

**CONFIRMATION (Rail v.101916)****Execution Date:** Oct 21, 2025**Seller :****Thunder Basin Coal Company, L.L.C.,
through its agent Core Sales, LLC****275 Technology Drive, Suite 101
Canonsburg, PA, 15317**

Attn: Contract Administration

Phone: 724-416-8300

E-mail: contractadmins@coreresources.com

Ref. #: MO# 6663

Buyer :**Louisville Gas and Electric Company and Kentucky
Utilities Company (collectively and individually as
the context requires, in each case subject to
Section 10.16 of the Terms and Conditions)****2701 Eastpoint Parkway
Louisville, KY 40223**

Attn: Tim Smith

Phone: 502-627-4661

E-mail: [REDACTED]

Ref. #J26002

This Confirmation ("Confirmation") sets forth the binding agreement entered into between the Parties on the Trade Date set out below as to a transaction regarding the sale/purchase of Coal under the following terms:

Trade Date: June 10, 2025**Core Contact:** Rowdy Smith Phone: 314-994-2720 Email: rowdysmith@coreresources.com**Term:** January 1, 2026 to December 31, 2028**Source:** Black Thunder Complex located on the joint BNSF/UP line in the Southern Powder River Basin capable of loading 12,000 – 16,000 ton Unit Trains**Delivery Point:** FOB Railcar at the Source**Contract Quantity:** PRB Coal requirements at Trimble County Station, subject to the annual firm and maximum volume set forth below.

<u>Year</u>	<u>Firm Tons</u>	<u>Requirement %</u>	<u>Requirement Max.</u>
2026	450,000	100%	750,000
2027	450,000	100%	750,000
2028	450,000	100%	750,000

Contract Price:	<u>Year</u>	<u>Fixed Price</u>
	2026	\$14.00 per Ton
	2027	\$14.20 per Ton
	2028	\$14.45 per Ton

Additional Tons: In addition to the Contract Quantity above, Buyer shall have the right to buy, and Seller shall sell, additional coal ("Additional Tons") in excess of the Firm Tons (but below the Requirement Max) from time-to-time during the Term, as described herein. Such Additional Tons shall be delivered on an as requested, as available basis, as may be agreed by Buyer and Seller, in their respective discretion, but consent to provide Additional Tons shall not be unreasonably withheld by Seller. The Contract Price for Additional Tons shall be the same as set forth above.

Specifications (as received):	Standard	Shipment Rejection
Btu/Lb.	8,900	< 8,600
SO2 (lbs./MMBTU)	0.70	> 1.40
Ash (%)	5.20	> 7.00
Moisture (%)	26.5	> 30.00
Sodium (%)	1.20	> 2.00

Quality Adjustments: Btu: Applicable as set forth in the Terms and Conditions

No other quality adjustments.

Sampling & Analysis: Per the Terms and Conditions

Weights: Per the Terms and Conditions

Billing & Payment: Per the Terms and Conditions

Third Party Impositions : There shall be no price adjustments pursuant to Article 3.6 due for any changes in Third Party Impositions

Buyer's Customer: Not Applicable

Notices: All notices, invoices and confirmations to the location listed on this Confirmation.

Other: Seller has appointed Core Sales, LLC as Seller's agent for sending and receiving copies of notices and for all administration activities of the Master Agreement and this Confirmation. Core Sales, LLC will not be a party to or obligated under this Confirmation, and Seller shall be fully responsible for all Confirmation obligations.

Each Party represents to the other Party that, as of the date of the transaction entered into pursuant to this Contract:

- It is an "eligible contract participant" as such term is defined in the Commodity Exchange Act; and
- It is a producer, processor, or commercial user of or a merchant handling Coal, and is entering into this transaction solely for purposes related to its business as such.

Seller's Guarantor, Core Natural Resources, Inc. shall provide a guarantee in form agreeable to the Parties, concurrent with the execution of this Confirmation.

The Parties agree to the insurance provisions attached hereto as Exhibit I.

Other Changes to the Terms and Conditions: **Section 2.1 Duration.** Add: "The Term of this Contract will automatically be extended to include the Make-Up Period as referenced in Article 3.8."

Section 3.1 Obligations for Purchase and Sale of Coal. Add the phrase "and Additional Tons, if any," after the words "Contract Quantity".

Section 3.3 (d) Additives. Insert the following after the first sentence: "If requested by Buyer, Seller shall make Commercially Reasonable Efforts to treat (or have treated) any railcars specified by Buyer with a side release agent approved by Buyer."

Section 3.5 Substitute Coal. Delete the first sentence and replace with the following: "Seller may, subject to the consent of Buyer, which may not be unreasonably withheld, by giving prior written notice, have the right but not the

obligation, to provide the Coal from any alternate Source Seller may select.” and in the third sentence replace the word “comparable” with “equivalent”.

Section 3.8 (a) Rescheduling. Shall be deleted in its entirety and replace with the following:

“Section 3.8 (a) Rescheduling and Make-Up. The Parties shall make Commercially Reasonable Efforts to reschedule a shipment to a future load date during the Term. If the Parties mutually agree in writing, the Affected Party may schedule deliveries or receipts, as the case may be, pursuant to such terms as the Parties agree in order to discharge some or all of the obligation to pay damages. In the absence such agreement, the make-up and damages provisions of this Article shall apply.

If Seller or Buyer fails to supply to or to take delivery of (as applicable) the entire Contract Quantity scheduled for the calendar years for any reason other than Force Majeure Event, then the Affected Party, may, at its sole option and without any obligation to do so, elect to make up such undelivered or unreceived quantities (“Make-Up Tons”) by having the Non-Performing Party deliver or take delivery of the Make-Up Tons during the three months immediately following the calendar year in which such Make-Up Tons should have been delivered (the “Make-Up Period”). If necessary, the Term of this Contract will be automatically extended to include the Make-Up Period. Prior to making such election, the Affected Party may request from the Non-Performing Party adequate assurances, satisfactory to Affected Party, that the Non-Performing Party is capable of delivering or receiving, and will deliver or receive the Make-Up Tons during the Make-Up Period. In the event the Affected Party makes the election to deliver or receive Make-Up Tons, the Non-Performing Party shall deliver or receive the Make-Up Tons, the Contract Price for any such tons shall be the Contract Price in effect in the calendar year when the tons should have been delivered, during the Make-Up Period pursuant to a new, mutually-agreed delivery schedule incorporating the delivery of the additional Make-Up Tons.”

Section 3.8 (b) Liquidated Damages.

- In (i) and (ii) delete “for the relevant delivery month” and replace with “at the end of the Make-Up Period”.
- In (d) add the following after the last sentence: “This provision is not intended to create a unilateral or absolute right of excuse from performance hereunder. It is solely intended to provide a measure of damages for good faith inability to meet the performance obligations herein. This provision shall not be construed to create any partial or total buyout rights hereunder.”

Section 5.2 Buyer’s Rejection Rights.

- In the first sentence, delete “using Commercially Reasonable Efforts”
- After the first sentence insert the following: “At Buyer’s option, tonnages of accepted non-conforming Shipments may or may not be included in the satisfaction of the Contract Quantity under this Contract.”
- In the eleventh line delete “adjustment” and replace with “Quality Adjustment(s)”.

Section 5.3 Suspension Rights. In the twentieth line after the word “Term” insert “including any Make-Up Period,”.

Section 6.1(b) Invoice Disputes. In the fourth line delete “five (5) days” and replace with “five (5) Business Days” and in the last line delete “original due date” with “date of resolution”

Section 6.2 Audit. In the fifth line delete “to verify the accuracy of” and replace with “in connection with analyzing” and delete the fifth sentence.

Section 7.1 Effect of Force Majeure Event.

- In the twelfth line delete the word “full” and replace it with “reasonable”.
- In the seventeenth line delete “all reasonable dispatch” and replace it with “Commercially Reasonable Efforts”.
- Delete the fifth sentence and replace it with: “For the avoidance of doubt, non-Delivery Point delays, interruptions or failures in railroad transportation,

railcar transloading, barge transportation, and unloading, storage and utilization at the plant, meeting the requirements of the first sentence of this Article 7.1 shall qualify as events of Force Majeure."

Section 7.3 Pro Rationing.

- In the first and third lines after the word "all" insert "or any portion".
- Insert the following at the end of the last sentence: "Provided that such later Transactions and Agreements are in place as of or before the Trade Date hereof."

Section 8.1(h) Material Adverse Change.

Deleted and replaced with "Intentionally left blank"

Section 8.3 Early Termination Payment.

- In the fifth line delete "five (5) days" and replace with "five (5) Business Days."
- In the 16th line after the word "manner" insert "and no combination of an Early Termination payment and any other rights or remedies shall entitle a Party to double-recovery of similar or related damages hereunder".

Section 8.4 Expenses. Insert the following to the beginning of the first sentence: "Following a court final decision regarding an Event of Default,".

Section 10.1 Successors and Assigns; Assignment. Add the following after the last sentence of the paragraph: "In the event of subsection (a) hereunder, Seller hereby acknowledges and agrees that any payments by Buyer to a financing party hereunder shall be for Seller's benefit and shall satisfy Buyer's payment obligations hereunder. The Parties acknowledge that Buyer's performance of its obligations in this Contract may be performed by one or more agents, including without limitation LG&E and KU Services Company."

Section 10.4 Confidentiality. Delete the entire section and replace with the following: "The Parties shall maintain the confidentiality of this Contract and shall not disclose its terms to a third party (other than a Party's and its Affiliates' employees, lenders, counsel, accountants, lessors, landowners or prospective permitted purchasers, directly or indirectly, of a Party or all or substantially all of a Party's assets or of any rights under this Contract, in each case who have agreed to keep such terms confidential) without the prior written consent of the other Party. Notwithstanding the foregoing, this Contract may be disclosed when required by law, regulation or court order, provided that the Party disclosing this Contract will furnish only that portion of this Contract that is legally required and will exercise all reasonable efforts to obtain reliable assurances that confidential treatment will be accorded this Contract. Further notwithstanding the foregoing, either Party may disclose to Relevant Third Parties those portions of this Contract related to operational requirements for transportation services hereunder, including without limitation car loading and train length requirements. The term "Relevant Third Parties" shall mean any third parties involved in the transportation of Coal that is supplied hereunder. In the event of a breach of this Article 10.4 (i) all monetary damages are limited to actual direct damages, and (ii) a breach of this Article 10.4 shall not give rise to a right to suspend or terminate this Contract. For the avoidance of doubt, nothing in this Article 10.4 shall be deemed to require that Buyer obtain consent from Seller prior to disclosing this Contract to the Kentucky Public Service Commission (the "PSC") as required under Kentucky Law, and Seller acknowledges that: (i) current PSC practices do not provide the ability for Buyer to obtain confidential treatment of the Contract and (ii) when so disclosed, current PSC practices may result in all or part of the Contract being made public."

Section 10. 8 Counterparts; Severability; Survival. The last sentence is revised to read: "All indemnity and audit rights shall survive the termination of this Contract in full for a period of two (2) years."

Insert new Section: 10.16 Several Liability. The Seller acknowledges that, while there will be no effect on the Contract Quantity set forth in Confirmation, 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 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 Contract 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). Seller agrees that the liability of each of LG&E and KU shall at all times be several and not joint. Each of LG&E and KU shall have the obligations, duties and liability of a Buyer hereunder only to the extent (and in the percentage, if applicable) that each such entity 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 entity.

Definitions:

"Contract Price": add ", as specified in the Confirmation" to the end of the definition.

"Costs": delete "terminating any hedges or other risk management contracts and/or".

"Material Adverse Change": Delete and replace with "Intentionally not used.

"Performance Assurance": reads "means reasonable collateral in the form of either cash or Letters of Credit, not to exceed, in the aggregate, two months' estimated payments hereunder."

"Ratable Amount(s)": Add the phrase ", subject to, in each case, reasonable changes in monthly quantities due to (i) outages or Force Majeure events at either party or (ii) Additional Tons as agreed by the parties." At the end of the paragraph.

"Transportation Specifications": delete "shall be no more restrictive than typical agreements for transporting Coal to or from the Delivery Point(s) for third parties or to and from other delivery points in the vicinity of the Delivery Point".

This agreement is subject to the attached Core Sales, LLC Terms and Conditions_Rail_v.101916 ("Terms and Conditions") that are hereby incorporated into and made part of this Confirmation (the Confirmation and the Terms and Conditions are referred to as the "Contract") as essential Terms and Conditions hereof and which are in lieu of and replace any and all terms and conditions set forth in any documents issued by Buyer, including, without limitation, any purchase orders and any specifications. In the event of a conflict between the Terms and Conditions attached and specific provisions set forth above, the specific provisions will control. These terms of sale are accepted by Buyer, if not otherwise accepted, by Buyer's purchase or taking delivery of the product from Seller.

IN WITNESS WHEREOF, the parties hereto have caused this Confirmation to be executed by their fully authorized representatives, intending it to be binding as of the day and year first written above.

Seller :

**Thunder Basin Coal Company, L.L.C.,
through its agent Core Sales, LLC**

By: Mitesh B. Thakkar
Mitesh B. Thakkar (Oct 20, 2025 16:11:49 EDT)

Name: _____

Title: Vice President

Date: 10/20/2025

Buyer :

Louisville Gas and Electric Company

Signed by:
By: Chuck Schram
87EF38FE5EB2407...

Name: Chuck Schram

Title: VP Energy Supply and Analysis

Date: 10/21/2025 | 4:33 PM EDT

Initial
JPF

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CS

Kentucky Utilities Company

Signed by:
By: Chuck Schram
87EF38FE5EB2407...

Name: Chuck Schram

Title: VP Energy Supply and Analysis

Date: 10/21/2025 | 4:33 PM EDT

Initial
JPF

Initial
CS



Core Sales, LLC Terms and Conditions ("Terms and Conditions")

Rail v.101916

Article 1: Contract

1.1. Acceptance. The Confirmation together with these Terms and Conditions shall be referred to as the "Contract". Any acceptance of the delivery of Coal, or any acceptance or confirmation of this Contract, express or implied, shall constitute acceptance of these Terms and Conditions. Capitalized terms used herein and not defined elsewhere herein or on the Confirmation shall have the meaning as set forth in Article 11.

Article 2: Term

2.1 Duration. The term of this Contract (the "Term") shall be as set forth on the Confirmation.

Article 3: Obligations

3.1 Obligations for Purchase and Sale of Coal. During the Term, Seller agrees to sell and deliver to Buyer, and Buyer agrees to purchase, accept from Seller and pay for, the Contract Quantity to be delivered at the Delivery Point in approximate Ratable Amounts each calendar month over the Term.

3.2 Scheduling.

The Parties will use Commercially Reasonable Efforts to agree on a reasonable and mutually acceptable delivery schedule within each month during the Term as follows, provided however, that if either Party is unable to meet the scheduling requirements within time periods set forth below, such Party shall not have failed to deliver or receive Coal if such scheduling requirements are met within five (5) days of the time for performance of such obligations.

(a) Non-PRB Scheduling. If the Source is not in the PRB, Buyer will advise Seller on or before the 15th day of each calendar month preceding scheduled Shipments of the number of Unit Trains it desires to load during the succeeding month to fulfill the Contract Quantity for such month and Buyer's desired loading dates and delivery schedule. Seller will advise Buyer on or before the 20th day of the month preceding Shipment of its Source for the scheduled monthly Shipment(s) and Buyer shall advise Seller of the specific transportation arrangements to comply with its requested delivery schedule no later than the 25th of the month preceding Shipment.

(b) PRB Scheduling. If the Source is in the PRB, Buyer will advise Seller on or before the 25th day of each calendar month preceding scheduled Shipments of the number of Unit Trains it desires to load during the succeeding month to fulfill the Contract Quantity for such month and Buyer's desired destination and Transporter. Seller will advise Buyer on or before the 25th day of the month preceding Shipment of its Source for the scheduled monthly Shipment(s) and the Unique Identifier Number(s).

3.3 Delivery, Title Transfer and Risk of Loss.

(a) Rail Deliveries. The Coal shall be delivered to Buyer FOB Unit Train(s) at the Delivery Point. Title to and risk of loss of the Coal will pass to Buyer upon completion of loading all railcars in each Unit Train and release of the Unit Train to the railroad. Buyer shall furnish suitable Unit Trains for loading and delivery of the Coal. Such Unit Trains shall be compatible with the coal loading facilities utilized by Seller and shall be clean, dry and suitable for the transportation of Coal and properly prepared to receive Coal.

(b) Shipping Notices. For each delivery, Seller shall supply Buyer with a shipping notice which shall include the Unit Train number, Source from which supplied, tonnage shipped, shipping date, destination, time loading commenced and finished, along with any other information reasonably required by Buyer and agreed to by Seller. Seller shall within twenty-four (24) hours

of the completion of loading send the shipping notice to Buyer by telecopy or other means as agreed to between Buyer and Seller. Notwithstanding the obligations to send shipping notices as provided in the previous sentence, Seller agrees to make Commercially Reasonable Efforts to send any such notices. Seller shall, as soon as is reasonably possible, notify Buyer of any loading deficiencies or delays in loading via telephone or other electronic means with confirmation in writing.

(c) Additional Transportation Charges. If a Party is charged for any increased transportation charges, penalties or other costs, including demurrage, attributable to the other Party's failure to timely (excluding any 5-day grace period as stated in Section 3.2) and appropriately load or unload the Coal in accordance with this Contract or the timing and gross tonnage requirements of the Transportation Specification, and if such failure is not due to Force Majeure or failure of the other Party, its railcars or Transporter, such failing Party shall promptly reimburse the other for such actual charges, if such charges are usual and customary, after written notice thereof. Upon request by either Buyer or Seller, such Transportation Specifications shall be made available for review by the requesting Party, provided that the disclosing Party shall not be required to disclose pricing information. The requesting Party shall sign an appropriate confidentiality agreement if requested by the disclosing Party.

(d) Additives. Seller shall make Commercially Reasonable Efforts to treat the Coal with Additive(s) as directed by Buyer. Buyer shall thereafter reimburse Seller for its current charges for Additives, which include all applicable taxes, fees and reasonable application costs as charged by the Source for application of the Additive(s). Seller shall invoice Buyer and Buyer shall pay for such Additives in accordance with the provisions of Article 6.1 hereof.

(e) Failure to Load As Scheduled. If a scheduled Shipment fails to load as scheduled despite the Parties' Commercially Reasonable Efforts to arrange and receive such Shipment in accordance with Article 3.2, the Parties shall make Commercially Reasonable Efforts to reschedule the Shipment to a future load date which is on or before the later of (i) ten days after the originally scheduled Shipment date or (ii) the last day of the originally scheduled delivery month. For PRB Shipments, if a specific Shipment was scheduled for a delivery month, but not for a specific date within the month, the Shipment will be presumed to have been scheduled to load on the last day of the month. In the event the Shipment cannot be rescheduled to a load date within such time period and the Parties cannot agree upon a future load date during the Term, or otherwise, such Shipment will be subject Article 3.8.

(f) Buyer's Administrative Obligation. The Parties agree that some of Buyer's obligations hereunder may be performed by Buyer's Customer; nevertheless; Buyer shall remain liable for all of Buyer's obligations hereunder and Buyer shall indemnify and hold Seller harmless from and against any and all claims made by Buyer's Customer against Seller. Additionally, Buyer agrees to the following:

(i) Buyer shall inform Seller at least twenty-four (24) hours in advance of arrival of each Unit Train at the Source of (A) identification of Buyer's Customer, and (B) the identification number or Unique Identifier Number, as applicable, (C) the estimated date of arrival, and (D) destination of such Unit Train. Buyer shall provide Seller certification of any Coal to be consumed outside the United States.

(ii) The loading of such Unit Train shall be in accordance with the loading provisions provided to Seller herein unless Buyer notified Seller in advance of different loading provisions and such different loading provisions are in general accordance with operating parameters in the Source's region, and do not, in Seller's reasonable opinion, impose an undue operating or economic burden on Seller.

(iii) All information to be supplied by Seller under this Contract including but not limited to analysis, weights, manifest and invoicing information shall be supplied to Buyer and Buyer shall be responsible for transmitting such information to Buyer's Customer.

(iv) If the ultimate destination of the Coal is outside of the United States, Buyer agrees to promptly notify Seller of this fact and provide proof of exportation, which may be evidenced by one of the following with any confidential information redacted: A copy of

the export bill of lading issued by the delivering carrier; A certificate by the agent of representative of the export carrier showing actual exportation of the article (which can be in the form of a signed statement by the Buyer); a certificate of lading signed by a customs officer of the foreign country to which the article is exported; or Where the foreign country has no customs administration, a statement of the foreign consignee showing receipt of the article.

3.4 Title Warranty and Indemnity. Seller warrants that at the time of delivery it will have title to the Coal, and will deliver the Coal to Buyer, free and clear of all liens, claims and encumbrances arising prior to the transfer of title to Buyer. Seller and Buyer shall each indemnify, defend and hold harmless the other Party from any Claims arising from failure of title or loss of the Coal while title to and risk of loss of the Coal is vested in the indemnifying Party.

3.5 Substitute Coal. Seller shall, by giving prior notice, have the right but not the obligation, to provide the Coal from any alternate Source Seller may select. The Parties will cooperate with each other in arranging for alternative transportation. Any such substitute Coal must be of comparable quality and equivalent cost as if delivery had been made from the original Source. Seller shall be solely responsible for any increased transportation, handling, storage and other costs, if any, incurred by Buyer directly resulting from this provision of substitute Coal.

3.6 Taxes, Third Party Impositions and Other Liabilities. Each Party shall use Commercially Reasonable Efforts to administer this Contract and implement the provisions in accordance with the intent to minimize Taxes within the good faith parameters of the law. Seller shall be solely responsible for all assessments, fees, costs, expenses and Taxes imposed by governmental authorities or other third parties (each, a "Third Party Imposition") relating to the mining, beneficiation, production, sale, use, loading and delivery of Coal to Buyer or in any way accrued or levied prior to the transfer of title to the Coal to Buyer, and including, without limitation, all severance taxes, royalties, black lung fees, reclamation fees and other costs, charges and liabilities and which are known to Seller as of the Trade Date. Buyer shall be solely responsible for Third Party Impositions relating to the Coal accrued or levied at or after the transfer of title to the Coal to Buyer, including, but not limited to, sales or use tax if applicable. If any Third Party Imposition is adopted, changed or becomes effective after the Trade Date pursuant to any new law, regulation or ruling, or pursuant to changes in the interpretation or application of existing laws, regulations or rulings, which causes an increase or decrease in the cost for the mining, beneficiation, production, sale, use, loading and delivery of Coal to Buyer hereunder, Seller shall notify Buyer and shall submit to Buyer in writing, an analysis identifying the Third Party Imposition causing the cost impact and the extent of such cost impact on the ownership or operation of the Coal mines designated as Sources hereunder or on the production, mining, preparation, or sale of Coal purchased hereunder and showing the calculation of the amount of change in the Contract Price. The Contract Price for Coal to be paid by Buyer hereunder shall then be adjusted by adding or subtracting the cost of the specific Third Party Imposition as calculated on a per Ton basis to determine an adjusted Contract Price. Such change to the Contract Price will only be made when the total cost impact for the aggregate amount of Third Party Impositions increases or decreases by more than the Third Party Imposition Threshold. The effective date of any Contract Price increase or decrease pursuant to this article shall be the effective date of the Third Party Imposition causing the cost increase or decrease, as the case may be. Costs of implementation of the MINER Act through the Trade Date are included in the Contract Price. Costs and expenses incurred by Seller in the further implementation of the MINER Act after the Trade Date shall be considered Third Party Impositions.

3.7 Third Party Imposition Maximum. If the cumulative change in Third Party Impositions during the Term would cause the Contract Price to increase or decrease by more than the Third Party Imposition Maximum, then Buyer and Seller shall thereafter attempt to negotiate a new Contract Price. If the Parties do not negotiate a new Contract Price within ninety (90) days from the date of Seller's written submittal to Buyer notifying Buyer of the Third Party Imposition(s) at issue, then Buyer shall have the right to terminate this Contract sixty (60) days after giving Seller notice of such termination. In the event Buyer elects to terminate

hereunder, Seller shall have the right to preclude such termination by giving Buyer notice within ten (10) days of receipt of Buyer's termination notice that Seller will not pass through to Buyer the portion of the increase that exceeds the Third Party Imposition Maximum. Termination hereunder shall release both parties from any further obligation except for Buyer's obligation to pay for Coal delivered.

3.8 Failure to Deliver or Receive Coal. The remedies set forth in this Article 3.8 shall be the Affected Party's exclusive remedies for the Non-Performing Party's failure to deliver or receive a Shipment of Coal as set forth in this Contract:

(a) Rescheduling. As an alternative to the damages provision below and provided the Parties mutually agree in writing, the Affected Party may schedule deliveries or receipts, as the case may be, pursuant to such terms as the Parties agree in order to discharge some or all of the obligation to pay damages. In the absence of such agreement, the damages provision of this Article shall apply.

(b) Liquidated Damages.

(i) Seller Failure to Deliver. Unless excused by Force Majeure or Buyer's failure to perform, if Seller fails to deliver all or part of the Contract Quantity for the relevant delivery month, Seller shall pay to Buyer, within five (5) Business Days of invoice receipt, an amount for each Ton of Coal of such deficiency equal to (A) the commercially reasonable market price at which Buyer is able, or absent an actual purchase at the time of Seller's breach, would be able to purchase or otherwise receive comparable supplies of Coal of comparable quality on an equivalent adjusted basis (FOB Delivery Point) plus (i) direct costs reasonably incurred by Buyer in purchasing such substitute Coal and (ii) additional transportation charges, if any, reasonably incurred by Buyer as a result of taking delivery of substitute Coal at a location other than FOB Delivery Point ("Replacement Price") minus (B) the Contract Price; except that, if such difference is zero or negative, then neither Party shall have any obligation to make any deficiency payment to the other.

(ii) Buyer Failure to Accept Delivery. Unless excused by Force Majeure or Seller's failure to perform, if Buyer fails to accept delivery of all or part of the Contract Quantity for the relevant delivery month. Buyer shall pay to Seller, within five (5) Business Days of invoice receipt, an amount for each Ton of Coal of such deficiency equal to (A) the Contract Price plus any storage, transportation or other direct costs reasonably incurred by Seller in reselling the Coal minus (B) the commercially reasonable market price at which Seller is able, or absent an actual sale, would be able to sell or otherwise dispose of the Coal (FOB Delivery Point) at the time of Buyer's breach, ("Sales Price"); except that, if such difference is zero or negative, then neither Party shall have any obligation to make any deficiency payment to the other.

(c) Duty to Mitigate. Both Parties shall use Commercially Reasonable Efforts to mitigate any damages hereunder.

(d) Payment. Payment of amounts, if any, determined under this Article 3.8 shall be made in accordance with the time for payment set forth in Article 3.8(b)(i) or Article 3.8(b)(ii), as applicable, and subject to the other provisions of Article 6.1. All such determinations shall be made in a commercially reasonable manner and the Affected Party shall not be required to enter into any actual replacement transaction in order to determine the Replacement Price or Sales Price as appropriate.

(e) Damages Stipulation. Each Party stipulates that the payment obligations set forth in this Article 3.8 for the damages incurred are a reasonable approximation of the anticipated harm or loss and acknowledges the difficulty of estimation or calculation of actual damages, and each Party hereby waives the right to contest such payments as unenforceable, an unreasonable penalty or otherwise.

Article 4: Specifications, Weighing, Sampling and Analysis

4.1 Specifications. Seller shall cause all Coal delivered to Buyer to comply in all material respects with the Specifications. Buyer's remedies for Seller's failure to comply with the Specifications are set forth in Article 5.

4.2 Weighing. Shipments shall be weighed at Seller's expense by means of a certified batch weighing system or certified belt scale or in the absence of a batch weighing system or belt scales for rail weights, official railroad weights will be used. The weights determined thereby (absent manifest error) will be the basis on which invoices will be rendered and payments made hereunder.

4.3 Scale Requirements and Alternatives. Seller shall make Commercially Reasonable Efforts to cause the Source to test, calibrate, and certify its scales approximately every twelve (12) months to maintain the scales at a scale accuracy in accordance with the guidelines outlined in the National Bureau of Standards Handbook #44. If the scales at the Source are determined to be inoperative:

(a) If the Source is a Western Mine, then the weight of such Coal delivered shall be determined by averaging the lading weight per railcar of the last five (5) Unit Trains of like equipment under this Contract weighed at the Source prior to such breakdown.

(b) If the Source is an Eastern Mine, the weight of such Coal delivered shall be determined by railroad weights, and if railroad weights are not available, the procedure for Western Mines shall be utilized.

4.4 Sampling and Analysis.

(a) Sampling. The Sampling Person shall cause a representative Coal sample to be taken on an "as-loaded" basis by a mechanical sampler that is in working condition and that has been bias tested by an independent third party within twelve (12) months prior to delivery. In the event the Sampling Person is not able to obtain a sample with bias tested equipment in proper working condition, the Parties shall confer for purposes of reaching agreement as to an alternative means of sampling.

(b) Analysis Procedures. Analysis of Coal shall be performed by an independent laboratory ("Analysis Lab") selected by good faith agreement of the Parties, and if the Parties fail to agree, then the Analysis Person shall select the Analysis Lab. The Analysis Person shall cause the samples to be divided into three (3) splits and placed in separate airtight containers. The Analysis Lab will analyze one split, shall either ship one split or retain it for forty five (45) days as Buyer directs, and shall retain one split for forty five (45) days to be used for a referee analysis (the "Referee Split"), if necessary. The Analysis Lab shall perform a short proximate analysis on an "as-received" basis for total moisture, ash, Btu, and sulfur. For other Specifications set forth in the Confirmation and for which the Confirmation requires analysis, such analysis results will be provided when available. Buyer may request analysis of additional parameters at its own expense and for its own account. The Analysis Person shall cause the Analysis Lab to provide the results of the short proximate analysis to Buyer and Seller, along with Shipment I.D. number, weight and shipping data ("Shipping Report") by fax, telephone (to be confirmed promptly by fax) or other electronic means as soon as available, but in any event within the following time period:

(i) PRB Sources: forty-eight (48) hours after the completion of the loading of each Shipment; or

(ii) all other Sources: twenty-four (24) hours after the completion of the loading of each Shipment.

(c) Analysis Use. The samples of Coal taken pursuant to this Article 4.4 and the analysis thereof shall be used to determine quality adjustments pursuant to Article 5.1 and any rejection or suspension rights pursuant to Articles 5.2 or 5.3.

(d) Analysis Objections. At the request of either Buyer or Seller, and at the expense of the requesting Party, additional analyses may be performed. By notice to the Analysis Person within

thirty (30) days after delivery of the Shipping Report, Buyer or Seller (the "Objecting Party") may object to an individual Specification in the analysis. In that event, the Analysis Person shall cause the Referee Split to be submitted to an independent testing laboratory selected by mutual agreement of the Parties for an independent analysis. If the results of the independent analysis for the disputed Specification are within ASTM (interlaboratory) reproducibility limits, the original analysis shall control and the costs of the independent analysis shall be paid by the Objecting Party. If such results for any disputed Specification are not within such reproducibility limits, the results of the independent analysis for the disputed Specification shall control and the costs of the independent analysis shall be borne by the non-Objecting Party.

(e) Sampling and Analysis Standards. All sampling and analyses shall be performed in accordance with the then current published applicable ASTM standards.

4.5 Representative Presence. Each Party has the right to have a representative present, at such Party's expense, at the Delivery Point during the loading, weighing and sampling of the Coal.

Article 5: Quality Adjustments; Rejection and Suspension Rights

5.1 Quality Adjustments. If Coal delivered varies from the Adjustment Basis Specifications and Buyer does not exercise its rejection rights under Article 5.2(a), quality adjustments shall be calculated pursuant to the formulas set forth below (unless otherwise provided for in the Confirmation), and for any other Specification(s) according to formula(s) set forth in the Confirmation. The quality adjustments, if any, shall be netted against each other and the net quality adjustment, as appropriate, for each Shipment shall be determined by Seller, and Buyer shall pay Seller the net positive adjustment, if any, or Seller shall credit Buyer the net negative adjustment, if any, (or pay such amount to Buyer in the event no further invoices are due) in accordance with the billing and payment terms of Article 6.1.

FORMULA(S) FOR QUALITY ADJUSTMENTS:

BTU:

If the actual Btu on an as-received basis of any Shipment accepted by Buyer is other than the Adjustment Basis Btu, an adjustment shall be calculated based on each Shipment as follows:

BTU Adjustment = ((Actual Shipment Btu/lb – Adjustment Basis Btu/lb) ÷ Adjustment Basis Btu/lb) x Contract Price

SO₂:

If the Source is in the PRB, or if noted in the Confirmation, all SO₂ Adjustments will be financially settled based on the formula below.

If the actual SO₂ lbs/MMBTU on an as-received basis of any Shipment accepted by Buyer is other than the Adjustment Basis SO₂ lbs/MMBTU, an adjustment shall be calculated based on each Shipment as follows:

SO₂ Adjustment = ((Adjustment Basis SO₂ lbs/MMBTU – Actual Shipment SO₂ lbs/MMBTU) x Actual Shipment Btu/lb x E) / 1,000,000

Where E is determined as follows:

If the destination set forth on the Confirmation is a TR SO₂ Group 1 unit as defined in the "Federal Implementation Plans: Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals; Final Rule", 76 Fed. Reg. 48208-48483 (August 8, 2011) ("CSAPR") issued by the United States Environmental Protection Agency, the price published in Argus Air Daily published by Argus Media Ltd. or any successor publication ("Air Daily") for the vintage year of the SO₂ Index Month for Group 1 SO₂ Allowances.

If the destination set forth on the Confirmation is a TR SO2 Group 2 unit as defined in CSAPR, the price published in Air Daily for the vintage year of the SO2 Index Month for Group 2 SO2 Allowances.

If the destination set forth on the Confirmation is neither a TR SO2 Group 1 unit nor a TR SO2 Group 2 unit, or is unstated, the average of the prices published in Air Daily for the vintage year of the SO2 Index Month for both Group 1 SO2 Allowances and Group 2 SO2 Allowances.

"Group 1 SO2 Allowance" means an authorization under the TR SO2 Group 1 Trading Program as defined in CSAPR to emit one Ton of SO2 during the current calendar year.

"Group 2 SO2 Allowance" means an authorization under the TR SO2 Group 2 Trading Program as defined in CSAPR to emit one Ton of SO2 during the calendar year.

In the event the information contained in Air Daily is no longer published or a change in the methodology, law, regulations or industry standards has occurred that will materially alter the information, a substitute calculation shall be mutually agreed to by the Parties.

The Parties agree that if CSAPR is modified for any reason, SO2 adjustments shall be calculated using the ratios of applicable SO2 allowances to tons of SO2 as set forth above to as closely as possible reflect the value of that number of SO2 allowances (or similar allowances pursuant to any such modification or replacement or successor rules or laws) required to emit one ton of SO2.

5.2 Buyer's Rejection Rights. If any Shipment triggers one or more of the Rejection Limits (a "Non-Conforming Shipment"), Buyer shall have the option, exercisable by notice to Seller within one (1) Business Day of Buyer's receipt of the Analysis Lab's short proximate analysis or additional analysis, as applicable, of the Coal provided pursuant to Article 4.4, of either (a) rejecting such Non-Conforming Shipment at the Delivery Point or in route, but prior to unloading from Transporter's equipment or (b) accepting any Non-Conforming Shipment with a Contract Price adjustment agreed to between Seller and Buyer using Commercially Reasonable Efforts. If Buyer fails timely to exercise its rejection rights under this Article 5.2 as to a Shipment, Buyer shall be deemed to have waived such rights to reject with respect to that Shipment only. Buyer's failure to timely exercise such notice does not however, constitute a waiver of its right to any adjustment provided for in this Contract with respect to such Non-Conforming Shipment. If Buyer timely rejects the Non-Conforming Shipment, title, if already passed, shall revert to Seller and Seller shall be responsible for promptly transporting the rejected Coal to an alternative destination determined by Seller and shall reimburse Buyer for all reasonable costs and expenses associated with the transportation, storage, and handling the Non-Conforming Shipment. Seller shall replace the rejected Coal on or before the last day of the originally scheduled delivery month, otherwise it will be considered a failure to load as scheduled pursuant to Article 3.3(e). Buyer, at its election, may extend the time for delivery of replacement Coal provided in Article 3.3(e) by giving written notice to Seller within forty-eight (48) hours after rejection of the Non-Conforming Shipment that Buyer shall require replacement Coal to be delivered within a reasonable time after the end of the originally scheduled delivery month.

5.3 Suspension Rights. Buyer may upon notice to Seller suspend the receipt of future Shipments, excluding Shipments already loaded or in transit to Buyer, in the event that:

(a) Less than 1 Million Tons. If the Contract Quantity in all calendar years is one million Tons or less, there are three (3) Non-Conforming Shipments (whether rejected or not) in any three (3)-month period;

(b) Between 1 Million and 3 Million Tons. If the Contract Quantity in any calendar year is between one to three million Tons, there are five (5) Non-Conforming Shipments, (whether rejected or not) in any three (3)-month period;

(c) Between 3 Million and 5 Million Tons. If the Contract Quantity in any calendar year is greater than three but less than five million Tons, there are seven (7) Non-Conforming Shipments, (whether rejected or not) in any three (3)-month period; or

(d) Greater Than 5 Million Tons. If the Contract Quantity in any calendar year is five million tons or more, there are greater than twenty percent (20%) Non-Conforming Shipments (whether rejected or not) in any three (3)-month period.

A waiver by Buyer of the suspension right for any one period shall not constitute a waiver for subsequent periods. If Seller, within ten (10) days of its receipt of such notice, provides reasonable assurances in writing to Buyer that future Shipments will conform to the Specifications and Buyer has accepted such assurances (such acceptance not to be unreasonably withheld), Shipments shall resume and any tonnage deficiencies shall be made up within the Term at Buyer's option, such option to be declared in writing to Seller within forty five (45) days after resumption of Shipments. The Contract Price for such makeup deliveries shall be the Contract Price in effect during the suspension period. If (x) Seller fails to provide such acceptable assurances within such ten (10) day period, or (y) after such assurances are provided and within a period of three (3) months thereafter, any Shipment triggers any of Buyer's rights under Article 5.2 for the Rejection Limit parameter for which there was a prior suspension under this Contract then such failure shall constitute an Event of Default.

Article 6: Settlements

6.1 Billing and Payment.

(a) Invoicing. Seller shall provide Buyer with one or more invoices (which may be delivered electronically), setting forth, as appropriate, (i) the aggregate Contract Price owed to Seller for the Coal actually delivered to Buyer at each Delivery Point during the Invoicing Period (which shall be provided after each Invoicing Period); (ii) any quality adjustments and supporting calculations determined pursuant to Article 5.1; (iii) any transportation or other charges owed by Buyer or Seller to the other pursuant to this Contract; (iv) any Early Termination Payment pursuant to Article 8.3; and (v) any other amount due pursuant to this Contract. No later than ten (10) days after receipt of a Party's invoice (or if such day is not a Business Day, the immediately following Business Day), the receiving Party shall pay, by wire transfer in immediately available United States funds, the amount set forth on such invoice along with the necessary information enabling reconciliation to the relevant Shipment in accordance with the applicable payment instructions set forth on the Confirmation.

(b) Invoice Disputes. If the receiving Party in good faith reasonably disputes an invoice, it shall provide a written explanation specifying in detail the basis for the dispute and pay any undisputed portion no later than the due date. If any amount disputed by the receiving Party is subsequently determined to be due, it shall be paid within five (5) days along with interest accrued at the Interest Rate from the original due date until the date paid.

(c) Failure to Timely Pay. If any Party fails to pay amounts under this Contract when due, such amounts will be deemed delinquent and will accrue interest at the Interest Rate, and in addition to the rights and remedies provided in this Contract, the other Party shall have the right to suspend performance under this Contract until such amounts plus interest at the Interest Rate have been paid as well as exercise any remedy available at law or in equity to enforce payment of such amount plus interest.

6.2 Audit. Each Party shall maintain accurate records relating to Coal sales and purchases made pursuant to this Contract. Such records shall be retained for a period of at least two (2) years after completion or termination of this Contract. Each Party (and its representatives) has the right, at its sole expense during normal working hours and upon reasonable advance notice, to examine the records of the other Party, but only to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Contract. If requested, a Party shall provide to the requesting Party statements evidencing the quantities of Coal delivered or received at the Delivery Point. Examination of records hereunder shall be limited to one examination per year. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statements and the payments thereof will be

promptly made and shall accrue interest at the Interest Rate from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any statement or payment will be made unless objection to the accuracy thereof was made in writing prior to the lapse of two (2) years from the rendition of such statement, charge, or computation; and provided further, that for the purpose of such statement and payment objections, this Article will survive any termination of this Contract.

6.3 Security Interest and Remedies with Respect to Performance Assurance. To secure its obligations under this Agreement and to the extent either or both Parties deliver Performance Assurance hereunder, each Non-Exposed Party hereby grants to the Exposed Party a present and continuing security interest in, and lien on (and right of setoff against), and assignment of, all Performance Assurance in the form of Cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, such Exposed Party, and each Party agrees to take such action as the other Party reasonably requires in order to perfect the Exposed Party's first-priority security interest in, and lien on (and right of setoff against), such Performance Assurance and any and all proceeds resulting therefrom or from the liquidation thereof. Upon or any time after the occurrence or deemed occurrence and during the continuation of an Event of Default or an Early Termination Date, the Exposed Party may do any one or more of the following: (i) exercise any of the rights and remedies of a secured party with respect to all Performance Assurance, including any such rights and remedies under law then in effect; (ii) exercise its rights of setoff against any and all property of the Non-Exposed Party in the possession of the Exposed Party or its agent; (iii) draw on any outstanding standby Letter of Credit issued for its benefit; and (iv) liquidate all Performance Assurance then held by or for the benefit of the Exposed Party free from any claim or right of any nature whatsoever of the Non-Exposed Party, including any equity or right of purchase or redemption by the Non-Exposed Party. The Exposed Party shall apply the proceeds of the Performance Assurance realized upon the exercise of any such rights or remedies to reduce the Non-Exposed Party's obligations under the Agreement (the Non-Exposed Party remaining liable for any amounts owing to the Exposed Party after such application), subject to the Exposed Party's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

6.4 Interest Calculations. All calculations of accrued interest at the Interest Rate as provided in this Contract shall be the aggregate sum of the amounts of interest calculated for each day from and including the due date to but excluding the date paid on the applicable amount, determined as follows: the applicable amount on that day; multiplied by the Interest Rate for that day; divided by 360.

Article 7: Force Majeure

7.1 Effect of Force Majeure Event. If a Party is prevented from performing, in whole or in part, any of its obligations to deliver or receive Coal at the Delivery Point due to causes that are beyond the reasonable control and without the fault or negligence of the Party affected thereby (such causes being referred to herein as "Force Majeure"), and such Party gives notice of the Force Majeure to the other Party as soon as reasonably practicable after the occurrence of the Force Majeure, with such notice in any event being provided within ten (10) Business Days after such Party knew or reasonably should have known of the occurrence of such event, then during the period for which such Party's performance is prevented by such Force Majeure but for no longer period, the obligations of the Parties under this Contract (other than obligations to make payments whether then due or due thereafter) shall be excused to the extent performance is so prevented. If the original notice is not in writing, the Party providing notice shall confirm the notice in writing, and shall provide full details of the Force Majeure as soon as available. If a Party gives notice of Force Majeure more than ten (10) Business Days after the commencement of the event, the Party giving notice shall be excused from performance beginning on the date ten (10) Business Days prior to the date such notice was received by the non-claiming Party. The Party affected by the Force Majeure shall remedy the Force Majeure with all reasonable dispatch and will keep the other Party advised of its efforts to remedy the Force Majeure and the impact of the Force Majeure on its performance of this Contract; provided however, that this provision shall not require Seller to deliver, or Buyer to

receive, the Coal at points other than the Delivery Point. For the avoidance of doubt, a transportation delay shall not be considered a Force Majeure event unless such delay, affects coal deliveries to all Persons at all locations comprising the Delivery Point. A change in market conditions (including without limitation the ability of Seller to sell the Coal at a higher price or Buyer or Buyer's Customer to buy coal at a lower price) and Buyer's inability to economically use or resell the Coal, whether or not foreseeable shall not be considered Force Majeure events. Seller's obligation under this Contract to provide the Coal is contingent on all necessary permits (federal and state) either being maintained for those currently in place or being obtained for those necessary for future mining production. The failure of the foregoing condition for any reason other than gross negligence or willful misconduct of Seller shall be considered a Force Majeure event. If a Force Majeure event prevents performance of a Party's obligation, delivery of the affected quantity of Coal shall be made up only as set forth on the Confirmation. If not set forth on the Confirmation, delivery of the affected quantity of Coal shall be made up at the sole discretion of the Party not claiming Force Majeure based on a mutually agreeable schedule. The Contract Price for any such tons shall be the Contract Price that was in effect at the time of the Force Majeure. The non-claiming Party shall notify the other Party within thirty (30) days after the end of the Force Majeure event as to whether it desires to make up the affected quantity of Coal; if no such election is made the affected quantity shall not be made up.

7.2 Extended Force Majeure Event. If a Force Majeure event prevents performance of a Party's obligations under this Contract for a continuous period of one hundred eighty (180) days, then the Party not claiming Force Majeure shall have the option, upon three (3) days' prior written notice, to terminate this Contract to the extent affected and the associated obligations of the Parties thereunder (other than payment obligations for prior performance).

7.3 Pro Rationing. If Seller claims Force Majeure and is unable to meet all of its sales obligations under this Contract and any other of its coal sales agreements involving coal of a similar type and quality as the Coal, or if Buyer claims Force Majeure and is unable to meet all of its purchase obligations under this Contract and any other of its coal purchase agreements involving coal of a similar type and quality as the Coal, then any reductions in Seller's deliveries or Buyer's purchases (as applicable) shall be allocated on a pro rata basis among this Contract and such other coal supply or purchase agreements involving coal of the same type and quality as the Coal to the extent contractually permitted by this Contract and agreements.

7.4 Capital Expenditures and Labor Matters. It is understood and agreed that significant capital expenditures and settlement of strikes and lockouts shall be entirely within the discretion of the Party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require significant capital expenditure or settlement of strikes and lockouts by acceding to the demands of the opposing party when such course is inadvisable in the discretion of the Party having difficulty.

Article 8: Events of Default, Non-Performance, Remedies and Limitation of Liability

8.1 Events of Default. An event of default ("Event of Default") with respect to a Party (the "Defaulting Party") shall mean any of the following:

(a) Failure to Pay. The failure of Defaulting Party to pay when due any required payment and such failure is not remedied within three (3) Business Days after written notice thereof (provided the payment is not subject to a good faith dispute as described in Article 6.1(b)).

(b) Failure of Other Obligations. The failure of the Defaulting Party to comply with its material obligations under this Contract (except to the extent constituting a separate Event of Default and except for such Party's obligations to deliver or receive Coal, the exclusive remedies for which are provided for in Article 3.8), and such failure continues uncured for ten (10) Business Days after written notice thereof, provided that if it is impracticable or impossible to remedy such failure within such period, the time to cure shall be extended for an additional period reasonably necessary to remedy such failure, not to exceed sixty (60) days so long as the Defaulting Party is diligently pursuing a remedy for the failure.

(c) Bankruptcy. The Defaulting Party is subject to a Bankruptcy Proceeding.

(d) Failure of Guarantor. The failure of a Party's Guarantor, if any, to perform any covenant in its guaranty, such guaranty expires, is terminated or ceases to guarantee the obligations of such Party under this Contract, or such Guarantor becomes subject to a Bankruptcy Proceeding.

(e) Non-Conforming Shipments. An event described in the last sentence of Article 5.3 has occurred.

(f) Breach of Representation. Any representation or warranty made by a Party herein shall prove to be untrue in any material respect when made.

(g) Failure to Provide Performance Assurance. The Defaulting Party fails to establish, maintain, extend or increase Performance Assurance when required pursuant to this Contract.

(h) Material Adverse Change. The occurrence of a Material Adverse Change with respect to the Defaulting Party; provided, such Material Adverse Change shall not be considered an Event of Default if the Defaulting Party within three (3) Business Days of receipt of the Non-Defaulting Party's demand therefore establishes and maintains, for so long as the Material Adverse Change is continuing, Performance Assurance with the Non-Defaulting Party in an amount equal to the sum of (in each case rounding upwards for any fractional amount to the next \$250,000) (i) the Early Termination Payment that would be owed to the Non-Defaulting Party plus (ii) if the Non-Defaulting Party is Seller, the sum of the amounts Seller is entitled to receive under this Contract for Coal scheduled during the sixty (60) day period preceding the Material Adverse Change (the amount of said Performance Assurance to be adjusted quarterly to reflect amounts owing at that point in time).

8.2 Early Termination. Upon the occurrence and during the continuance of an Event of Default as to the Defaulting Party, the other Party (the "Non-Defaulting Party") may, in its sole discretion, take any or all of the following actions: (a) accelerate and liquidate the Parties' respective obligations under this Contract by establishing, and notifying the Defaulting Party of, an early termination date (which shall be no earlier than the day such notice is effective and no later than twenty (20) days after the date of such notice) on which this Contract shall terminate and be liquidated pursuant to Article 8.3 ("Early Termination Date"), (b) withhold any payments due to the Defaulting Party until such Event of Default is cured, and (c) suspend performance of its obligations under this Contract until such Event of Default is cured; provided, however, that in no event shall any withholding of payment or suspension of performance under this Article 8.2 continue for longer than fifteen (15) Business Days unless an Early Termination Date shall have been declared and notice thereof given pursuant to this Article 8.2. The Non-Defaulting Party may, in its sole discretion, elect to establish an Early Termination Date and terminate this Contract and pursue both the remedies provided for in Article 3.8 for damages accrued prior to the Early Termination Date and to liquidate pursuant to Article 8.3 for all remaining Coal that has yet to be delivered under this Contract. If notice of an Early Termination Date is given under this Article 8.2, the Early Termination Date will occur on the designated date, whether or not the relevant Event(s) of Default is then continuing. Any rights of a Non-Defaulting Party under this Article 8.2 shall be in addition to such Non-Defaulting Party's other rights under this Article 8.

8.3 Early Termination Payment. If an Early Termination Date is established, the Non-Defaulting Party shall in good faith calculate its Gains or Losses and Costs, aggregate such Gains, Losses and Costs with respect to this Contract into a single net amount, and then notify the Defaulting Party of the net amount owed, if any. If the Non-Defaulting Party's aggregate Losses and Costs exceed its aggregate Gains, the Defaulting Party shall, within five (5) days of its receipt of such notice pay the net amount to the Non-Defaulting Party, including interest accrued at the Interest Rate from the Early Termination Date until paid. If the Non-Defaulting Party's aggregate Gains exceed its aggregate Losses and Costs, the Non-Defaulting Party shall pay the net amount to the Defaulting Party. The Non-Defaulting Party shall determine its Gains, Losses and Costs as of the Early Termination Date, or, if that is not possible, at the earliest date thereafter that is reasonably possible. If an Event of Default occurs, the Non-Defaulting Party may (at its election) set off any or all amounts which the Defaulting Party owes to the Non-Defaulting Party under this Contract against any or all amounts which the Non-Defaulting Party owes to the Defaulting Party under this Contract. The Non-Defaulting Party shall make

Commercially Reasonable Efforts to mitigate any costs and damages that it is entitled to hereunder and act at all times in a commercially reasonable manner. The Defaulting Party shall have the right to audit (through a third party independent auditor mutually agreed to by the Parties) the calculation of all such Gains, Losses and Costs.

8.4 Expenses. The Defaulting Party will, on demand, indemnify and hold harmless the Non-Defaulting Party for and against all reasonable out-of-pocket expenses, including without limitation Legal Costs, incurred by the Non-Defaulting Party by reason of the enforcement and protection of its rights under this Contract, or by reason of an Event of Default or an early termination of this Contract, including, but not limited to, costs of collection.

8.5 Limitation of Liability. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS CONTRACT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS HEREIN PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE LIABLE PARTY'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED UNLESS OTHERWISE PROVIDED IN THIS CONTRACT. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY HEREIN PROVIDED, THE LIABLE PARTY'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY. NOTWITHSTANDING ANY OTHER PROVISION IN THIS CONTRACT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS, OR BUSINESS INTERRUPTION DAMAGES, WHETHER BY STATUTE, IN TORT OR IN CONTRACT, UNDER THIS CONTRACT, ANY INDEMNITY PROVISION OR OTHERWISE.

Article 9: Proceedings

ANY SUIT, ACTION OR LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS CONTRACT SHALL BE RESOLVED BY A JUDGE TRIAL CONDUCTED IN ENGLISH WITHOUT A JURY AND THE RIGHT TO A JURY TRIAL IS WAIVED, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW. Each Party hereto hereby (a) certifies that no representative, agent or attorney of another Person has represented, expressly or otherwise, that such other Person would not seek to enforce the foregoing waiver and (b) acknowledges that it has been induced to execute and deliver, or change its position in reliance upon the benefits of, this Contract by, among other things, the mutual waivers and certifications in this Article.

Article 10: Miscellaneous

10.1 Successors and Assigns; Assignment. This Contract shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. However, no Party shall assign this Contract or any of its rights or obligations hereunder without the prior written consent of the other Parties, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, any Party may, without the need for consent from the other Parties (and without relieving itself from liability hereunder), (a) transfer, sell, pledge, encumber or assign this Contract or the accounts, revenues or proceeds hereof or thereof in connection with any financing or other financial arrangements; (b) transfer or assign this Contract to an Affiliate of such Party as long as the Affiliate is at least as creditworthy as the assignor; or (c) transfer or assign this Contract to any Person succeeding to all or substantially all of the assets of such Party by way of merger, reorganization or otherwise; provided, however, that no such assignment shall in any way relieve the assignor from liability for full performance under this Contract. Any such assignee shall assume and agree to be bound by the terms and conditions of this Contract.

10.2 Warranties. OTHER THAN THOSE EXPRESSLY PROVIDED IN ARTICLE 3.4, ARTICLE 4.1 OR THE CONFIRMATION, SELLER MAKES NO OTHER REPRESENTATION OR WARRANTY, WRITTEN OR ORAL, EXPRESS OR IMPLIED, IN CONNECTION WITH THE SALE AND PURCHASE OF COAL HEREUNDER. ALL WARRANTIES OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE OR ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE ARE SPECIFICALLY EXCLUDED. SELLER MAKES NO WARRANTY CONCERNING THE SUITABILITY OF COAL DELIVERED HEREUNDER FOR USE IN ANY FACILITIES.

10.3 Notices. All notices, requests, or statements shall be made in English and delivered to the addresses set forth on the Confirmation. Unless expressly provided otherwise, notices shall be in writing and delivered by hand delivery, United States mail, overnight courier service, fax, electronically or other documentary form. Notice by hand delivery, fax, e-mail or other electronic means shall be deemed to have been received by the close of the Business Day on which it was actually received if received during business hours on a Business Day, and otherwise shall be effective at the close of business on the next Business Day (converted to the receiving Party's date). Notice by overnight United States mail or courier shall be effective on the next Business Day after it was sent. A Party may change its address by providing notice thereof in accordance with this Article 10.3.

10.4 Confidentiality. No Party shall disclose, without the prior written consent of the other Party, the terms of this Contract to a third party (other than a Party's and its Affiliates' employees, lenders, counsel, accountants, lessors, landowners or prospective permitted direct or indirect purchasers of a Party, of all or substantially all of a Party's assets or of any rights under this Contract, in each case who have agreed to keep such terms confidential) except in order to comply with any applicable law, order, regulation or exchange rule; provided, each Party shall notify the other Party of any proceeding of which it is aware which may result in disclosure and make Commercially Reasonable Efforts to prevent or limit the disclosure.

10.5 Rounding and Significant Digits. All calculations will use floating decimals with the final operation being rounded to the significant digits to the right of the decimal place as follows (to the extent applicable):

Btu/lb. will be zero (0)	nn,nnn.
Grindability will be zero (0)	nn.
USD for payment will be two (2)	nnn,nnn.nn
Moisture % will be two (2)	nn.nn%
Ash % will be two (2)	nn.nn%
Sulfur % will be two (2)	nn.nn%
Tons will be three (3)	nn.nnn / Ton
USD per Ton will be three (3)	nn.nnn / Ton
Quality USD per Ton will be three (3)	n.nnn / Ton

Items not specified above will use the industry standards for significant digits to the right of the decimal place.

10.6 Governing Law and Venue. THIS CONTRACT AND THE RIGHTS AND DUTIES OF THE PARTIES ARISING HEREFROM SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT GIVING EFFECT TO PRINCIPLES OF CONFLICTS OF LAWS. EACH PARTY IRREVOCABLY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK AND THE UNITED STATES DISTRICT COURT LOCATED IN THE BOROUGH OF MANHATTAN IN NEW YORK CITY, NEW YORK. THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS (1980) SHALL NOT APPLY TO THIS CONTRACT.

10.7 Entire Agreement; Amendments; Interpretation. This Contract and the Exhibits attached hereto and made a part hereof, if any, constitute the entire agreement between the Parties relating to the subject matter contemplated by this Contract and supersedes any prior or contemporaneous agreements or representations affecting the same subject matter except as set out in an attached Exhibit. Except for any matters that, in accordance with the express provisions of this Contract, may be resolved by verbal agreement between the Parties, no amendment, modification or change to this Contract shall be enforceable unless reduced to a writing referencing this Contract and executed by the Party against whom such amendment, modification or change is sought to be enforced. The Parties acknowledge that each Party and its counsel have reviewed and revised this Contract and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be used in interpretation of this Contract.

10.8 Counterparts; Severability; Survival. This Contract may be executed in several counterparts, each of which is an original and all of which constitute one and the same instrument. Except as may otherwise be stated herein, any provision or Article hereof that is declared or rendered unlawful by any applicable court of law or regulatory agency, or deemed unlawful because of a statutory change, will not otherwise affect the lawful obligations that arise under this Contract. In the event any provision of this Contract is declared unlawful, the Parties will promptly renegotiate to restore this Contract as near as possible to its original intent and effect. All indemnity and audit rights shall survive the termination of this Contract in full for a period of two (2) years (except with respect to audit rights as to Third Party Impositions which shall survive for the applicable statute of limitations, including any extensions thereof).

10.9 Non-Waiver; Duty to Mitigate; No Partnership or Third Party Beneficiaries. No waiver by any Party of any of its rights with respect to any other Party or with respect to any matter or default arising in connection with this Contract shall be construed as a waiver of any subsequent right, matter or default whether of a like kind or different nature. Any waiver shall be in writing signed by the waiving Party. Each Party agrees that it has a duty to mitigate damages. Nothing contained in this Contract shall be construed to render any Party as the employee, agent, partner, or joint venturer of any other Party. This Contract is made and entered into for the sole protection and legal benefit of the Parties, and their permitted successors and assigns, and no other Person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with this Contract.

10.10 Forward Contract. The Parties agree that this Contract for the sale and purchase of Coal shall constitute a "forward contract", and that the Parties shall constitute "forward contract merchants" within the meaning of the United States Bankruptcy Code.

10.11 Limitation on Claims. No cause of action or Claim arising under this Contract or relating to the performance thereof by Buyer or Seller may be made or asserted by either Buyer or Seller after two (2) years following the date of completion, expiration or termination of this Contract (whichever is earliest), except that any Claims arising from fraud or other criminal conduct shall not be subject to such time limitation.

10.12 UCC Waiver. Each Party agrees that notwithstanding any provisions of law relating to adequate assurance of future performance, including without limitation Article 2-609 of the Uniform Commercial Code of the State of New York, the Parties shall only be entitled to request adequate assurance as specifically provided in this Contract in the provisions regarding Performance Assurance.

10.13 General. Each Party shall strictly comply with all applicable laws and regulations in any nation, or political subdivision thereof, in which it engages in business in performing its responsibilities hereunder. Each Party shall comply with all laws relating to the conduct of business practices which prohibit any gratuities or inducements. Without limiting the foregoing, Each Party acknowledges that the Other Party is subject to certain United States laws, including but not limited to the Foreign Corrupt Practices Act of 1977 and any amendments thereto, which apply to activities carried out on the Other Party's behalf outside the United States. Each Party agrees neither to take nor omit to take any action if such act or omission might cause the Other Party to be in violation of any such laws.

10.14 Export Controls. Buyer acknowledges and agrees to comply with any and all applicable laws, regulations, rulings and executive orders on exportation and importation. Buyer further agrees that the cargo shall not be exported or re-exported (a) to any countries included in prohibited countries listed by the U.S. Export Administration regulations or as otherwise prohibited under such regulations, including to any person or entity on the Bureau of Industry and Security Denied Parties List, Entity List or Unverified List (available at <http://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-of-concern>) in each case as in effect at the time of export or re-export; (b) to any person or entity located in a country or territory subject to U.S. sanctions or to a person or entity on the Office of Foreign Assets Control listing of Specially Designated Nationals and Blocked Persons (available at <https://sdnsearch.ofac.treas.gov/>), in each case as in effect at the time of export or re-export or (c) in violation of this Contract.

10.15 Imaged Document. This original executed Contract or other related document may be photocopied and stored on computer tapes and disks (each, an "Imaged Document"). If an Imaged Document is introduced as evidence in any judicial, arbitration, mediation or administrative proceedings, it shall be considered as admissible evidence. Neither Party shall object to the admissibility of an Imaged Document on the basis that such was not originated or maintained in documentary form under the hearsay rule, the best evidence rule or other rule of evidence.

Article 11: Definitions

As used in this Contract:

"Additive(s)" means any item added to the Coal at the request of Buyer; such items shall include, but not be limited to various freeze control agents and various dust control agents.

"Adjustment Basis Specifications" means those quality characteristics for the Coal as set forth on the Confirmation that are used to calculate price adjustments pursuant to Article 5.1 of this Contract.

"Affected Party" means the Party other than the Non-Performing Party.

"Affiliate" means, with respect to any Person, any other Person (other than an individual) that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, such Person. For this purpose, **"control"** means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

"Analysis Lab" has the meaning set forth in Article 4.4(b).

"Analysis Person" means the Party obligated for causing to be performed analysis of Coal and paying the costs therefore, which shall be Seller or Seller's designee.

"ASTM" means the American Society for Testing and Materials.

"Bankruptcy Proceeding" means with respect to a Party or entity, such Party or entity (a) makes an assignment or any general arrangement for the benefit of creditors, (b) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy or similar law for the protection of creditors, (c) has such a petition filed against it and such petition is not withdrawn or dismissed within thirty (30) days after such filing, (d) otherwise becomes bankrupt or insolvent (however evidenced), or (e) is unable to pay its debts as they fall due.

"Btu" means the amount of energy required to raise the temperature of one (1) pound of pure water one (1) degree Fahrenheit from 59.5° Fahrenheit to 60.5° Fahrenheit at a constant pressure of 14.73 pounds per square inch absolute.

"Business Day" means a day on which Federal Reserve member banks in New York City are open for business unless such day is a Holiday; and a Business Day shall open at 8:00 a.m. and close at 5:00 p.m. Eastern Prevailing Time.

"Buyer" means the Party who is obligated to purchase and receive, or cause to be received, Coal during the Term as identified on the Confirmation.

"Buyer's Customer" means the party that Buyer has contracted to sell the Coal purchased from Seller.

"Cash" means USD held by or on behalf of a Party as Performance Assurance hereunder.

"Claims" means all claims or actions, threatened or filed and whether groundless, false or fraudulent, that directly or indirectly relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, attorneys' fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Contract.

"Coal" means any and all of the coal to be sold by Seller and purchased by Buyer, the quality of which conforms to the Specifications and which does not trigger Buyer's rejection rights under Article 5.2, or is otherwise accepted by Buyer under this Contract, and which contains no synthetic fuels, is substantially free from any extraneous materials (including, but not limited to mining debris, bone, slate, iron, steel, petroleum coke, earth, rock, pyrite, wood or blasting wire, but excluding any dust control, freeze control or similar additives), is substantially consistent in quality throughout a Shipment and meets the size required.

"Commercially Reasonable Efforts" means the taking by a Person of such action in good faith as would be in accordance with reasonable commercial practices as applied to the particular matter in question to achieve the result as expeditiously as practicable; provided, however, that such action shall not require that such Person incur unreasonable expense.

"Confirmation" means the document executed or agreed to by the Parties that sets forth the commercial terms of a transaction and incorporates these Terms and Conditions by reference.

"Contract" has the meaning set forth in Article 1.1.

"Contract Price" means the price in USD per Ton to be paid by Buyer to Seller for the purchase of Coal and any other proper charges pursuant to this Contract.

"Contract Quantity" means the quantity of Coal that Seller agrees to sell to (or if applicable, exchange with), or cause to be delivered to, Buyer, and that Buyer agrees to purchase and receive, or cause to be received, from Seller as specified on the Confirmation, provided that for purposes of Article 3.8, any approximation or permitted variation due to transportation capacities shall not be considered.

"Costs" means any brokerage fees, commissions and other transactional costs and expenses reasonably incurred by the Non-Defaulting Party as a result of terminating any hedges or other risk management contracts and entering into new arrangements in order to replace this Contract due to early termination, and Legal Costs incurred by the Non-Defaulting Party.

"Defaulting Party" has the meaning set forth in Article 8.1.

"Delivery Point" means the agreed point(s) of delivery and receipt of the Coal as set forth in the Confirmation.

"Early Termination Date" has the meaning set forth in Article 8.2.

"Eastern Mine" means a Coal mine that is located east of the Mississippi River.

"Eastern Prevailing Time" means Eastern Standard Time or Eastern Daylight Time in effect in New York City, New York, USA, as the case may be.

"Event of Default" has the meaning set forth in Article 8.1.

"Execution Date" means the date the Confirmation is signed by the Parties, as set forth on the Confirmation.

"Exposed Party" means the Party that the Non-Exposed Party has provided Performance Assurance to.

"Federal Funds Overnight Rate" means the rate for that day opposite the caption "Federal Funds (Effective)" as set forth in the weekly statistical release designated as H.15 (519), or any successor publication, published by the Board of Governors of the Federal Reserve System.

"FOB" shall have the meaning given to such term in the Uniform Commercial Code of the State of New York.

"Force Majeure" has the meaning set forth in Article 7.1.

"Gains" means, with respect to a Party, an amount equal to the present value of the economic benefit, if any, (exclusive of Costs) to it resulting from the termination of its obligations with respect to a termination of this Contract, determined in a commercially reasonable manner.

"Guarantor" means in respect to a Party, the guarantor, if any, specified for such Party on the Confirmation.

"Holiday" means a day recognized as a holiday in the State in which the Delivery Point is located.

"Imaged Document" has the meaning set forth in Article 10.15.

"Interest Rate" means, for any date, two percent over the per annum rate of interest equal to the prime lending rate as may from time to time be published in the *Wall Street Journal* under **"Money Rates"**, provided the Interest Rate shall never exceed the maximum rate allowed by applicable law.

"Invoicing Period" means the time period covered by an invoice generated for Coal actually delivered to Buyer hereunder and shall each Shipment if not otherwise specified in the Confirmation.

"Legal Costs" means, with respect to a Party, the reasonable out-of-pocket expenses incurred by it, including without limitation attorney's, filing and lay and expert witness fees, by reason of the enforcement and protection of its rights under this Contract.

"Letter of Credit" or **"LOC"** means one or more irrevocable, transferable letters of credit from a major U.S. commercial bank or a foreign bank with a U.S. branch office, with such bank having a credit rating of at least "A-" from Standard & Poor's Rating Group (a division of McGraw-Hill, Inc.) or its successor, or "A3" from Moody's Investor Services, Inc. or its successor in a form acceptable to the receiving Party.

"Losses" means, with respect to a Party, an amount equal to the present value of the economic loss, if any, (exclusive of Costs) to it resulting from the termination of its obligations hereunder, determined in a commercially reasonable manner.

"Material Adverse Change" means an event or occurrence that constitutes or would result in a material adverse effect on the operations, financial condition, or creditworthiness of a Party taken as a whole such that the Party has become, or is reasonably likely to become, unable to perform its obligations under this Contract.

"MINER Act" means the Mine Improvement and New Emergency Response Act of 2006 (PL 109-236) enacted June 15, 2006, including implementing rules and regulations.

"MMBTU" means one million Btu.

"Non-Conforming Shipment" has the meaning set forth in Article 5.2.

"Non-Defaulting Party" has the meaning set forth in Article 8.2.

"Non-Exposed Party" means the Party who has provided Performance Assurance.

"Non-Performing Party" means a Party which has failed to deliver or to take delivery of Coal as required under this Contract.

"Objecting Party" has the meaning set forth in Article 4.4(d).

"Party" shall mean either Buyer or Seller as indicated by the context, and **"Parties"** shall mean Buyer and Seller.

"Performance Assurance" means collateral in the form of Cash, Letter(s) of Credit, or other security acceptable to the Exposed Party exercising reasonable commercial judgment.

"Person" means any individual, corporation, partnership, joint venture, limited liability company, limited liability partnership, association, joint stock company, trust, unincorporated organization, or other organization, whether or not a legal entity, and any governmental authority.

"PRB" means the Powder River Basin located in the States of Montana and Wyoming.

"Product" means Coal or other product(s) related thereto as specified by the Parties in the Confirmation.

"Ratable Amount(s)" means the amount obtained, to the nearest Unit Train, by evenly dividing the Contract Quantity by the number of months in the Term, or if the Confirmation sets

forth differing Contract Quantities for delivery during discrete quarterly, annual or other time periods within the Term, then each such Contract Quantity divided by the number of months in the applicable time period for delivery.

"Rejection Limits" means the quality characteristics for the Coal as specified in the Confirmation that give rise to a rejection right of Buyer pursuant to Article 5.2 of this Contract.

"Replacement Price" has the meaning set forth in Article 3.8(b)(i).

"Sales Price" has the meaning set forth in Article 3.8(b)(ii).

"Sampling Person" means the Party obligated for performing, or causing to be performed, sampling of the Coal and paying the costs therefore, which shall be Seller or Seller's designee.

"Seller" means the Party who is obligated to sell and deliver or cause to be delivered Coal during the Term as identified on the Confirmation.

"Shipment" means the quantity of Coal to be loaded on each Unit Train, with all Shipments equaling the Contract Quantity to be delivered in accordance with this Contract.

"SO₂" means sulfur dioxide.

"SO₂ Allowance" means an authorization by the administrator of the United States Environmental Protection Agency (or its successor) ("EPA") under Title IV of the Clean Air Act Amendments of 1990 (effective November 15, 1990), any amendments thereto and any regulations promulgated thereunder, to emit one Ton of SO₂ during the current calendar year.

"SO₂ Index Month" means, the calendar month prior to delivery if the Invoicing Period is less than monthly, and means calendar month of delivery if the Invoicing Period is monthly or greater, or as set forth on the Confirmation.

"SO₂ lbs./MMBTU", **"lbs. SO₂/MMBTU"** and **"# SO₂/MMBTU"** means pounds sulfur dioxide per MMBTU and is calculated as $[\text{Sulfur \%} \div \text{BTU}] \times 20,000$ rounded per this Contract. Weighted average SO₂ lbs./ MMBTU is calculated the same except using weighted average Sulfur% and weighted average BTU.

"Source" means the mine(s), mining complexes, loadout or other point(s) or origin that Seller and Buyer agree are acceptable origins for the Coal as specified in the Confirmation.

"Specifications" means the quality characteristics for the Coal as set forth on the face of the Confirmation, but excluding any attached specification listing intended to provide information.

"Taxes" means any or all ad valorem, property, occupation, severance, generation, first use, conservation, Btu or energy, utility, gross receipts, privilege, sales, use, consumption, excise, lease, transaction, and other taxes, governmental charges, licenses, fees, permits and assessments, or increases therein, other than taxes based on net income or net worth.

"Term" has the meaning set forth in Article 2.1.

"Third Party Imposition" shall have the meaning set forth in Article 3.6.

"Third Party Imposition Maximum" if set forth on the Confirmation shall have the meaning therein, if the Confirmation either has nothing set forth or has blanks set forth for the Third Party Imposition Maximum, then for purposes of this Contract there shall be no Third Party Imposition Maximum and Article 3.7 shall be inapplicable to this Contract.

"Third Party Imposition Threshold" if set forth on the Confirmation shall have the meaning therein, if the Confirmation either has nothing set forth or has blanks set forth for the Third Party Imposition Threshold, shall mean \$0.00.

"Ton" means 2,000 pounds.

"Trade Date" means the date on which the Parties agreed to price and other terms, as set forth on the Confirmation.

"Transportation Specifications" means the agreement(s) made by Seller, Buyer or any Party's designee with its respective Transporter(s), as amended from time to time, covering

the requirements for each Shipment, which agreements, including the timing and tonnage requirements thereunder, shall be no more restrictive than typical agreements for transporting Coal to or from the Delivery Point(s) for third parties or to and from other delivery points in the vicinity of the Delivery Point. Such Transportation Specifications, or relevant portions therein, shall be made available upon request to the extent authorized within the relevant transportation agreement.

"Transporter" means the entity or entities transporting Coal on behalf of Seller to and at the Delivery Point or on behalf of Buyer or Buyer's designee from the Delivery Point.

"Typical Specifications" means those quality characteristics for the Coal as specified on the Confirmation which indicate the general characteristics of the Coal, but variations from which are not a breach of Seller's obligations and are not grounds for either financial adjustments or rejection of the Coal.

"Unique Identifier Number" means an identification number associated with a Shipment and provided by Seller.

"Unit Train" means a train with capacity sufficient to hold the number of Tons of Coal for each Shipment from the Source.

"USD" or **"\$"** means United States dollars.

"Western Mine" means a Coal mine that is located West of the Mississippi River.

EXHIBIT 1. INSURANCE

INSURANCE.

Seller's Insurance Obligation. For the duration of the Contract, and until completion of all other contracts, Seller shall, at its own expense, maintain and carry in full force and effect insurance that meets at least the following requirements (these minimum limits should not be deemed to replace Seller's full obligation under this Contract:

- a) Statutory Workers' Compensation and Employer's Liability Coverage, which shall include:
 - i. Workers' Compensation;
 - ii. Employer's Liability with minimum limits of \$1,000,000 Bodily Injury by Accident, each Accident, \$1,000,000 Bodily Injury by Disease, each Employee;
- b) Commercial General Liability Policy, which shall have minimum limits of \$1,000,000 each occurrence; \$2,000,000 Products/Completed Operations Aggregate each occurrence; \$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. 30 Day Cancellation Clause;
 - ii. Blanket Written Contractual Liability to the extent covered by the policy against liability assumed by Seller under the Contract;
 - iii. Include Additional Insured endorsement GC 2010 or CG2037, or its equivalent;
 - iv. Coverage shall include sudden & accidental pollution liability;
 - v. Include CG 2417 endorsement to remove exclusion for railroad-related activities, or its equivalent. Coverage will be primary and non-contributory
- c) Commercial Automobile Liability Insurance covering the use of all owned, non-owned, and hired automobiles, with a bodily injury, including death and property damage combined single minimum limit of \$1,000,000 each occurrence with respect to Seller's vehicles:
 - i. Pollution Liability to be included (unless provided by pollution policy);
- d) Umbrella/Excess Liability Insurance with minimum limits of \$5,000,000 per occurrence; \$5,000,000 aggregate, to apply to Employer's Liability, Commercial General Liability, and Commercial Automobile Liability. Coverage should also include Railroad Liability.
 - Must include "Follow Form" provisions including railroad and railcar coverages;

Coverage Conditions: Except with regard to workers' compensation, Seller shall name Buyer and all of its affiliates as additional insured. All coverages, except workers' compensation, will waive any rights of subrogation against Buyer and all of its affiliates and their insurance carriers where applicable by law. All policies will be primary/non-contributory in favor of Buyer. Condition applies to Seller's contractors and subcontractors.

Quality of Insurance Coverage. The policies shall be written by insurance companies which have a Best Rating of not less than "A -, VII". These policies shall not be materially changed or canceled except with 30 Days' written notice to Buyer from Seller and the insurance carrier. Evidence of coverage, notification of cancellation or other changes shall

be mailed to: Attention: Senior Manager, Coal Supply Services, LG&E and KU Services Company, 2701 Eastpoint Parkway., Louisville, Kentucky 40223.

Claims Made Policies. For any of the foregoing policies that are issued on a claims-made basis,

- a) Such policy shall have a retroactive date satisfactory to Buyer. For retroactive date to be satisfactory it needs to be prior to the first delivery of tons under this Contract
- b) After termination of this Contract, Seller shall maintain such policies in place (and/or provide comparable tail coverage) for at least five years after all of Seller's obligations under all of Seller's contracts with Buyer have been fulfilled.

Other Notices.

- a) Seller shall provide notice of incidents, accidents, occurrences, or claims as respects to work performed under the Contract and provide it to the Senior Manager, Coal Supply Services, LG&E and KU Services Company, 2701 Eastpoint Parkway, Louisville, Kentucky 40223.
- b) Seller shall notify Buyer of any threatened, pending or paid-off claims to third parties, individually or in the aggregate, which from time to time may affect the coverage inuring to the benefit of Buyer and all of its affiliates as hereinafter specified.

Certificates of Insurance. Seller shall provide certificates of insurance to Buyer for each policy of insurance required above and evidence the items noted below.

- a) Each certificate shall properly identify the certificate holder as Buyer.
- b) Seller shall not commence the delivery of tons under this Contract prior to submitting certificate(s) evidencing the required insurance of Seller or Seller's subcontractors, as applicable, is acceptable to Buyer. Buyer retains the right to waive this requirement at its sole discretion.
- c) Certificate shall evidence 30 days prior notice of cancellation.
- d) Certificate shall verify additional insured status on all coverages outlined above.
- e) Certificate shall verify Blanket Waiver of Subrogation - All policies of insurance shall include waivers of subrogation, under subrogation or otherwise, against Buyer and its affiliates, except where not applicable by law.
- f) Certificate shall verify Primary/Non-contributory wording in favor of Buyer.
- g) Certificate shall identify policies which are written on a claims-made coverage form and state the retro date.

Self-Insured Retentions. Self-Insured Retentions are not acceptable without Buyer's consent, except for commercially reasonable amounts consistent with industry practices.

Seller's Insurance. Each policy of insurance required to be maintained by Seller under this Exhibit (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 subcontractors (e.g. Seller's Commercial General Liability policy must cover Seller and additional insureds against negligent acts of a subcontractor, etc.). Exhibit only represents minimum insurance requirements if does not mitigate or reduce liability required by the Contract, nor should it be deemed to be the full responsibility of Seller or Seller's subcontractor(s) for liability. Seller is responsible for Seller's contractors or subcontractor's insurance meeting the requirements of this Exhibit.

GUARANTY

This Guaranty is made by Arch Resources, Inc., a Delaware corporation, (the "Guarantor"), in favor of Louisville Gas and Electric Company, a Kentucky corporation, and Kentucky Utilities Company, a Kentucky and Virginia corporation, (collectively and individually, as the case may be, "Beneficiary").

WHEREAS, Beneficiary has entered into or is entering into one or more agreements for the purchase and sale of coal (the "Agreement"), with Guarantor's subsidiary, Thunder Basin Coal Company, L.L.C., a Delaware limited liability company, ("Company");

WHEREAS, as a condition of such Agreement, Beneficiary is requiring Guarantor to enter into this Guaranty; and

WHEREAS, Guarantor, as the parent corporation of Company and by virtue of its interest in and relationship with Company, deems it to be in Guarantor's best interest, based on sound business judgment, in that valuable benefits will be derived by Guarantor by virtue of the Agreement, to execute and deliver this Guaranty to Beneficiary.

NOW, THEREFORE, in order to satisfy the aforesaid condition of the Agreement, and further, in order for Guarantor to obtain the benefits resulting from Beneficiary's performance pursuant to the Agreement, Guarantor desires to enter into this Guaranty and hereby agrees as follows:

1. Guaranty. As set forth herein, Guarantor hereby unconditionally and absolutely guarantees the prompt and full payment when due of all sums hereafter owed by Company to Beneficiary under or pursuant to the terms of the Agreement, including but not limited to amounts or damages in connection with termination, default, breach or indemnity (such obligations are herein referred to as the "Agreement Obligations".) This Guaranty is a continuing guaranty of the payment (and not of collection) of the Agreement Obligations.
2. Amendments. No amendment of this Guaranty shall be effective unless signed by Guarantor and Beneficiary. No waiver by Beneficiary of any provision of this Guaranty nor consent to any departure by Guarantor therefrom shall in any event be effective unless the same shall be in writing and signed by Beneficiary, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.
3. Addresses for Notices. All notices and other communications provided for hereunder shall, unless otherwise specifically provided elsewhere herein, (i) be in writing and shall be addressed to the parties at their respective addresses set forth below or at such other addresses as shall be designated in a written notice to the other party, and (ii) when mailed, be effective five (5) business days after being deposited in the U.S. mail, registered or certified, return receipt requested, postage prepaid, or, in the case of personal delivery, when delivered at the following addresses:

if to the Guarantor:

Arch Resources, Inc.
Attn: Treasurer
CityPlace One, Suite 300
St. Louis, MO 63141

with a copy to:

Arch Resources, Inc.
Attn: General Counsel
CityPlace One, Suite 300
St. Louis, MO 63141

if to Company:

Thunder Basin Coal Company, L.L.C.
Attn: Sr. Vice President of
Marketing Administration & Logistics
CityPlace One, Suite 300
St. Louis, MO 63141

if to Beneficiary:

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

Kentucky Utilities Company
220 West Main Street
Louisville, Kentucky 40202
Attn: Director Coal Supply and By-
Products Marketing

4. Non-waiver of Claim or Defense Under the Agreement. Nothing contained herein shall constitute a waiver, discharge or release of any claim or defense, whether it or they be at law, equity or otherwise, that the Guarantor or Company has, or at any other time hereafter, will have against Beneficiary with respect to, or relating in any way, to (i) Beneficiary's performance under the Agreement or (ii) Guarantor's or Company's obligation to pay the Agreement Obligations, other than, in each case, claims or defenses (a) relating to ultra vires, lack of good standing or existence, or lack of due authorization, authority or capacity with respect to the Company, (b) arising out of the bankruptcy or insolvency of Company, or (c) otherwise expressly waived in the Agreement or Guaranty. In the event and for the duration that Guarantor assumes the Agreement Obligations, Guarantor shall be entitled to and enjoy all the rights, defenses and benefits to which Company is entitled or may become entitled under the Agreement.
5. Subrogation. Guarantor shall be subrogated to all rights of Beneficiary against Company upon payment or satisfaction of all Agreement Obligations owing to Beneficiary. The Guarantor will not exercise any rights which it may acquire by way

of subrogation until all Agreement Obligations to the Beneficiary shall have been paid in full.

6. Effect of Certain Events. Guarantor agrees that Guarantor's liability hereunder will not be released, reduced or impaired by the occurrence of any one or more of the following events:
 - (a) the insolvency, bankruptcy, reorganization, release, receivership or discharge of Company; or
 - (b) the renewal, compromise, acceleration, consolidation, extension, modification or amendment from time to time of the Agreement.

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 Agreement 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 Company or the Guarantor or otherwise, all as though such payments had not been made.

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.

8. Waiver. Guarantor hereby waives notice of acceptance of this Guaranty, creation or change of the amount of the Agreement Obligations, dishonor, nonpayment, protest and presentment.
9. Term. This Guaranty shall remain in full force and effect until at least the first anniversary of the expiration or termination of the Agreement. Thereafter, Guarantor may, by providing ten (10) days prior written notice to Beneficiary, earlier terminate this Guaranty; provided that this Guaranty shall remain in full force and effect after either such expiration or termination with respect to all Agreement Obligations incurred prior thereto, until such Agreement Obligations have been fully satisfied, performed and discharged.
10. Successors and Assigns. This Guaranty shall inure to the benefit of Beneficiary, its successors and assigns. The Guarantor may assign its obligations under this Guaranty only with the prior written consent of Beneficiary.
11. Governing Law and Jurisdiction. THE VALIDITY, CONSTRUCTION, INTERPRETATION AND EFFECT OF THIS GUARANTY SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK UNLESS OTHERWISE PROVIDED HEREIN. The state courts located in St. Louis County, Missouri or the U.S. District Court, Eastern District of Missouri, Eastern Division, shall be the exclusive jurisdiction and venue for any lawsuit arising under this Guaranty. If these courts refuse to accept jurisdiction unless the law governing this

Guaranty is the State of Missouri, the governing law will be of that state and not the State of New York.

12. Headings. The headings used herein are for purposes of convenience only and shall not be used in construing the provisions hereof.

IN WITNESS WHEREOF, Guarantor has caused this Guaranty to be duly executed and delivered by its duly authorized officer effective as of this 8th day of June, 2022.

GUARANTOR

ARCH RESOURCES, INC.

By: 

Title: SVP - CFO and Treasurer