

**EXCLUSIVITY AND FEES AGREEMENT**

**THIS EXCLUSIVITY AND FEES AGREEMENT** (this "Agreement"), made as of the 11th day of December, 2015, by and between (i) **LOUISVILLE GAS AND ELECTRIC COMPANY**, a Kentucky corporation ("LG&E") and **KENTUCKY UTILITIES COMPANY**, a Kentucky and Virginia corporation ("KU" and, collectively with LG&E, "Hosts") and (ii) **CLEAN COAL SOLUTIONS, LLC**, a Colorado limited liability company ("Producer") (Producer and Hosts are collectively termed the "Parties").

**RECITALS:**

1. Hosts own and operate coal-fired generating stations in Carrollton, Kentucky ("Ghent Plant"), Trimble County, Kentucky ("Trimble County Plant") and Jefferson County, Kentucky ("Mill Creek Plant", and collectively, with Ghent Plant and Trimble County Plant, the "Plants") and Producer owns, controls and/or operates certain production facilities capable of producing refined coal under the Internal Revenue Code Section 45 (the "Facilities") which can be located or sited at such Plants;

2. Hosts and Producer are currently negotiating the potential siting and operation of one or more Facilities at such Plants and Host is awaiting certain regulatory authorizations relating to such transaction and, in light of such negotiations and regulatory procedures, Hosts and Producers desire to enter into certain interim agreements and covenants, as set forth herein.

**AGREEMENT:**

**NOW, THEREFORE**, for and in consideration of the premises, the mutual covenants and agreements hereafter set forth, and other good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, Hosts and Producer hereby covenant and agree as follows:

1. Grants of Exclusivity. During the Exclusivity Period (as defined below), (i) Producer hereby grants to, and reserves for, Hosts, the sole and exclusive right and ability to locate and install three Facilities at the Plants, and (ii) subject to any needed regulatory approvals, Hosts hereby grant to, and reserve for, Producer, the sole and exclusive right and ability to locate and install three Facilities at the Plants. During the Exclusivity Period, (x) Producer will maintain availability of a minimum of three Facilities for such purposes, (y) Hosts will maintain availability of the Plants for such purposes and (z) neither Party may agree, covenant, promise or negotiate with any third-parties regarding refined coal Facilities or Plant sites, respectively, which, in any manner, breaches, limits or infringes these exclusivity rights or duties or the other Party's benefits therefrom. The exclusivity rights and duties are herein referred to collectively and individually as the "Exclusivity Obligations."

2. Term. The initial term of the Exclusivity Obligations is for a period running from the date of this Agreement through June 30, 2016, then shall automatically renew for successive three-month extension term periods, unless earlier terminated, in whole or in part with respect to

each Plant, by a Party in accordance with the terms and conditions of this Agreement (the “Exclusivity Period”).

3. Regulatory Proceedings and Notice. During the Exclusivity Period, Hosts shall keep Producer reasonably updated as to progress and/or prospective outcomes of the regulatory proceedings underway relating to the siting and operation of Facilities at the Plants, including proceedings at the Kentucky Public Service Commission, Kentucky Revenue Cabinet, Virginia State Corporation Commission and the Federal Energy Regulatory Commission. At any time during the Exclusivity Period, Hosts may, in their sole discretion, in good faith provide written notice to Producer of the receipt of sufficient and satisfactory regulatory authorizations, approvals or rulings as are necessary or desirable for the siting and operation of Facilities at the Plants or, at Host’s option, that such authorizations, approvals or rulings are no longer required for the siting or operation of Facilities at one or more of the Plants (either, the “Regulatory Completion Notice”). Hosts shall also provide prompt written notice to Producer in the event that Hosts determine that one or more of the foregoing regulatory authorizations, approvals or rulings have been rejected or will not be provided.

4. Termination Rights. Either Party may exercise certain respective termination rights, as set forth below:

a. By Producer Without Fee. In the event Hosts have not provided the Regulatory Completion Notice for a particular Plant site by December 31, 2015, Producer may terminate the Exclusivity Period with respect to any such Plant site on or after January 1, 2016 without incurring a Termination Fee (as defined below). Unless previously exercised, such rights shall expire upon provision by Hosts of a Regulatory Completion Notice for the applicable Plant. Producer shall exercise this right by providing Hosts written notice of such termination and describing the relevant Plant site(s) and termination dates, which may be the same date as the termination notice.

b. By Producer For Fee. In the event Hosts have provided the Regulatory Completion Notice for a Plant site, Producer may terminate the Exclusivity Period with respect to any such Plant site effective on July 1, 2016 (with respect to the initial term) or on any October 1, January 1, April 1 or July 1 thereafter (with respect to successive quarterly terms) upon and in consideration of payment of the following termination fees per Plant to the Hosts: Ghent Plant [REDACTED]; Mill Creek Plant [REDACTED] and Trimble County Plant [REDACTED] (each, a “Termination Fee”). Producer shall exercise this right by providing Hosts written notice of such termination at least 30 days prior to the relevant termination date and describing the relevant Plant site(s). Termination Fees shall be due and payable in advance by Producer to Hosts on the relevant termination date (or the next business day, in the case of holidays or weekends.)

c. By Hosts Without Fee. Hosts may terminate the Exclusivity Period with respect to any Plant site effective on July 1, 2016 (with respect to the initial term) or on any October 1, January 1, April 1 or July 1 thereafter (with respect to successive quarterly terms). Hosts shall exercise this right by providing Producer written notice of such termination at least 30 days prior to the relevant termination date and describing the

relevant Plant site(s).

d. By Commercial Operation of a Facility Without Fee. As of the date of, commercial operation of any Facility located at a Plant, the Exclusivity Period for such Plant shall end, without the necessity of any action by either Party and without any Termination Fee for such Plant being owed or payable by Producer to Hosts.

5. Plant Reservation Fees. Commencing 120 days after any Regulatory Completion Notice has been delivered by Hosts for a Plant and through the remainder of the Exclusivity Period of such Plant (each such period, a "Reservation Period"), Producer shall incur and pay to Hosts the following monthly reservation fees applicable to each such Plant: Ghent Plant [REDACTED] Mill Creek Plant [REDACTED]; and Trimble County Plant [REDACTED] (each, a "Reservation Fee"). Reservation Fees for each Plant are non-refundable and shall be due and payable in arrears by Producer to Hosts on the last calendar day of each month or portion thereof (or the next business day, in the case of holidays or weekends) during the Reservation Period for such Plant. Reservation Fees shall be prorated for any partial month which commences or ends a Reservation Period.

6. Ghent Plant Additional Reservation Fee. In the event Hosts have provided the Regulatory Completion Notice for the Ghent Plant site prior to the expiration of the Exclusivity Period with respect to the Ghent Plant, Producer shall incur and pay to KU, as Host, a one-time fee in the amount of [REDACTED] (the "Additional Reservation Fee") in respect of the reserving potential access by Producer to an existing or new coal yard office and a storage shed, respectively, at KU's Ghent Plant which is anticipated to be made available to Producer for use and access to as office space, shower/restroom and shop/storage facilities for Producer in the event of commercial operation of a Facility at the Ghent Plant. The Additional Reservation Fee is non-refundable and shall be due and payable from Producer to KU, as Host, 30 days after delivery of a Regulatory Completion Notice by Hosts applicable to the Ghent Plant.

7. Notices/Payments. Any notice or delivery required or permitted hereunder shall be in writing and deemed to have been delivered upon receipt or refusal to accept, and shall be sent by the United States mail, postage prepaid, certified or registered mail, by a nationally recognized courier service, or by confirmed facsimile transmission, addressed to the Parties as follows:

Hosts:           Louisville Gas and Electric Company  
                  Kentucky Utilities Company  
                  220 West Main Street  
                  Louisville, KY 40202  
                  Attn: Director – Corporate Fuels and By Products  
                  Fax: (502) 627-2194

Producer: Clean Coal Solutions, LLC  
5251 DTC Parkway, Suite 825  
Colorado Village, CO 80111  
Attn: General Counsel  
Fax: \_\_\_\_\_

or at such other address as shall be designated in writing by either Party to the other Party. Any notice to the other Party designating a change of address shall not be deemed to be delivered or received until such date as received by the Party being notified.

Any payment required hereunder shall be made by electronically transfer of funds to Hosts account based upon the account information (including bank name, ABA number and account number) provided in writing by Host to Producer hereunder. Host reserves the right to modify such account information on prior written notice reasonably acceptable to Producer.

8. Miscellaneous Terms.

a. Representations and Warranties. Each Party represents and warrants to the other Party that (i) it is an entity validly existing and in good standing under the laws of its jurisdiction of formation and has all necessary and appropriate corporate powers and authority to execute, deliver and perform under this Agreement, (ii) its execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary action, and (iii) this Agreement constitutes its legal, valid and binding obligation enforceable against its in accordance with its terms (except as enforceability may be limited by bankruptcy, insolvency, and other similar laws affecting enforcement of creditors' rights and general principles of equity).

b. Modification; Counterparts. Any modification or amendment to this Agreement must be in writing duly executed by each Party. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which, taken together, shall constitute one and the same instrument.

c. Several Liability. LG&E and KU shall be severally but not jointly liable for obligations of Hosts hereunder and shall each be liable only for such obligations to the extent that such pertain to applicable Plants, or portions thereof, for which they constitute Host.

d. Assignment. This Agreement may not be assigned or transferred by a Party without the express prior written consent of the other Party, which shall not be unreasonably withheld, conditioned or delayed. Hosts' rights or duties under this Agreement may be performed by one or more agents, including without limitation, LG&E and KU Services Company.

e. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky, without regard to the

conflict of law principles thereof.

f. Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the Parties, and their respective successors and permitted assigns.

g. Waiver. The failure of either Party to insist on strict performance of any provision of the Agreement, or to take advantage of any rights hereunder, shall not be construed as a waiver of such provision or right, unless explicitly and specifically provided for and designated as such in writing by such Party, and such waiver shall be effective only for the specific instance or purposes for which it is given.

h. Severability. If any provision of this Agreement is found contrary to law or unenforceable by a court or other agency having jurisdiction over a Party, the remaining provisions shall be severable and enforceable in accordance with their terms, unless such unlawful or unenforceable provision is material to the transaction, in which case the Parties shall negotiate in good faith to modify the Agreement so as to effect the original intent as closely as legally possible with respect to the severed and remaining provisions.

i. Entire Agreement. This written Agreement constitutes the entire agreement of the Parties concerning the subject matter hereof, and there are no representations, agreements or understandings, whether oral or written, which are not included herein.

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IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed on its behalf by its duly authorized representatives, all as of the date first above written.

**HOSTS:**

**LOUISVILLE GAS AND ELECTRIC COMPANY  
KENTUCKY UTILITIES COMPANY**

By: Caryl M. Pfeiffer JIF  
Name: Caryl M. Pfeiffer  
Title: Director, Corporate Fuels & By-Products

**PRODUCER:**

**CLEAN COAL SOLUTIONS, LLC**

By: George McClellan  
Name: George McClellan  
Title: Chief Executive Officer