

TERMINATION AGREEMENT

This TERMINATION AGREEMENT (this “**Agreement**”) is dated as of January 16, 2019 (the “**Effective Date**”), and made by and between LOUISVILLE GAS AND ELECTRIC COMPANY, a Kentucky corporation (the “**Generator**”), and [REDACTED] a Colorado limited liability company (the “**Producer**”). The Generator and the Producer may each be referred to herein as a “**Party**” and may collectively be referred to herein as the “**Parties**.”

RECITALS

WHEREAS, Generator owns and operates a coal-fired electricity generating plant located in southwest Jefferson County, Kentucky, commonly referred to as the Mill Creek Generating Station (the “**Plant**”);

WHEREAS, Generator desires to reduce mercury and nitrogen oxide (“**NOx**”) emissions from the fuel burning process at the Plant, and Producer owns a refined coal production facility (the “**Facility**”) that uses a proprietary chemical product called [REDACTED] to produce refined coal (“**Refined Coal**”), which, when burned at the Plant, is intended to reduce mercury and NOx emissions therefrom;

WHEREAS, the Facility is located in the coal yard of the Plant (the “**Facility Site**”);

WHEREAS, Generator and Producer entered into that certain Operation Agreement, dated July 30, 2018, pursuant to which Generator allowed Producer to enter the Facility Site for purposes of installing the Facility at the Facility Site and to produce and sell Refined Coal to Generator (the “**Operation Agreement**”);

WHEREAS, Producer now intends to sell the Facility to MILL CREEK CLEAN FUELS, LLC, a Colorado limited liability company (“**MCCF**”), pursuant to an Asset Purchase Agreement, dated as of the date hereof, by and between Producer and MCCF (the “**Purchase Agreement**”);

WHEREAS, immediately following the sale of the Facility to MCCF pursuant to the Purchase Agreement, MCCF and the Generator will enter into a series of agreements for the purchase of feedstock coal by MCCF from the Generator, the production and sale of Refined Coal by MCCF to the Generator, and the provision of certain services to MCCF by the Generator (collectively, the “**Operating Documents**”); and

WHEREAS, in anticipation of the sale of the Facility to MCCF pursuant to the Purchase Agreement, Producer and Generator desire to terminate the Operation Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the agreements and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Definitions and Interpretations.** Capitalized terms not otherwise defined herein shall have the meaning assigned to such terms in the Operation Agreement.

2. **Termination of Operation Agreement.** The Producer and Generator hereby terminate the Operation Agreement as of the Effective Date, but, for the avoidance of doubt, immediately prior to the effectiveness of the Operating Documents. Notwithstanding the foregoing, the provisions of the Operation Agreement that, by the terms of the Operation Agreement, survive expiration or termination of the Operation Agreement (collectively, the “**Surviving Provisions**”) shall not be terminated by this Agreement, and the Parties will continue to be subject to each of the Surviving Provisions in accordance with the terms of the Operation Agreement.

3. **Outstanding Payment Obligations.** Simultaneous with the execution and delivery of this Agreement, each of Producer and Generator shall make all outstanding and accrued Site License Fee, Coal Yard Services Fee, monthly utility payments, and any other payments owed by it to the other under the Operation Agreement.

4. **Sale of Facility; No Assignment of Rights.** Producer hereby represents and warrants to Generator that: (a) on the Effective Date and pursuant to the Purchase Agreement, Producer has sold, conveyed, assigned and delivered all of its rights, title and interests in and to the Facility to MCCF free and clear of all liens, security interests and encumbrances of any nature whatsoever, other than certain reacquisition rights in favor of Producer under the Purchase Agreement, and (b) Producer has not at any time prior to the Effective Date conveyed, assigned, transferred or delegated to MCCF or any other person or entity any rights, interests or obligations of Producer under or pursuant to the Operation Agreement.

5. **General Provisions.**

(a) This Agreement contains the entire understanding and agreement between the Parties with respect to the subject matter of this Agreement and supersedes all prior negotiations, understandings, and agreements (whether written or verbal) between the Parties with respect to the subject matter hereof.

(b) If any provision of this Agreement is found by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remainder of this Agreement will not be affected, and in lieu of each provision that is found to be illegal, invalid or unenforceable, a provision will be added as a part of this Agreement that is as similar to the illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

(c) This Agreement may be executed in any number of counterparts, each of which will constitute an original of this Agreement and all of which when taken together will constitute one and the same agreement. Delivery of an electronically scanned page or a copy of an executed counterpart of a signature page to this Agreement (including by means of facsimile or email) shall be as effective as delivery of a manually executed counterpart of a signature page to this Agreement.

(d) This Agreement may only be amended, modified, or supplemented by a writing signed and delivered by each of the Parties.

(e) No waiver by any Party of any provision or breach of, or default under, this Agreement shall be deemed to have been made unless the same is in writing and signed and delivered by the Party charged with making the waiver, and no waiver of any provision or breach of, or default under, this Agreement shall be deemed a waiver of any other provision or breach of, or default under, this Agreement.

(f) THIS AGREEMENT'S FORMATION, EXECUTION, PERFORMANCE AND ENFORCEMENT, AND ANY DISPUTES ARISING OUT OF IT, SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW.

(g) EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES THE RIGHT TO A TRIAL BY JURY IN ANY ACTION, SUIT OR PROCEEDING RELATING TO A DISPUTE ARISING OUT OF OR RELATING TO THIS AGREEMENT AND FOR ANY COUNTERCLAIM WITH RESPECT THERETO.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered as of the Effective Date.

GENERATOR:

LOUISVILLE GAS AND ELECTRIC
COMPANY, a Kentucky corporation

By: Paul Sinclair
Name: David S. Sinclair
Title: VP Energy Supply & Analysis

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(Producer signature page follows)

PRODUCER:

██████████ a Colorado limited liability company

By: TINUUM GROUP, LLC,
a Colorado limited liability company,
its manager

By:



Name: Ron Eller

Title: President and Chief Executive Officer