u>	< <u>2300</u>
Fluid	min. <u>2490</u>	< <u>2375</u>



**EXHIBIT C (Cont.)**

**ALTERNATE SOURCE MINES COAL SPECIFICATION**

The coal delivered from the **Hamilton County Mine** shall conform to the following specifications on an "as received" basis:

Specifications	Guaranteed Monthly Weighted Average (1)	Rejection Limits (per shipment)
BTU/LB. <u>LBS/MMBTU</u>	min. <u>11,650</u>	< <u>11,350</u>
MOISTURE	max. <u>11.00</u>	> <u>12.50</u>
ASH	max. <u>8.50</u>	> <u>9.50</u>
SULFUR	max. <u>2.50</u>	> <u>2.70</u>
SULFUR	min. <u>2.10</u>	< <u>1.90</u>
NITROGEN	max. <u>1.38</u>	> <u>1.57</u>
% Calcium Oxide in Ash	max. <u>2.21</u>	> <u>2.71</u>
CHLORINE	max. <u>3400 PPM</u>	> <u>3775 PPM</u>
ARSENIC	max <u>4.0 PPM</u>	> <u>5.0 PPM</u>
SIZE (3" x 0")*: Top size (inches)	max <u>2.5 x 0</u>	> <u>3 x 0</u>
Fines (% by wt.) Passing 1/4" screen	max. <u>55</u>	> <u>60</u>
<u>% BY WEIGHT:</u>		
VOLATILE	min. <u>33</u>	< <u>32</u>
FIXED CARBON	min. <u>41</u>	< <u>40</u>
GRINDABILITY (HGI)	min. <u>52</u>	< <u>49</u>
BASE ACID RATIO (B/A)	max <u>.40</u>	> <u>.50</u>
SLAGGING FACTOR**	max. <u>1.15</u>	> <u>1.41</u>
FOULING FACTOR***	max. <u>.55</u>	> <u>.68</u>
<u>ASH FUSION TEMPERATURE (°F) (ASTM D1857)</u>		
<u>REDUCING ATMOSPHERE</u>		
Initial Deformation	min. <u>2060</u>	< <u>2040</u>
Softening (H=W)	min. <u>2100</u>	< <u>2080</u>
Softening (H=1/2W)	min. <u>2170</u>	< <u>2150</u>
Fluid	min. <u>2300</u>	< <u>2280</u>
<u>OXIDIZING ATMOSPHERE</u>		
Initial Deformation	min. <u>2400</u>	< <u>2380</u>
Softening (H=W)	min. <u>2430</u>	< <u>2410</u>
Softening (H=1/2W)	min. <u>2460</u>	< <u>2440</u>
Fluid	min. <u>2490</u>	< <u>2470</u>

**EXHIBIT C (Cont.)**

**ALTERNATE SOURCE MINES COAL SPECIFICATION**

The coal delivered from the **Tunnel Ridge Mine** shall conform to the following specifications on an "as received" basis:

Specifications	Guaranteed Monthly Weighted Average (1)	Rejection Limits (per shipment)
BTU/LB.	min. <u>12,600</u>	< <u>12,300</u>
<u>LBS/MMBTU</u>		
MOISTURE	max. <u>6.25</u>	> <u>7.75</u>
ASH	max. <u>8.25</u>	> <u>10.25</u>
SULFUR	max. <u>2.80</u>	> <u>3.00</u>
SULFUR	min. <u>2.10</u>	< <u>1.90</u>
NITROGEN	max. <u>1.24</u>	> <u>1.43</u>
% Calcium Oxide in Ash	max. <u>2.25</u>	> <u>3.25</u>
CHLORINE	max. <u>1100 PPM</u>	> <u>1475 PPM</u>
ARSENIC	max <u>6.0 PPM</u>	> <u>8.0 PPM</u>
<u>SIZE (3" x 0")*:</u>		
Top size (inches)	max <u>2.5 x 0</u>	> <u>3 x 0</u>
<u>Fines (% by wt.)</u>		
Passing 1/4" screen	max. <u>55</u>	> <u>60</u>
<u>% BY WEIGHT:</u>		
VOLATILE	min. <u>34</u>	< <u>33</u>
FIXED CARBON	min. <u>43</u>	< <u>41</u>
GRINDABILITY (HGI)	min. <u>50</u>	< <u>48</u>
BASE ACID RATIO (B/A)	max <u>.50</u>	> <u>.58</u>
SLAGGING FACTOR**	max. <u>1.70</u>	> <u>1.79</u>
FOULING FACTOR***	max. <u>.60</u>	> <u>.69</u>
<u>ASH FUSION TEMPERATURE (°F) (ASTM D1857)</u>		
<u>REDUCING ATMOSPHERE</u>		
Initial Deformation	min. <u>2025</u>	< <u>2000</u>
Softening (H=W)	min. <u>2080</u>	< <u>2050</u>
Softening (H=1/2W)	min. <u>2140</u>	< <u>2100</u>
Fluid	min. <u>2200</u>	< <u>2150</u>
<u>OXIDIZING ATMOSPHERE</u>		
Initial Deformation	min. <u>2250</u>	< <u>2220</u>
Softening (H=W)	min. <u>2310</u>	< <u>2290</u>
Softening (H=1/2W)	min. <u>2370</u>	< <u>2350</u>
Fluid	min. <u>2450</u>	< <u>2400</u>

**EXHIBIT C (Cont.)**

**ALTERNATE SOURCE MINES Quality Discount Points**

The coal delivered from the Alternate Source Mines shall have the following Discount Points on an "as received" basis:

	Gibson South Mine	Warrior Mine	Hamilton County Mine	Tunnel Ridge Mine
BTU/LB.	11,200	11,250	11,350	12,300
ASH (LB./MMBTU)	9.00	12.80	9.00	9.00
MOISTURE (LB./MMBTU)	14.00	9.00	12.00	7.75
SULFUR (LB./MMBTU)	2.10	3.15	2.70	2.90

**For avoidance of doubt the following discount values continue to apply to coal delivered from Alternate Source Mines.**

MONTHLY DISCOUNT VALUES

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