

**EXHIBIT 1**

**Commonwealth of Kentucky**  
**Alison Lundergan Grimes, Secretary of State**

Alison Lundergan Grimes  
Secretary of State  
P. O. Box 718  
Frankfort, KY 40602-0718  
(502) 564-3490  
<http://www.sos.ky.gov>

**Certificate of Existence**

Authentication number: 165753  
Visit <https://app.sos.ky.gov/ftshow/certvalidate.aspx> to authenticate this certificate.

I, Alison Lundergan Grimes, Secretary of State of the Commonwealth of Kentucky, do hereby certify that according to the records in the Office of the Secretary of State,

**LOUISVILLE GAS AND ELECTRIC COMPANY**

is a corporation duly incorporated and existing under KRS Chapter 14A and KRS Chapter 271B, whose date of incorporation is July 2, 1913 and whose period of duration is perpetual.

I further certify that all fees and penalties owed to the Secretary of State have been paid; that Articles of Dissolution have not been filed; and that the most recent annual report required by KRS 14A.6-010 has been delivered to the Secretary of State.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal at Frankfort, Kentucky, this 8<sup>th</sup> day of July, 2015, in the 224<sup>th</sup> year of the Commonwealth.



*Alison Lundergan Grimes*  
Alison Lundergan Grimes  
Secretary of State  
Commonwealth of Kentucky  
165753/0032196

## **EXHIBIT 2**

LOUISVILLE GAS AND ELECTRIC COMPANY  
(807 KAR 5:001, SEC. 18(1)(b))

A DESCRIPTION OF APPLICANT'S PROPERTY, INCLUDING A  
STATEMENT OF THE NET ORIGINAL COST OF THE PROPERTY  
AND THE COST THEREOF TO APPLICANT

May 31, 2015

The applicant's generating, transmission and distribution systems described herein are calculated annually. As of December 31, 2014, the applicant had ownership in 11 and operated 9 coal fired steam electric generating units having a total capacity of 2,642 Mw; had ownership in and operated 14 combustion turbine generating units having a total capacity of 646 Mw; and owned and operated 1 hydroelectric generating station, the operation of which is affected by the water level and flow of the Ohio River, having a total capacity of 54 Mw.

The applicant's owned electric transmission system included 45 substations (32 of which are shared with the distribution system) with a total capacity of 8 million kVA and 675 pole miles of lines. The distribution system included 97 substations (32 of which are shared with the transmission system) with a total capacity of 5 million kVA, 3,881 circuit miles of overhead lines and 2,452 underground cable miles.

The applicant's natural gas transmission system includes 4,338 miles of gas distribution mains and 395 miles of gas transmission mains, consisting of 255 miles of gas transmission pipeline, 126 miles of gas transmission storage lines, 14 miles of gas combustion turbine lines, and 1 mile of gas transmission pipeline in regulator facilities. Five underground natural gas storage fields, with a total working natural gas capacity of approximately 15 Bcf, are used in providing natural gas service to ultimate consumers.

Other properties include an office building, service centers, warehouses, garages and other structures and equipment, the use of which is common to both the electric and gas departments.

The net original cost of the property and cost thereof to the applicant at May 31, 2015, was:

	<u>Electric</u>	<u>Gas</u>	<u>Common</u>	<u>Total</u>
Original Cost	\$ 5,063,351,085	\$ 995,126,401	\$ 277,442,256	\$ 6,335,919,741
Less Reserve for				
Depreciation	1,512,436,073	210,963,884	140,639,478	1,864,039,435 *
Net Original Cost	3,550,915,012	784,162,517	136,802,778	4,471,880,307
Allocation of Common				
To Electric and Gas	95,761,945	41,040,833	(136,802,778)	-
Total	<u>\$ 3,646,676,957</u>	<u>\$ 825,203,350</u>	<u>\$ -</u>	<u>\$ 4,471,880,307</u>

\* Excludes \$304,391,854 related to cost of removal reserves that is not included in the reserve in the Financial Statements and Additional Information, but instead is included as a regulatory liability.

# **EXHIBIT 3**

**Commonwealth of Kentucky**  
**Alison Lundergan Grimes, Secretary of State**

Alison Lundergan Grimes  
Secretary of State  
P. O. Box 718  
Frankfort, KY 40602-0718  
(502) 564-3490  
<http://www.sos.ky.gov>

**Certificate of Existence**

Authentication number: 165754  
Visit <https://app.sos.ky.gov/ftshow/certvalidate.aspx> to authenticate this certificate.

I, Alison Lundergan Grimes, Secretary of State of the Commonwealth of Kentucky, do hereby certify that according to the records in the Office of the Secretary of State,

**KENTUCKY UTILITIES COMPANY**

is a corporation duly incorporated and existing under KRS Chapter 14A and KRS Chapter 271B, whose date of incorporation is August 17, 1912 and whose period of duration is perpetual.

I further certify that all fees and penalties owed to the Secretary of State have been paid; that Articles of Dissolution have not been filed; and that the most recent annual report required by KRS 14A.6-010 has been delivered to the Secretary of State.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal at Frankfort, Kentucky, this 8<sup>th</sup> day of July, 2015, in the 224<sup>th</sup> year of the Commonwealth.



*Alison Lundergan Grimes*  
Alison Lundergan Grimes  
Secretary of State  
Commonwealth of Kentucky  
165754/0028494

# Commonwealth of Virginia



## State Corporation Commission

### CERTIFICATE OF GOOD STANDING

*I Certify the Following from the Records of the Commission:*

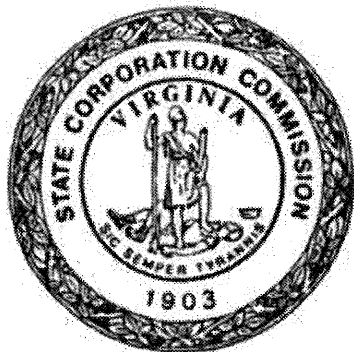
That KENTUCKY UTILITIES COMPANY is duly incorporated under the law of the Commonwealth of Virginia;

That the date of its incorporation is November 26, 1991;

That the period of its duration is perpetual; and

That the corporation is in existence and in good standing in the Commonwealth of Virginia as of the date set forth below.

Nothing more is hereby certified.



*Signed and Sealed at Richmond on this Date:  
July 8, 2015*

*Joel H. Peck*

*Joel H. Peck, Clerk of the Commission*

# **EXHIBIT 4**



KENTUCKY UTILITIES COMPANY  
(807 KAR 5:001, SEC. 18(1)(b))

A DESCRIPTION OF APPLICANT'S PROPERTY, INCLUDING A  
STATEMENT OF THE NET ORIGINAL COST OF THE PROPERTY  
AND THE COST THEREOF TO APPLICANT

May 31, 2015

The applicant's generating, transmission and distribution systems described herein are calculated annually. As of December 31, 2014, the applicant had ownership in 12 and operated 10 coal fired steam electric generating units having a total capacity of 3,273 Mw; owned and operated a hydroelectric generating station having a total capacity of 32 Mw; and had ownership in and operated 16 gas/oil peaking units having a total capacity of 1,440 Mw.

The applicant's owned electric transmission system included 138 substations (58 of which are shared with the distribution system) with a total capacity of 14 million kVA and 4,079 pole miles of lines. The electric distribution system included 479 substations (58 of which are shared with the transmission system) with a total capacity of 7 million kVA, 14,084 circuit miles of overhead lines, and 2,375 underground cable miles.

KU's service area includes an additional 11 miles of gas transmission pipeline providing gas supply to natural gas combustion turbine electricity generating units.

Other properties include office buildings, service centers, warehouses, garages and other structures and equipment.

The net original cost of the property and cost thereof to the applicant at May 31, 2015, was:

	<u>Utility Plant</u>
Original Cost	
Production Plant	\$ 5,335,980,799
Distribution Plant	1,639,103,631
Transmission Plant	775,510,764
General Plant	175,678,624
Intangible Plant	85,153,963
Construction Work in Progress	<u>790,882,245</u>
Total Plant at Original Cost	\$ 8,802,310,026
Less Reserve for Depreciation	<u>2,436,478,592</u> *
Net Original Cost	<u>\$ 6,365,831,434</u>

\* Excludes \$390,320,965 related to cost of removal reserves that is not included in the reserve in the Financial Statements and Additional Information, but instead is included as a regulatory liability.

# **EXHIBIT 5**

## OPERATION AGREEMENT

This OPERATION AGREEMENT (this "Agreement"), effective as of \_\_\_\_\_, 2015 (the "Effective Date"), is by and between \_\_\_\_\_ [CCS affiliate]\_\_\_\_\_, a \_\_\_\_\_ ("Producer"), and \_\_\_\_\_ [LG&E and/or KU]\_\_\_\_\_, a Kentucky corporation ("Generator"). Producer and Generator are sometimes individually referred to herein as a "Party" and collectively as the "Parties."

### RECITALS

WHEREAS, Generator owns and operates a coal fired electricity generating plant located near Carrollton, Kentucky, commonly referred to as the \_\_\_\_\_ [LG&E and/or KU]\_\_\_\_\_ Generating Station (the "Plant");

WHEREAS, the Plant primarily burns bituminous coal ("Coal"), the general specifications for which are as set forth in Exhibit A, to generate electricity;

WHEREAS, Generator desires to reduce mercury and nitrogen oxide ("NOx") emissions from the fuel burning process at the Plant;

WHEREAS, Producer desires to locate its refined coal production facility identified by serial number \_\_[CCS facility #]\_\_, and Producer's related equipment and facilities required for the operation of that facility on the "Facility Site" (as defined below) (collectively, the "Facility"), in the coal yard of the Plant and to use such Facility and Producer's licensed technology, including the proprietary chemical product "M-45-PC," to produce a solid fuel from the Coal ("Refined Coal"), which Refined Coal, when burned at the Plant, is intended to reduce the mercury and NOx emissions from the fuel burning process at the Plant;

WHEREAS, Generator wishes to allow Producer to install and operate the Facility in the coal yard of the Plant to produce Refined Coal; and

WHEREAS, Producer wishes to sell and deliver such Refined Coal to Generator, and Generator wishes to purchase such Refined Coal from Producer, all on the terms and conditions contained herein.

### AGREEMENT

NOW, THEREFORE, for and in consideration of the foregoing recitals, the promises and agreements set forth in this Agreement, and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Parties agree as follows:

#### ARTICLE I

##### Term

Unless earlier terminated in accordance with ARTICLE IX, the term of this Agreement ("Term") shall begin on the Effective Date and expire at midnight on the first anniversary of the Effective Date, unless extended by the mutual written agreement of the Parties.

## **ARTICLE II**

### **The Facility**

**2.1** The Facility shall be located in the coal yard of the Plant at the location shown on Exhibit B attached hereto (the "Facility Site"). For all purposes under this Agreement, the Facility Site shall include: (a) the immediate area around the Facility necessary for or incident to (i) the operation of the Facility for the production of Refined Coal, (ii) storing, processing and accessing Producer's inventory of the M-45PCA chemical, the M-45PCB chemical, and materials and supplies in respect to the operation of the Facility (collectively, "Inventory") (provided that the quantities of such Inventory (and of any other materials and supplies as contemplated in Section 3.2 below) stored on the Facility Site shall not exceed the quantities required for the normal operation of the Facility for two (2) consecutive months, assuming the consumption of Refined Coal by the Plant at its full rated capacity), (iii) installing and maintaining utilities in respect of the Facility at locations on the Facility Site as generally depicted on Exhibit B or otherwise reasonably satisfactory to Generator, and (iv) the real property at the Plant convenient for Producer's office and administrative purposes; and (b) the vertical space required by the application and conveyance equipment over Generator's coal conveyors ("Coal Conveyors") and access to the Coal on the Coal Conveyors for the purpose of the Facility's processing of such Coal as contemplated herein; all to the extent situated within the footprint of the Facility Site shown on Exhibit B. Nothing contained in this Section 2.1 or elsewhere in this Agreement shall, however, entitle Producer to move or modify any of Generator's existing equipment or facilities (or any replacements thereof) located on the Facility Site, or to impede, prevent or hinder Generator's use, operation, maintenance or repair of such equipment or facilities in the ordinary course of Generator's business.

**2.2** In the event Producer desires to modify the Facility Site or the ingress and egress to the Facility Site, then Producer shall request written approval from Generator for such changes, which approval shall not be unreasonably withheld, conditioned or delayed. The location of the Facility Site and Producer's use, operation, maintenance and repair of the Facility shall not interfere with the normal operations of Generator at the Plant.

## **ARTICLE III**

### **License for the Facility Site**

**3.1** Generator hereby grants to Producer during the Term a limited, non-transferrable (except as provided in Section 14.14), non-exclusive license ("License") to use and possess the Facility Site, including all rights, privileges, interests and easements appurtenant thereto, for the sole purposes of, and solely to the extent reasonably required for (a) installing, using, maintaining and repairing the Facility for the production of Refined Coal for sale to Generator and to third parties during the Term as contemplated in this Agreement, and (b) the other purposes described in Section 3.2 below.

**3.2** During the Term, the License shall give Producer (and its employees, contractors and agents) (a) the non-exclusive right of ingress and egress through the Plant (at the locations depicted on Exhibit B or otherwise at reasonable locations designated by Generator) in order to gain access to the Facility Site, and (b) non-exclusive use and possession of the Facility Site for the purposes of (i) storing and accessing Inventory, fuels, materials and supplies in connection with

the operation of the Facility, (ii) installing, operating, maintaining and repairing the Facility, and (iii) producing, selling and delivering Refined Coal to Generator and to third parties in accordance with this Agreement. In addition, for three months following the expiration of the Term, the License shall give Producer (and its employees, contractors and agents) the right of ingress and egress through the Plant (at reasonable locations designated by Generator) and access to the Facility Site for the purpose of removing the Facility and Inventory. Producer acknowledges and agrees that the Facility Site License and associated rights are being made by Generator, and the Facility Site is being accepted and will be used by Producer, in "AS IS, WHERE IS" condition with all faults, and Generator makes no warranties or guarantees that the Facility Site is suitable for any purposes described in this Agreement or intended by Producer. Producer warrants and agrees that the Facility will be constructed and installed on the Facility Site in a good and workmanlike manner, and that the Facility will be maintained by Producer at its expense throughout the Term in good condition and state of repair, ordinary wear and tear excepted.

**3.3** In consideration of the License and rights granted to Producer by Generator hereunder, Producer shall pay Generator for each calendar month during the Term, a license fee (the "Site License Fee") equal to \$1.35 multiplied by the total number of net tons (each a "Ton") of Refined Coal produced by Producer from the Facility and sold and delivered to Generator or any third party pursuant to Article VIII (subject to the provisions of Article VIII), whether produced from Coal supplied by Generator or from Third Party Coal.

The quantity of Refined Coal so produced, sold and delivered to Generator shall be determined by the belt scales on the Coal Conveyors ("Scales"). The quantity of Refined Coal so produced, sold and delivered to third parties (subject to the provisions of Section 8.4) shall be determined by the invoices, bills of lading, or similar documents delivered to such third parties. Within 15 days following the end of each calendar month, Producer shall submit to Generator a calculation of the total number of Tons of Refined Coal produced, sold and delivered to Generator during the preceding calendar month (which Tons of Refined Coal resulting from that calculation shall in all cases be consistent with the calculation of Refined Coal produced by the Facility and sold and delivered to Generator during the same period as reported by Producer, directly or indirectly, to the Internal Revenue Service). Thereafter, Generator shall submit an invoice to Producer for the Site License Fee based on such amounts. Any undisputed Site License Fee shall be paid by Producer to Generator, in arrears, within 10 days following issuance of such monthly invoice by Generator. Any disputed Site License Fee shall be paid by Producer within 10 days following the final resolution of the relevant dispute. Either party shall be entitled to resort to such means as may be available under applicable law to resolve that dispute.

**3.4** Any expiration or termination of this Agreement shall automatically terminate the License, and upon such termination, the Site License Fee shall cease to accrue (but shall remain payable by Producer thereafter to the extent accrued prior to such termination, which payment obligation will survive that expiration or termination). Thereafter (and unless this Agreement is replaced upon its expiration or termination with one or more new agreements in form mutually satisfactory to Generator and Producer between Generator and one or more third parties for the ownership, use and operation by such third party or parties of the Facility on the Facility Site), Producer shall remove the Facility (other than any scales that have been installed by or for Producer on a Coal Conveyor or elsewhere on Generator's equipment, which shall be deemed to be the property of Generator when installed and shall remain at the Facility Site following such

expiration or termination) and Inventory from the Facility Site, shall cause a disconnection of utility services to the Facility, and shall repair any damage to the Facility Site caused by the Facility or its removal, in each case at no cost to Generator, within 90 days of any such termination. Such removal shall be performed by Producer without causing any damage to the Facility Site and Generator's property sited thereon. In the event Producer fails to remove the Facility and Inventory as contemplated above within such 90-day period, Generator shall have the right to have the Facility removed from the Facility Site, to repair any damage to the Facility Site caused by the Facility or its removal, to store the Facility, and to charge the costs of such removal, repair and/or storage to Producer (which Producer agrees to promptly pay upon being invoiced for such costs). The provisions of this Section 3.4 will survive any expiration or termination of this Agreement and will continue to be binding on the Parties until satisfied or discharged in full. Producer agrees that Generator shall have no obligation or liability whatsoever to Producer or any of its successors or assigns for or with respect to any losses or damages to the Facility (or any portion(s) thereof) occurring during the removal from the Facility Site or storage of the Facility as contemplated above, unless and to the extent such losses or damages resulted from the gross negligence or willful misconduct of Generator or its employees, agents or contractors.

**3.5** Under no circumstances shall Producer be or become a tenant or lessee of the Facility Site absent a separate written agreement to such effect executed by Generator and Producer.

**3.6** Producer and Generator shall coordinate the operation and movement of mobile equipment and the movement of Producer's personnel with the operations of Generator in the coal yard of the Plant.

**3.7** Producer shall not at any time cause or permit any mechanics' liens, materialmen's liens or other liens, security interests or encumbrances of any nature to be placed on or against any assets or properties of Generator arising out of any actions or omissions of Producer or its employees, agents or contractors (other than Generator), whether arising out of Producer's installation, operation, maintenance or repair of the Facility or otherwise, and whether in favor of any vendors of Producer or otherwise.

#### **ARTICLE IV**

##### **Operation and Maintenance of the Facility**

**4.1** Generator shall promptly notify Producer when Generator has received (a) all permits, permit modifications, and other regulatory approvals and notices, including such consents, waivers, approvals and notices from the Kentucky Public Service Commission or such other federal, state or local governmental authorities or regulatory bodies, and including appropriate accounting or ratemaking treatment relating to or in respect of this Agreement or the activities relating to the Facility or the Facility Site contemplated herein, in each case as Generator shall deem to be necessary, advisable or required in its sole discretion for the installation and use of the Facility and/or the Facility Site as contemplated in this Agreement (collectively, the "Generator Approvals"), and (b) any required Coal Vendor Consents (as defined in Section 10.1). At the earliest practicable time following: (i) the receipt of all Generator Approvals, Coal Vendor Consents and Producer Permits (as defined in Section 5.1) but not before; and (ii) the procurement of all required utilities and services under Section 4.2; Producer shall install the Facility on the

Facility Site. Producer shall install, operate, repair and maintain the Facility on the Facility Site throughout the Term at the sole cost of Producer.

**4.2** During the Term, Generator shall provide utilities and services (including only water, sewer, electric and trash removal), lighting (other than lighting equipment within the Facility) and security for the Facility, the Facility Site, and the coal yard of the Plant in the same manner as such utilities, services, lighting, security and other services are currently provided for the Plant, provided that Producer shall pay any cost for the initial installation/connection of such utilities and services to the Facility and Facility Site, and provided that Generator does not guarantee that there will not be disruptions in such utility and other services from time-to-time for one or more reasons that are not within the reasonable control of Generator, and Generator will have no liability to Producer on account of such disruptions. If desired by Generator, electricity service to the Facility shall be separately metered and shall be billed to Producer at the prevailing retail rate(s) applicable to such service from Generator.

**4.3** During the Term, Producer shall install, operate and maintain the Facility in accordance with all applicable laws, rules and regulations and with the operational requirements of Producer and Generator, at the sole cost of Producer. In furtherance of the foregoing, the following shall apply throughout the Term:

(a) Producer shall provide sufficient personnel to operate and maintain the Facility, but shall only use employees and contractors that possess the requisite skills and licenses for the tasks to be performed and/or the materials to be supplied by them.

(b) Producer shall ensure that its employees comply with all applicable security and safety rules of Generator as advised in writing by Generator and shall require all of its contractors to comply with all applicable security and safety rules of Generator as advised in writing by Generator. Producer shall remove any of its employees or contractors (or employees of contractors or subcontractors) from the Plant as Generator may request in writing.

(c) Producer shall require all of its employees and contractors to comply with all applicable laws, rules and regulations with respect to their performance of work and/or providing of materials, including, without limitation, all applicable federal and state workers' safety laws, building codes, and worker's compensation insurance requirement laws.

(d) Subject to such reasonable rules and restrictions as Generator may prescribe, Producer and its contractors shall have access to the Facility Site and may work 24 hours per day, 7 days per week at the Facility Site insofar as such access and work do not unreasonably interfere with Plant operations.

(e) At the request of Producer, Generator shall use commercially reasonable efforts to make available necessary personnel at the Facility Site to coordinate the integration of the Facility with the Plant, specifically including the Coal Conveyors and attachment of parts of the Facility to existing structures and machinery at the Plant. Such attachment of parts to existing structures and machinery of the Plant shall be made in such manner, at such locations and involving such components of the Plant as shall be approved in writing by Generator in its reasonable discretion.



(f) At the request of Producer, Generator shall use its commercially reasonable efforts to assist Producer to coordinate the operation of the Plant with the introduction of Refined Coal as the fuel for the Plant during the Term. Generator shall its use commercially reasonable efforts to assist Producer in monitoring Plant combustion characteristics and emissions (i) before the introduction of Refined Coal as a fuel, and (ii) immediately after the introduction of Refined Coal as a fuel and stabilization of Plant operations.

(g) Producer will be solely responsible for, and agrees to duly and timely discharge, any liability for withholding from its employees' or contractors' compensation that may be required by applicable law, for making any associated filings required by any regulatory bodies, and for complying with any applicable federal, state or local laws or regulations associated with wages and hours or workplace safety in its installation, use or operation of the Facility or its other activities on the Facility Site permitted by this Agreement. The provisions of this Subparagraph (g) will survive the expiration or termination of this Agreement and continue to be binding upon Producer until satisfied or discharged in full.

(h) Producer will be solely responsible, at its expense, for promptly disposing Hazardous Substances, if any, generated by the operation of the Facility, or associated with Third Party Coal not purchased by Generator from Producer, in each case in accordance with all applicable laws, rules and regulations.

#### 4.4 Insurance.

(a) At all times during the Term, Producer shall maintain or cause to be maintained the insurance coverage set forth on Exhibit C. Producer shall cause Generator to be named as an additional insured on all general and umbrella/excess liability insurance required to be carried by Producer and the beneficiary of waivers of subrogation on property insurance carried by Producer, each in form reasonably satisfactory to Generator as its interests may appear. Producer shall be responsible for the deductibles (inclusive of legal defense expenses) and self-insured retentions on all covered incidents or occurrences under all insurance policies required to be carried by Producer pursuant to this Agreement. Within two (2) business days following the Effective Date, Producer will cause insurance certificates, issued by its insurance carriers relative to the coverages described on Exhibit C, to be delivered to Generator, showing Generator's "additional insured" status as contemplated above and providing for Generator to be given at least 30 days' prior written notice from the relevant insurance carriers of any cancellation of any of those coverages. Producer agrees to promptly notify Generator in writing of any modifications to any of the coverages described above during the term of this Agreement. Not less than five business days after the expiration of any insurance coverage required to be carried by Producer pursuant to this Agreement, Producer shall provide Generator with a certificate of insurance evidencing that such expiring insurance has been renewed or suitably replaced, as applicable. Producer's liability to Generator under this Agreement is not limited to the types or amounts of insurance coverages required to be maintained by Producer under this Agreement.

(b) At all times during the Term, Generator shall maintain or cause to be maintained the insurance coverage set forth on Exhibit D. Generator shall cause Producer to be named as an additional insured on all general and umbrella/excess liability insurance required to be carried by Generator and the beneficiary of waivers of subrogation on all property insurance

carried by Generator, in each case in form reasonably satisfactory to Producer as its interests may appear. Generator shall be responsible for the deductibles (inclusive of legal defense expenses) and self-insured retentions on all covered incidents or occurrences under all insurance policies required to be carried by Generator pursuant to this Agreement. Within two (2) business days following the Effective Date, Generator will cause insurance certificates, issued by its insurance carriers relative to the coverages described on Exhibit D, to be delivered to Producer, showing Producer's "additional insured" status as contemplated above and providing for Producer to be given at least 30 days' prior written notice from the relevant insurance carriers of any cancellation of any of those coverages. Generator agrees to promptly notify Producer in writing of any modifications to any of the coverages described above during the term of this Agreement. Not less than five business days after the expiration of any insurance coverage required to be carried by Generator pursuant to this Agreement, Generator shall provide Producer with a certificate of insurance evidencing that such expiring insurance has been renewed or suitably replaced, as applicable. Generator's liability to Producer under this Agreement is not limited to the types or amounts of insurance coverages required to be maintained by Generator under this Agreement.

## **ARTICLE V**

### **Permits**

**5.1** As is appropriate and reasonably required, Producer, in consultation with and with the assistance of Generator when necessary or desirable, shall promptly apply for and maintain throughout the Term any governmental or regulatory permits or amendments to existing governmental or regulatory permits, including (without limitation) emission permits, drainage permits, and building permits (collectively, "Producer Permits"), in respect of the installation of the Facility and the ownership and operation of the Facility by Producer (including, without limitation, the operation of equipment, generators, and mobile equipment ancillary to the operation of the Facility and in respect of the supply, storage, and use of the Inventory), and the removal of the Facility from the Facility Site (when applicable). All applications and related out-of-pocket permitting costs incurred under this ARTICLE V shall be borne by Producer. Generator reserves the right at any time, in its discretion, to suspend any or all work by Producer, its employees and contractors on the Facility Site (including the operation of the Facility) if Generator deems such suspension to be required in order for the Facility, Producer or Generator to comply with any applicable law, rule, regulation or order of any governmental authority or regulatory body, including without limitation, with any Generator Approvals or Producer Permits.

**5.2** Once the Facility is installed and erected, Producer, as its sole risk and cost, shall calibrate the operation of the Facility and coordinate the production of Refined Coal with the operation of the Plant, including, without limitation, the Coal Conveyors, Scales, crushers and boilers, and Generator shall use its commercially reasonable efforts to assist with the same; provided, that Generator shall have no obligation to alter the types or quantities of Coal that it acquires for use in the Plant (such Coal selections and quantities to be determined in the sole discretion of Generator, so long as the Coal meets the specifications set forth in Exhibit A, nor shall Generator be obligated to materially alter the operations of the Plant (including its fuel handling facilities or equipment) or the time(s) or method(s) for such operations in order to provide the assistance described above. If any Coal does not meet the specifications set forth in Exhibit A, the Producer shall be entitled to reject all or such portion of such Coal without payment therefor.

**5.3** Producer reserves the right at any time, in its discretion, to suspend any or all work, on the Facility Site (including the operation of the Facility) if Producer deems such suspension to be required in order for the Facility, Producer or Generator to comply with any applicable law, rule, regulation or order of any governmental authority or regulatory body, including without limitation, with any Generator Approvals or Producer Permits.

## **ARTICLE VI Sale and Delivery of Coal**

**6.1** Once the Facility is installed and erected, during the Term:

(a) Generator shall sell and deliver to Producer and Producer shall purchase, pay for (subject to the provisions of Section 5.2), and take delivery of Coal FOB the Coal Conveyors or at such other delivery point as the Parties may mutually agree (each a “Coal Delivery Point”) in such quantities as needed to produce (using such Coal as feedstock) those quantities of Refined Coal (and Untreated Coal (as defined below)) at the Facility as needed to meet the solid fuel requirements of the Plant; provided, that Generator reserves the right in its sole discretion upon written notice to Producer, to curtail or reduce the quantities of Coal so sold to Producer if: (a) (i) Producer shall fail for any reason (other than a refusal of Generator) to either produce Refined Coal from all Coal previously acquired from Generator and sell that Refined Coal to Generator, or resell that Coal to Generator as “Untreated Coal” (as defined in Section 8.1), in either case in accordance with Article VIII of this Agreement, or (ii) Generator exercises its right to suspend the production of Refined Coal pursuant to Section 9.1 below; or (b) Producer exercises its right to suspend the production of Refined Coal pursuant to Section 9.1; but in either case only to the extent of the affected Refined Coal. Upon Producer purchasing the Coal FOB at the Coal Delivery Point, title, physical possession and all risk of loss in respect of the Coal shall pass from Generator to Producer free and clear of all liens, mortgages, security interests, and other encumbrances except those arising by operation of law. Except with respect to meeting the specifications set forth on Exhibit A, any Coal sold by Generator and purchased by Producer pursuant to this Agreement shall be conveyed and assigned on an “AS IS” basis with all faults, it being understood and agreed that GUARANTOR MAKES NO OTHER WARRANTIES, WHETHER EXPRESSED OR IMPLIED, WITH RESPECT TO THE COAL, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Producer has satisfied itself that the Coal types that Generator may elect, in its sole discretion, to use in the Plant will be adequate for Producer’s production of Refined Coal suitable for use in the Plant, so long as that Coal meets the specifications set forth on Exhibit A.

(b) In connection with and in furtherance of the transactions contemplated by this Agreement, if mutually agreed to by the Parties, on or after the date such installation is complete or from time-to-time thereafter, subject to the terms and conditions of this Agreement and other terms as may be agreed to by the Parties, one Party may sell and deliver to the other Party, and such other Party may purchase and take delivery of, mutually agreeable quantities of coal located in the Coal Yard (collectively “Inventory Coal Transactions” and, when owned by Producer, “Producer Coal Inventory”). As the time of delivery and holding of such Inventory Coal Transactions or Producer Coal Inventory, such quantities may be, and may remain, commingled with Generator’s inventory of Coal in the Coal Yard. The Parties may adopt mutually

agreeable procedures for maintaining, measuring or adjusting such comingled inventories from time-to-time. The Inventory Coal Transactions and Producer Coal Inventory purchased, sold, or maintained pursuant to this Section 6.1(b) shall comply with the specifications set forth on Exhibit A. If any of the Inventory Coal Transactions or Producer Coal Inventory does not meet these specifications, Producer shall be entitled to reject the same without payment therefor, where applicable.

**6.2** The purchase price for the Coal sold to Producer by Generator ("Purchase Price") shall be equal to the weighted average cost per Ton incurred by Generator with respect to that Coal, inclusive of transportation and any other costs incurred in the ordinary course of business by Generator, as such amount is determined by Generator using the method of inventory costing for Coal regularly used by Generator in keeping its financial books, as the same may be adjusted from time-to-time upon notice to Producer. The Scales shall be used to determine the quantity of Coal sold and delivered to Producer by Generator.

**6.3** At all times during the Term and for a period of one (1) year thereafter, the Parties shall maintain accurate records regarding the quantity of Coal purchased by Producer and sold and delivered by Generator at the Coal Delivery Point, and shall each provide the other Party (upon its written request) reasonable access to such records during normal business hours, including the right to make copies of such records at its expense, for the sole purpose of verifying the quantities of Coal purchased by Producer during the Term. The preceding sentence will survive the expiration or termination of this agreement and continue to be binding on the Parties for the period contemplated therein. In the event the Scales are inoperative or otherwise unable to determine accurately the quantity of Coal sold and delivered during all or part of any calendar month, the Parties shall proceed in good faith to agree upon the quantity of Coal sold and delivered during such period of inoperability. In the event the Parties are unable to agree on such quantity sold and delivered within 30 days following the end of any calendar month, then either Party shall be entitled to resort to such means as may be available under applicable law to resolve that dispute.

**6.4** Generator shall invoice Producer on or before the 15th business day of each calendar month during the Term for all Coal sold and delivered to Producer during the previous calendar month of the Term and payment on the invoice shall be due on the 25th of that month. Unless the Parties have agreed on a procedure for net payment of amounts due between the Parties under this Agreement, payments by Producer hereunder shall be made by electronic transfer of immediately available funds to the bank account designated by Generator from time to time. Each Party shall be entitled to set-off any amounts that may at any time be owed by it to the other Party under this Agreement against any amounts that such other Party may owe to it under this Agreement.

**6.5** Producer hereby grants to Generator a first priority lien and security interest in all Coal purchased by Producer from Generator pursuant to this ARTICLE VI, effective immediately upon the delivery of such Coal by Generator to Producer as contemplated herein, as security for Producer's performance of its obligation to sell and deliver (a) Refined Coal produced from such Coal or (b) Untreated Coal to Generator pursuant to ARTICLE VIII below at the times, for the Sale Price and upon the other terms and conditions set forth in this Agreement. Generator shall be entitled at any time, in its discretion, to file one or more financing statements or other instruments in such jurisdictions, and to take such other actions, as Generator shall deem to be necessary or

appropriate in order to perfect the lien and security interest provided for herein. Generator shall promptly provide Producer copies of any such filings.

**6.6** Unless Generator fails, or gives notice to Producer that it shall fail, to purchase and take delivery of the quantity of Refined Coal contemplated in Section 8.1 in accordance with that Section, Producer will not at any time sell or deliver to any customer other than Generator (or Generator's affiliate as directed by it) any Refined Coal to the extent produced from Coal sold by Generator to Producer under this Agreement. Where Generator shall fail to purchase and take delivery of any quantity of Refined Coal as contemplated above, Producer will be entitled to sell and deliver only that particular Refined Coal to another customer, and not any other Refined Coal to which Generator may be entitled under Section 8.1.

## **ARTICLE VII Coal Yard Services**

**7.1** Producer hereby engages Generator, as an independent contractor, for the Term, and Generator hereby accepts such engagement, to provide certain services for and on behalf of Producer in respect of the Coal purchased by Producer from Generator or from a third party in accordance with Section 7.3 hereunder, including (a) managing and transporting Coal (including Third Party Coal (as defined below)), after its delivery to the Plant's fuel off-loading facilities, to the Coal Conveyors; handling and transporting Coal in the coal yard at the Plant to the Facility; and transporting Refined Coal from the Facility to the Refined Coal Delivery Point (as defined below), (b) providing, operating, maintaining, repairing, and replacing all machinery, mobile equipment, equipment and facilities (other than the Facility) necessary to perform the Coal Yard Services, including any facilities necessary for the off-loading, weighing and transportation of Coal, and (c) providing all personnel necessary to properly and efficiently perform the foregoing services (all of the foregoing, collectively, the "Coal Yard Services").

**7.2** In exchange for Generator's provision of the Coal Yard Services, throughout the Term Producer shall pay Generator, for each calendar month during the Term, a fee (the "Coal Yard Services Fee") equal to \$0.35 multiplied by the total number of Tons of Refined Coal produced by the Producer from the Facility and sold and delivered to Generator or any third party pursuant to Article VIII (subject to the provisions of Article VIII), whether produced from Coal supplied by Generator or from Third Party Coal.

The quantity of Refined Coal so produced, sold and delivered to Generator shall be determined by the Scales on the Coal Conveyors. The quantity of Refined Coal so produced, sold and delivered to third parties (subject to the provisions of Section 8.4) shall be determined by the invoices, bills of lading, or similar documents delivered to such third parties. Such Coal Yard Services Fee is inclusive of all costs incurred by Generator in providing the Coal Yard Services. Within 15 days following the end of each calendar month, Producer shall submit to Generator a calculation of the total number of Tons of Refined Coal produced, sold and delivered to Generator during the preceding calendar month (which Tons of Refined Coal resulting from that calculation shall in all cases be consistent with the calculation of Refined Coal produced by the Facility and sold and delivered to Generator during the same period as reported by Producer, directly or indirectly, to the Internal Revenue Service). Thereafter, Generator shall submit an invoice to Producer for the Coal Yard Services Fee based on such amounts. Any undisputed Coal Yard

Services Fee shall be paid by Producer to Generator, in arrears, within 10 days following issuance of such monthly invoice by Generator. Any disputed Coal Yard Services Fee shall be paid by Producer within 10 days following the final resolution of the relevant dispute. Either party shall be entitled to resort to such means as may be available under applicable law to resolve that dispute.

**7.3** In the event Producer desires at any time to make purchases of Coal from one or more third parties ("Third Party Coal") for the production of Refined Coal from such Coal using the Facility, Producer shall first notify Generator in writing of that desire, including a statement of the total number of Tons of Third Party Coal proposed to be so purchased by Producer and the date(s) of the proposed delivery or deliveries of that Coal to the coal yard of the Plant. Upon receiving that notice Generator shall, within 10 business days thereafter, notify Producer in writing of whether or not Generator approves of such purchase(s) and delivery or deliveries of that Third Party Coal to the coal yard; which approval will not be unreasonably withheld, conditioned or delayed by Generator (but which approval shall not be deemed a consent from Generator to purchase Refined Coal produced from that Third Party Coal as contemplated in Section 8.1). If that approval is granted by Generator as contemplated above, Producer may thereafter purchase those quantities of Third Party Coal for delivery to the Plant coal yard and:

(a) produce Refined Coal from that Third-Party Coal for sale and delivery to Generator pursuant to ARTICLE VIII below if consented to by Generator as contemplated in Section 8.1; and

(b) produce Refined Coal from that Third-Party Coal and sell and deliver that Refined Coal to customers other than Generator pursuant to Section 8.4 (provided, that such sales of Refined Coal by Producer to customers other than Generator shall be made only after the needs from time-to-time for such Refined Coal by the Plant (as reasonably determined by Generator) have been satisfied).

By way of example but not of limitation, Generator may withhold its approval of Producer's delivery and use of Third Party Coal in the Facility to the extent that use would, in Generator's good faith judgment, violate any Generator Approval or any Generator Coal Contract (as defined below) or require any Coal Vendor Consent. All permitted Third Party Coal purchases pursuant to this Section 7.3 (i) shall be delivered to the coal yard at the Plant (or another physical location in or near the Plant agreed to by the Parties), and (ii) must be purchased and transported by Producer (A) without material interruption or disruption of the transportation, handling, storage, unloading or movement of Coal in the coal yard of the Plant or procured elsewhere by Generator, and (B) in conjunction with, and in light of any restrictions and conditions of, any Generator coal purchase or coal transportation agreements ("Generator Coal Contracts") or any labor agreements to which the Generator is a party, as reasonably determined by the Generator in good faith. Generator makes no representations or warranties that Generator's fuel handling equipment or facilities located at the Plant are or will be suitable or sufficient for the handling or movement of Third Party Coal purchased by Producer, or for the handling or movement of any Refined Coal for sale to third parties as contemplated in Section 8.4, each as may be contemplated by Producer. Generator shall have no obligation to modify or enhance its fuel handling equipment or capabilities or its coal yard in order to accommodate such purchases or sales by Producer. Any Third Party Coal purchased by Producer for sale to Generator and use in the Plant (with Generator's approval as contemplated elsewhere in this Agreement) shall meet the specifications established by the Plant for use as fuel

as set forth on Exhibit A. Generator shall be provided promptly with copies of all invoices, bills of lading, or similar documents from third parties in respect of the quantity and purchase price for Third Party Coal sold by the third party to Producer. Producer shall at all times have ownership, physical possession and control of, and shall bear all risk of loss with respect to, any Third Party Coal located at the Plant, unless (and then only once) that Third Party Coal is sold and delivered to Generator as contemplated elsewhere in this Agreement.

## **ARTICLE VIII**

### **Purchase and Delivery of Refined Coal**

**8.1** Once the Facility is installed and erected, during the Term, Producer shall sell and deliver to Generator and Generator shall purchase, pay for, and accept delivery of all Refined Coal produced at the Facility and delivered by Producer FOB the Refined Coal Delivery Point; provided, that Generator shall have the right, but not the obligation, to limit its purchases of such Refined Coal to the quantities of such Refined Coal required for the operations of the Plant during the relevant delivery period. Notwithstanding the preceding sentence, Generator will not be obligated to purchase or accept delivery from Producer of any Refined Coal produced from Third Party Coal, and Producer shall not attempt to sell or deliver such Refined Coal to Generator without first identifying that Refined Coal for Generator in writing and obtaining prior written consent from Generator to that purchase and sale in Generator's sole discretion. To the extent that Producer for any reason is unable to produce Refined Coal at the Facility for a particular period in quantities sufficient to meet the operating needs of the Plant during that period, Producer shall sell and deliver to Generator during that period, and Generator shall purchase, pay for, and accept delivery of, untreated coal meeting the specifications of Exhibit A ("Untreated Coal") in quantities equal to the lesser of the remaining needs of the Plant for its operations during that period (after the consumption of the Refined Coal delivered by Producer during that period), or the remaining quantities of Coal that Generator sold to Producer for that period but that Producer could not process into Refined Coal as contemplated above, FOB the Refined Coal Delivery Point; provided, that if such Untreated Coal constitutes Third Party Coal, Generator shall not be obligated to so purchase or accept it (but shall have the option to do so) unless it was previously consented to by Generator as contemplated above. Upon Generator purchasing Refined Coal or Untreated Coal at the Refined Coal Delivery Point, title, physical possession and all risk of loss in respect of such Refined Coal and Untreated Coal shall pass from Producer to Generator free and clear of all liens, mortgages, security interests, and other encumbrances except those arising by operation of law, which Producer shall timely have released, if asserted against the Coal (whether Refined Coal or Untreated Coal). The "Refined Coal Delivery Point" shall mean the point on the Coal Conveyors located immediately after the Facility.

**8.2** Generator agrees that any and all Refined Coal sold and delivered to Generator under this Agreement shall be used to produce steam for generating electricity at the Plant and not used for resale.

**8.3** The sale price (the "Sale Price") for Refined Coal and Untreated Coal sold and delivered to Generator by Producer pursuant to this Agreement shall be equal to the Purchase Price of the Coal paid by Producer hereunder (or, in the case of Refined Coal or Untreated Coal that is Third Party Coal, a purchase price to be negotiated between the Parties at the time of that proposed sale to Generator), without any mark-up for Producer's processing or treatment of such Coal.

Producer shall invoice Generator on the 18th day of each calendar month during the Term for Refined Coal and Untreated Coal sold and delivered to Generator during the previous month of the Term, and payment on the invoice shall be due on the 25th of that month. Unless the Parties have agreed on a procedure for net payment of amounts due between the Parties under this Agreement, payments by Generator shall be made by electronic transfer of immediately available funds to the bank account designated by Producer from time to time.

**8.4** Subject to Generator's purchase option provided for below, if for any given calendar month (a) Generator fails, or gives notice to Producer that it shall fail, to purchase and take delivery of the quantity of Refined Coal contemplated in Section 8.1 above, or (b) Producer produces from Third Party Coal any Refined Coal using the Facility from time to time over and above the needs of the Plant, then subject to the notice requirement and purchase option of Generator set forth below, Producer, acting in a commercially reasonable manner, may sell such Refined Coal (in the case of Refined Coal described in clause (a) above, limited to the quantity that Generator fails to purchase and take delivery of) to a person or entity other than Generator; provided that (i) such sale shall not unreasonably interfere with Generator's operation of the Plant or use of its fuel handling facilities, (ii) such sale shall not interfere with or breach any of the Generator Coal Contracts or any labor agreements to which Generator is a party, and (iii) such sale shall not require Generator to modify or enhance its fuel handling equipment or capabilities, each as reasonably determined by Generator in good faith. In furtherance of the foregoing, the Producer shall provide Generator 10 days' written notice of its intention to make a sale of some or all of such excess or additional Refined Coal to a person or entity other than Generator, which notice shall include the quantity and price of such excess or additional Refined Coal to be sold (such notice, a "Third Party Sales Notice"), and Generator shall have the option to purchase and take from the Producer at the Sale Price all or any portion of such excess or additional Refined Coal covered by the Third Party Sales Notice. Generator shall exercise such option by notifying the Producer in writing of Generator's agreement to purchase and take such amount of Refined Coal covered by the Third Party Sales Notice within five days after its receipt of the Third Party Sales Notice (the "TP Sales Option Exercise Period"). After the last day of the TP Sales Option Exercise Period (but subject to the proviso set forth in the first sentence of this Section 8.4), Producer may sell only to the third party specified in the Third Party Sales Notice the quantity of the excess or additional Refined Coal covered by the Third Party Sales Notice to which Generator failed to exercise such option; provided, that if that sale is not consummated by Producer within 60 days following the expiration of the TP Sales Option Exercise Period, Producer may not thereafter consummate that sale without once again offering that Refined Coal to Generator in accordance with this Section 8.4. Any purchase option exercised by Generator prior to the expiration or termination of this Agreement shall survive that expiration or termination, and Generator's corresponding right to purchase will thereafter be honored by Producer.

## **ARTICLE IX**

### **Suspension; Termination.**

**9.1** During the Term of this Agreement, Generator shall have the right to suspend the production of Refined Coal or suspend its purchase and usage of Refined Coal upon notice to Producer and without any obligation to Producer: (a) to the extent necessary to (i) prevent long or short term damage to the boilers, pollution control equipment, or other operating components of the Plant (other than normal wear and tear that would be caused by the use of unrefined or



untreated coal meeting the specifications set forth on Exhibit A as fuel in the Plant), (ii) prevent long or short term material impairment to or a material adverse effect on the boilers, pollution control equipment, or other operating components of the Plant, or (iii) prevent the violation of any law, permit, regulation, or governmental approval applicable to the Plant; or (b) to the extent reasonably required in order for Generator to inspect, repair, replace, test or analyze any components of the Plant (including any Coal Conveyor) or to test or analyze the fuel or fuel mix used by the Plant; or (c) to the extent reasonably required in order to respond to, end or prevent any event or circumstance creating a threat to the safety of any person(s); or (d) during any scheduled outage of the Plant upon not less than 10 days' prior written notice thereof from Generator to Producer, and during any forced or unscheduled outage of the plant upon written notice thereof from Generator to Producer; in the case of each of the foregoing, as determined by Generator in good faith. During the Term of this Agreement, Producer shall have the right to suspend the production of Refined Coal at the Facility for safety, operational or other reasons.

**9.2** Generator or Producer may terminate this Agreement at any time and for any reason by providing the other Party with written notice including the effective date of termination, which date shall not be earlier than the second business day following the receipt of such notice by the non-terminating Party. Generator or Producer may terminate this Agreement under this Section 9.2 without incurring any liability for doing so; provided, that no such expiration or termination shall relieve either Party from (a) its obligation to the other Party for any payment obligations (including without limitation any obligation to indemnify or hold harmless) that may have accrued prior to such termination, or (b) the consequences of its breach of any representation, warranty or covenant set forth in this Agreement prior to such termination, each of which shall survive such expiration or termination.

**9.3** Upon the expiration or termination of this Agreement:

(a) the relevant provisions of Section 3.4 shall apply with respect to the removal of the Facility from the Facility Site;

(b) Producer shall promptly thereafter sell to Generator and Generator shall purchase good and marketable title (free and clear of all liens, security interests and encumbrances except those arising by operation of law or by, through or under Generator) to any and all Refined Coal and Untreated Coal (in each case made from or representing Coal purchased by Producer from Generator) that is then in Producer's possession in the Plant coal yard, at the relevant Sale Price;

(c) Generator shall have a right and option to purchase from Producer and, upon Generator's exercise of that option upon written notice delivered to Producer within 20 days following the expiration or termination of this Agreement, Producer shall sell to Generator, good and marketable title to all or any portion (as designated by Generator) of the Refined Coal and Untreated Coal (in each case made from or representing Third Party Coal) that is then in Producer's possession in the Plant coal yard, at the relevant Sale Price; and

(d) Generator and Producer shall provide each other with final invoices for amounts due and owing under ARTICLE III, ARTICLE VI, ARTICLE VII, and ARTICLE VIII hereof within 30 days of the date of expiration or termination, upon which Producer or Generator

(as applicable) shall remit payment of all undisputed amounts so invoiced within 20 days following the delivery of the relevant invoice.

Any amounts that are disputed by the Party so invoiced shall be payable, if at all, within 10 business days following the resolution of the relevant dispute. The provisions of this Section 9.3 will survive the expiration or termination of this Agreement until performed or discharged in full. Either party shall be entitled to such means as may be available under applicable law to resolve that dispute.

## **ARTICLE X**

### **Additional Covenants; Representations and Warranties**

**10.1** Notwithstanding anything to the contrary set forth in this Agreement, Generator shall not at any time have any obligation to sell Coal to Producer under this Agreement, or to purchase Refined Coal or Untreated Coal from Producer under this Agreement, and Purchaser shall not have any obligation to purchase Coal from Generator under this Agreement, or to sell Refined Coal to Generator under this Agreement, in any case unless and until Generator shall have obtained from any relevant Coal vendors any consents or approvals regarding such sales or purchases that may be required, in Generator's good faith judgment, under the Generator Coal Contract(s) with those vendors (each a "Coal Vendor Consent"). Generator agrees to use commercially reasonable efforts to obtain any required Coal Vendor Consent to the extent not secured prior to the Effective Date.

**10.2** Throughout the Term and for a period of two (2) years following the expiration or termination of this Agreement for any reason, Producer agrees to maintain in the strictest of confidence and secrecy, and not to use for any purpose other than the exercise of its rights and the discharge of its obligations under this Agreement, all data, records and other information of Generator or associated with the Plant or the operation thereof, in any form or medium, that may have been or may hereafter be disclosed by Generator or its employees or agents to Producer or its employees, agents or contractors, in each case unless such data, records or other information becomes in the public domain through no fault of Producer. Producer shall cause its employees and agents to abide by the covenants set forth in this Section 10.2. Notwithstanding the foregoing, Producer shall be entitled to disclose such data, records or other information of Generator to Producer's employees, agents and contractors who have a need to know the same for Producer's exercise of its rights and discharge of its obligations under this Agreement, to potential "Permitted Transferees" (as defined in Section 14.14), and to potential equity investors who may succeed to Producer's rights and interests in the Facility and may enter into one or more agreements with Generator to license the Facility Site and operate the Facility on that site, in each case so long as such person(s) or entities are then bound to a comparable agreement of confidentiality in favor of Producer. Each Party recognizes that Generator may not have an adequate remedy at law and may be irreparably harmed in the event of a breach of this Section 10.2. Accordingly, Generator shall be entitled to injunctive relief and specific performance with respect to any breach by Producer of this Section 10.2, in addition to any other remedy to which it may be entitled as contemplated in this Agreement. The provisions of this Section 10.2 will survive the expiration or termination of this Agreement until satisfied or discharged in full.

**10.3** Producer agrees to maintain throughout the Term of this Agreement, and for a period of one (1) year thereafter (collectively, the "Retention Period"), all records evidencing or documenting Producer's production and/or sale of Refined Coal at the Facility, and further agrees to give Generator and its representatives reasonable access to such records at Producer's address set forth below throughout the Retention Period (upon at least 5 days' prior written notice from Generator and during normal business hours), including the right to make copies, upon Generator's written request for the purpose of verifying the amounts that may be payable by Producer under Section 3.3 (Site License Fees) or Section 7.2 (Coal Yard Services Fees). The provisions of this Section 10.3 will survive the expiration or termination of this Agreement until satisfied or discharged in full. Producer also agrees to provide Generator with such information then in Producer's possession as may be requested by Generator in writing and as may be reasonably required, in Generator's good faith judgment, to be provided to the Kentucky Public Service Commission in connection with the Generator Approvals or any applications, renewals or appeals with respect to the same.

**10.4** Generator hereby represents and warrants to Producer as follows:

(a) Generator is duly organized, validly existing and in good standing under the Laws of the jurisdiction of its formation and is qualified to conduct its business and to perform its obligations under this Agreement in those jurisdictions necessary to conduct its business and to perform this Agreement;

(b) Subject to the receipt of all Generator Approvals and any required Coal Vendor Consents as contemplated in Section 10.1, the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms or conditions in its organizational documents or any contract to which it is a party or by which any of its properties is bound or any law other than violations or conflicts that would not be reasonably expected to have a material adverse effect on the ability of Generator to perform its obligations under this Agreement; and

(c) Subject to the receipt of all Generator Approvals, this Agreement constitutes the legal, valid and binding obligation of Generator enforceable against it in accordance with its terms. Notwithstanding the foregoing, no representation is made as to the availability of equitable remedies for the enforcement of this Agreement or any other agreement contemplated hereby. Additionally, this representation is limited by applicable bankruptcy, insolvency, moratorium, and other similar laws affecting generally the rights and remedies of creditors and secured parties.

**10.5** Producer hereby represents and warrants to Generator as follows:

(a) Producer is duly organized, validly existing and in good standing under the Laws of the jurisdiction of its formation and is qualified to conduct its business and to perform its obligations under this Agreement in those jurisdictions necessary to conduct its business and to perform this Agreement;

(b) Subject to the receipt of all Producer Permits, the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary

action and do not violate any of the terms or conditions in its organizational documents or any contract to which it is a party or by which any of its properties is bound or any law other than violations or conflicts that would not be reasonably expected to have a material adverse effect on the ability of Producer to perform its obligations under this Agreement; and

(c) Subject to the receipt of all Producer Permits, this Agreement constitutes the legal, valid and binding obligation of Producer enforceable against it in accordance with its terms. Notwithstanding the foregoing, no representation is made as to the availability of equitable remedies for the enforcement of this Agreement or any other agreement contemplated hereby. Additionally, this representation is limited by applicable bankruptcy, insolvency, moratorium, and other similar laws affecting generally the rights and remedies of creditors and secured parties.

**10.6** Notwithstanding any other provision of this Agreement, where a Party is unable to carry out any obligation under the Agreement due to a Force Majeure event (other than a payment obligation, which will not be excused for Force Majeure), the Agreement will remain in effect but such obligation will be suspended for the period necessary as a result of the Force Majeure; provided, that: (i) the Party claiming Force Majeure (the "Affected Party") gives the other Party, as soon as reasonably practicable, written notice describing the particulars of the Force Majeure; (ii) the suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure; and (iii) the Affected Party uses commercially reasonable efforts to remedy its inability to perform. "Force Majeure" means an event that is not within the reasonable control of the Affected Party, and that by the exercise of reasonable diligence, the Affected Party is unable to overcome in a commercially reasonable manner, and such event will not be deemed a breach or default under the Agreement. Force Majeure includes, but is not limited to, acts of God; fire; war; terrorism; flood; earthquake; civil disturbance; sabotage; facility failure; strike; regulatory, administrative, or legislative action, or action or restraint by court order or governmental authority; or any act or omission of a third party not under the control of the Affected Party. Notwithstanding the foregoing, the Parties agree that the settlement of any strike, lockout or other labor disturbance shall be within the sole discretion of the Affected Party.

## **ARTICLE XI**

### **Limitation of Liability and Indemnification**

**11.1** Subject to the limitations set forth in this ARTICLE XI and any other applicable limitations on remedies set forth herein, the Producer shall indemnify, defend and hold harmless the Generator from and against any and all damages, liabilities, claims, actions, suits and proceedings (collectively "Claims") that may be suffered or incurred by the Generator to the extent arising out of or resulting from: (a) the negligence, gross negligence or willful misconduct of Producer or Producer's employees, contractors (other than Generator) or agents in connection with this Agreement or the transactions contemplated hereby, except to the extent such Claims were caused by the negligent or willful acts of the Generator or Generator's employees, contractors (other than Producer) or agents; (b) the presence of Hazardous Substances brought on to the Facility Site by Producer, or the use, generation, storage, discharge or release of any Hazardous Substances by Producer or Producer's employees, contractors or agents (other than Generator) on, under, or about the Facility Site or any adjacent property of Generator; (c) violation of, or non-compliance with, Environmental Laws with respect to or involving the Facility or the Facility Site by Producer or Producer's employees, contractors or agents (other than Generator); (d) any

violation of, or non-compliance with, any applicable law, rule or regulation (other than Environmental Laws) or any permits required to be held by Producer (or permits held by Generator pursuant to which any of Producer's activities are allowed or authorized, copies of which have been provided by Generator to the Producer) with respect to or involving the Facility or Facility Site by Producer or Producer's employees, contractors (other than Generator) or agents; (e) the use, operation, maintenance or repair of the Facility or any other activities or operations conducted on or about the Facility or the Facility Site during the Term by Producer or Producer's employees, contractors (other than Generator) or agents; (f) any representation or warranty of the Producer contained herein which shall have been false or incorrect in any material respect on and as of the date made; (g) any breach of or default under any term, agreement, covenant or obligation of the Producer in this Agreement; (h) any claims, demands, actions, causes of action or proceedings of any nature commenced or asserted by any employee, agent or contractor of Producer (other than Generator), or by any person or entity (other than Generator) from which Producer may buy Third Party Coal or may sell Refined Coal or Untreated Coal, in either case against Generator or its employees, agents or contractors, except to the extent the same were caused by the negligent or willful acts of Generator or Generator's employees, agents or contractors; (i) any damages to the Plant (including without limitation, to any Coal Conveyor) or any portion(s) thereof directly or indirectly resulting from the use of Refined Coal produced by Producer from the Facility using chemicals in its process in addition to or in lieu of the chemicals identified on Exhibit E to this Agreement, unless such additional or different chemicals have been approved in writing by Generator; or (j) any allegation or assertion that the manufacture, sale or use of Refined Coal produced using the Facility, infringes or misappropriates any patent, copyright, trademark, trade secret or other proprietary rights of a third party; provided, however, that the Producer shall have no obligation to indemnify Generator under this Section 11.1(j) to the extent such allegation or assertion is based upon an infringement or misappropriation arising from or caused by: (i) the addition or use by the Generator in connection with fueling and operating the boilers of any material, chemical, or other type of additives that is not: (A) included as an element of the Refined Coal produced using the Facility; (B) in use as of the Effective Date; or (C) present and inherent as the result of the conventional combustion of the Refined Coal in the Plant in use as of the Effective Date (e.g., oxygen or other constituents inherently produced in the combustion process), or (ii) the use of a process step or equipment in conjunction with the operation of the Plant that is unconventional and unique to the operator of the Plant. For the avoidance of doubt, Producer shall have no obligation under this Section 11.1 to indemnify or hold harmless Generator from or against any Claims to the extent such Claims arose out of any actions, events or circumstances for which Generator must indemnify and hold harmless Producer under Section 11.2.

As used herein, the term "Hazardous Substances" shall mean all hazardous or toxic substances, materials, wastes, pollutants and contaminants that are listed, defined or regulated under applicable governmental constitutions, statutes, laws, ordinances, codes, rules, regulations, or court and administrative body orders, decisions, judgments, or decrees, or other legal or regulatory determinations or requirements pertaining to the environment, including, but not limited to, the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C.A. §§ 9601 to 9675), the Hazardous Materials Transportation Authorization Act of 1994 (49 § 5101 *et seq.*), the Resource Conservation and Recovery Act of 1976, the Federal Water Pollution Control Act (33 U.S.C.A. §§ 1251 to 1387), the Clean Air Act (42 U.S.C.A. §§ 7401 to 7671), the Emergency Planning and Community Right To Know Act (42 §§ 11001 to 11050), the Toxic Substances Control Act (15 §§ 2601 to 2692), the Solid Waste Disposal Act (42 U.S.C.A. §§ 6901

to 6992), the Oil Pollution Act (33 U.S.C.A. §§ 2701 to 2761), and the environmental laws of the Commonwealth of Kentucky.

As used herein, the term “Environmental Laws” means all applicable laws and rules of common law pertaining to the protection of the environment, natural resources, workplace health and safety, the prevention of pollution or the remediation of contamination, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. § 9601 *et seq.*), the Emergency Planning and Community Right to Know Act and the Superfund Amendments and Reauthorization Act of 1986, the Solid Waste Disposal Act (42 U.S.C. § 6901 *et seq.*), the Resource Conservation and Recovery Act of 1976, the Hazardous and Solid Waste Amendments Act of 1984, the Clean Air Act (42 U.S.C. § 7401 *et seq.*), the Clean Water Act (33 U.S.C. § 1251 *et seq.*), the Federal Water Pollution Control Act, the Toxic Substances Control Act (15 U.S.C. § 2601 *et seq.*), the Safe Drinking Water Act, the Occupational Safety and Health Act of 1970 (42 U.S.C. § 11001 *et seq.*), the Oil Pollution Act of 1990, the Hazardous Materials Transportation Act (49 U.S.C. § 1801 *et seq.*), the Federal Mine Safety and Health Act of 1977 (30 U.S.C. § 801 *et seq.*), and any similar or analogous statutes, regulations and decisional law of any federal, state or local governmental authority.

**11.2** Subject to the limitations set forth in this ARTICLE XI and any other applicable limitations on remedies set forth herein, Generator shall indemnify and hold harmless Producer from and against any and all Claims that may be suffered or incurred by Producer to the extent arising out of or resulting from, (a) the negligence, gross negligence or willful misconduct of Generator or Generator’s employees, contractors (other than Producer) or agents in connection with this Agreement or the transactions contemplated hereby, except to the extent such Claims were caused by the negligent or willful acts of the Producer or Producer’s employees, contractors (other than Generator) or agents; (b) the presence, use, generation, storage, discharge or release of any Hazardous Substances from the Plant or on, under, or about the Plant, the Facility Site, or the Coal Yard, other than from the operations of Producer or Producer’s employees, contractors (other than Generator) or agents; (c) violation of, or non-compliance with, Environmental Laws with respect to or involving the Plant, the Facility Site, or the Coal Yard, but excluding any such violation or non-compliance caused by the operations of Producer or Producer’s employees, contractors or agents (other than Generator); (d) any violation of, or non-compliance with, any applicable law, rule or regulation (other than Environmental Laws) or any permits with respect to or involving the Plant, the Facility Site, or the Coal Yard, but excluding any such violation or non-compliance caused by Producer or Producer’s employees, contractors (other than Generator) or agents; (e) any activities or operations conducted on or about the Facility Site or the Coal Yard other than by Producer or Producer’s employees, contractors or agents (other than Generator); (f) any representation or warranty of Generator contained herein which shall have been false or incorrect in any material respect on and as of the date made; or (g) any breach of or default under any term, agreement, covenant or obligation of Generator in this Agreement. For the avoidance of doubt, Generator shall have no obligation under this Section 11.2 to indemnify or hold harmless Producer from or against any Claims to the extent such Claims arose out of any actions, events or circumstances for which Producer must indemnify and hold harmless Generator under Section 11.1.

**11.3** NOTWITHSTANDING ANYTHING TO THE CONTRARY PROVIDED HEREIN, NEITHER PARTY, NOR ANY AFFILIATE, CONTRACTOR OR AGENT OF

EITHER PARTY, SHALL BE LIABLE TO ANY PERSON OR ENTITY OR UNDER ANY CIRCUMSTANCES IN ANY FASHION BASED UPON ANY THEORY, (a) FOR ANY FAILURE OF THE PLANT TO BE WITHIN REQUIRED EMISSIONS LEVELS (IN THE CASE OF PRODUCER'S LIABILITY TO GENERATOR, SO LONG AS THE FAILURE IS NOT THE RESULT OF PRODUCER'S USE IN THE PRODUCTION OF REFINED COAL BY THE FACILITY CHEMICALS IN ADDITION TO OR IN LIEU OF THE CHEMICALS IDENTIFIED ON EXHIBIT E THAT HAVE NOT BEEN APPROVED IN WRITING BY GENERATOR), (b) FOR ANY FUEL FAILING TO QUALIFY AS REFINED COAL AND TO QUALIFY FOR SECTION 45 CREDITS, OR (c) FOR LOSS OR REDUCTION OF TAX CREDITS OR BENEFITS, REGARDLESS OF SUCH PARTY'S RIGHT TO INDEMNIFICATION HEREUNDER.

**11.4** NOTWITHSTANDING ANYTHING TO THE CONTRARY PROVIDED HEREIN, IN THE ABSENCE OF ACTUAL FRAUD ON THE PART OF THE RELEVANT PARTY, NEITHER PARTY, NOR ANY AFFILIATE, CONTRACTOR OR AGENT OF EITHER PARTY, SHALL BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, INCLUDING LOST REVENUES, LOST PROFITS, BUSINESS INTERRUPTION DAMAGES, DAMAGES SUFFERED AS THE RESULT OF THE LOSS OF USE OF THE PLANT OR THE FACILITY (AS OPPOSED TO DAMAGES TO THE PLANT OR THE FACILITY THEMSELVES), COST OF PURCHASED OR REPLACEMENT POWER, DAMAGES SUFFERED BY CUSTOMERS OF ANY OTHER PARTY FOR SERVICE INTERRUPTIONS OR LOSS OF GOODWILL, LOSS OF USE OF EQUIPMENT, AND COSTS OF REPLACEMENT POWER OR PRODUCTS, IN EACH CASE WHETHER BY STATUTE, IN TORT OR CONTRACT, IN EQUITY, UNDER ANY INDEMNITY PROVISION OR OTHERWISE; PROVIDED THAT THE FOREGOING LIMITATION SHALL NOT APPLY TO ANY SUCH DAMAGES RECOVERED BY THIRD PARTIES AGAINST A PARTY TO THIS AGREEMENT.

**11.5** IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY OR ITS EMPLOYEES, OFFICERS OR AGENTS, WHETHER SUCH NEGLIGENCE BE JOINT, SOLE, CONCURRENT, COMPARATIVE OR CONTRIBUTORY FAULT OR NEGLIGENCE, FAULT IMPOSED BY LAW, STRICT LIABILITY, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY PARTY, ITS EMPLOYEES, OFFICERS OR AGENTS.

**11.6** NOTWITHSTANDING ANYTHING TO THE CONTRARY PROVIDED HEREIN, NEITHER PARTY'S AGGREGATE LIABILITY (INCLUDING BY WAY OF INDEMNITY) FOR DAMAGES ARISING UNDER THIS AGREEMENT SHALL EXCEED \$10,000,000, REGARDLESS OF THE APPLICABLE LIMITS OF INSURANCE OF SUCH PARTY; PROVIDED, HOWEVER, THAT THE LIMITATIONS IN THIS SECTION 11.6 SHALL NOT (A) APPLY TO DAMAGES RESULTING OR ARISING FROM SUCH PARTY'S FAILURE TO SATISFY ITS REGULAR PAYMENT OBLIGATIONS HEREUNDER, OR (B) LIMIT AN INDEMNIFIED PARTY'S RIGHT TO INDEMNIFICATION UNDER SECTION 11.1(b), SECTION 11.1(c), SECTION 11.2(b) AND SECTION 11.2(c), IF ANY.

**11.7** EXCEPT AS SPECIFICALLY SET FORTH IN SECTION 10.2, THE SOLE AND EXCLUSIVE REMEDIES OF ANY PARTY HERETO (THE "CLAIMING PARTY") WITH RESPECT TO ANY MISREPRESENTATION, BREACH OF WARRANTY OR NON-FULFILLMENT OF ANY COVENANT OR AGREEMENT SET FORTH IN THIS AGREEMENT (EACH A "BREACH") ON THE PART OF THE OTHER PARTY, OR ANY CLAIMS RELATING THERETO, SHALL BE LIMITED TO (A) EXERCISING THE CLAIMING PARTY'S RIGHT TO TERMINATE THIS AGREEMENT PURSUANT TO SECTION 9.2 (PROVIDED, THAT IN THE CIRCUMSTANCES OF A BREACH THE REQUIREMENT UNDER SECTION 9.2 OF TWO BUSINESS DAYS' PRIOR WRITTEN NOTICE OF TERMINATION FROM THE CLAIMING PARTY SHALL BE REPLACED WITH A REQUIREMENT ONLY FOR WRITTEN NOTICE OF THE TERMINATION, WHICH SHALL BE EFFECTIVE UPON RECEIPT OF THAT NOTICE), AND (B) PURSUING THE INDEMNIFICATION AND OTHER RIGHTS AFFORDED THE CLAIMING PARTY PURSUANT TO THIS ARTICLE XI. THE PARTIES HEREBY EXPRESSLY WAIVE ANY RIGHT TO CLAIM OR SEEK ANY OTHER RIGHTS OR REMEDIES THAT OTHERWISE WOULD HAVE BEEN AVAILABLE AT LAW OR IN EQUITY, INCLUDING ANY CLAIMS FOR BREACH OF CONTRACT (OTHER THAN CLAIMS FOR BREACH OF THIS ARTICLE XI OR CLAIMS OF BREACH REQUIRED TO ESTABLISH RIGHTS UNDER THIS ARTICLE XI).

**11.8** The provisions of this ARTICLE XI shall survive the expiration or termination of this Agreement and shall continue to be binding upon the respective Parties until performed or discharged in full.

## **ARTICLE XII**

### **Disclaimer**

EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, NEITHER THE PRODUCER (NOR ANY OF ITS AGENTS OR CONTRACTORS, INCLUDING ANY OTHER PERMITTED FACILITY OPERATOR) NOR ANY OF THEIR RESPECTIVE AFFILIATES, MEMBERS, MANAGERS, PARTNERS, EMPLOYEES, AGENTS OR CONTRACTORS SHALL BE LIABLE FOR, OR MAKES ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, AS TO, THE OPERATION OF THE FACILITY AS CONTEMPLATED HEREBY OR THE RESULTING ATTRIBUTES, USE OR PERFORMANCE OF THE REFINED COAL OR UNTREATED COAL, AS APPLICABLE, RESULTING FROM OR PRODUCED OR GENERATED BY THE FACILITY, INCLUDING (i) THE EFFECTS OF BURNING THE REFINED COAL OR UNTREATED COAL IN THE BOILERS AT THE PLANT, (ii) THE ABILITY OR LIKELIHOOD OF THE PLANT TO SATISFY REQUIRED EMISSION LEVELS BY USING REFINED COAL AS A FUEL.

## **ARTICLE XIII**

### **Taxes**

**13.1** The Parties acknowledge that Producer has provided to Generator a sales and use tax exemption certificate or similar document with respect to Commonwealth of Kentucky sales and use tax arising from Producer's purchase of Coal hereunder. If such sales and use tax



exemption certificate expires or is revoked, Producer shall be responsible for any resulting sales or use tax imposed on its purchases of Coal hereunder, including any penalty and interest charges imposed on Generator by the Commonwealth of Kentucky relating thereto, unless and until Producer provides Generator with an appropriate alternate exemption certificate or similar document that is reasonably acceptable to Generator to exempt Generator from any liability to collect Commonwealth of Kentucky sales and use tax arising from Producer's purchase of Coal hereunder. The amount of any Commonwealth of Kentucky sales or use tax imposed as a result of the purchase of Coal by Producer hereunder for which Producer becomes responsible pursuant to this Section 13.1 shall be added to the invoices at time of sale.

**13.2** The Parties acknowledge that Generator has provided to Producer a sales and use tax exemption certificate or similar document with respect to Commonwealth of Kentucky sales and use tax arising from Generator's purchase of Refined Coal hereunder. If such sales and use tax exemption certificate expires or is revoked, Generator shall be responsible for any resulting sales or use tax imposed on its purchases of Refined Coal hereunder, including any penalty and interest charges imposed on Producer by the Commonwealth of Kentucky relating thereto, unless and until Generator provides Producer with an appropriate alternate exemption certificate or similar document that is reasonably acceptable to Producer to exempt Producer from any liability to collect Commonwealth of Kentucky sales and use tax arising from Generator's purchase of Refined Coal hereunder. The amount of any Commonwealth of Kentucky sales or use tax imposed as a result of the purchase of Refined Coal by Generator hereunder for which Generator becomes responsible pursuant to this Section 13.2 shall be added to the invoices at time of sale.

#### **ARTICLE XIV General Provisions**

**14.1** The Parties agree to enter into, execute and deliver to one another or to appropriate third parties, from time to time, any and all agreements, undertakings, instruments, consents or the like, that are or may become reasonably necessary to carry out the agreement and intent of the Parties to the transactions contemplated by this Agreement (including the Exhibits hereto).

**14.2** Both Producer and Generator may contract with third parties and their respective affiliates to perform any of their respective duties and obligations under this Agreement, provided that Producer and Generator shall remain primarily and fully obligated with respect to such duties and obligations. Generator acknowledges that Producer has contracted with its affiliate, Clean Coal Solutions Services, LLC, to operate and maintain the Facility on its behalf. Producer acknowledges that such actions of that affiliate in performing or not performing those functions shall be deemed to be the actions of Producer under this Agreement.

**14.3** This Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to principles of conflicts of law.

**14.4** EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE FEDERAL AND STATE COURTS LOCATED IN THE COUNTY OF NEW YORK IN THE STATE OF NEW YORK ("APPLICABLE COURTS"), AND ANY APPELLATE COURT THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE

TRANSACTIONS CONTEMPLATED HEREBY OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT RELATING THERETO, AND EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY (A) AGREES NOT TO COMMENCE ANY SUCH ACTION OR PROCEEDING EXCEPT IN APPLICABLE COURTS, (B) AGREES THAT ANY CLAIM IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN THE APPLICABLE COURTS, AND ANY APPELLATE COURT THEREOF, (C) WAIVES, TO THE FULLEST EXTENT IT MAY LEGALLY AND EFFECTIVELY DO SO, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUCH ACTION OR PROCEEDING IN ANY APPLICABLE COURT, AND (D) WAIVES, TO THE FULLEST EXTENT IT MAY LEGALLY AND EFFECTIVELY DO SO, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY APPLICABLE COURT.

**14.5** 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.

**14.6** This Agreement may be executed in any number of counterparts, each of which, whether an original or a copy of such original, when so executed and delivered, shall be deemed an original by all parties hereto, but all of which shall together constitute one and the same Agreement. Transmission by facsimile or other form of electronic transmission of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart.

**14.7** All notices, requests, consents and other communications or deliveries hereunder shall be in writing and (a) delivered in person or by courier, (b) sent by facsimile transmission, (c) mailed certified first class mail, postage prepaid, return receipt requested, or (d) sent by email to the appropriate party at the following addresses:

if to Producer:

\_\_\_\_\_, LLC  
5251 DTC Parkway, Suite 825  
Greenwood Village, CO 80111  
Attention: General Counsel  
Fax: (303) 751-9210  
Email: \_\_\_\_\_  
CCSnotice@cleancoalsolutions.com

if to Generator:

[LG&E and/or KU]  
220 West Main Street  
Louisville, KY 40202  
Attention: Corporate Fuels & By-Products Director  
Fax: 502-627-2194

With a copy to:

LG&E and KU Energy LLC  
Legal Department  
220 West Main Street  
Louisville, KY 40202  
Attention: General Counsel, Chief Compliance Officer and  
Corporate Secretary  
Fax: (502) 627-3367

or such other address as a Party hereto may designate to the other Party hereto by notice given as provided herein. Such notices shall be effective and deemed received (i) if delivered in person or by courier, upon receipt by the intended recipient or an employee that routinely accepts packages or letters from couriers or other persons for delivery to personnel at the address identified above (as confirmed by, if delivered by courier, the records of such courier), (ii) if sent by facsimile transmission, when the sender receives confirmation from the sending facsimile machine that such facsimile transmission was transmitted to the facsimile number of the addressee, (iii) if mailed, upon the date of delivery as shown by the return receipt therefore, or (iv) if emailed, upon confirmation of receipt.

**14.8** No modification or amendment of any provision of this Agreement shall be made, except by a written agreement signed by Generator and Producer.

**14.9** Generator and Producer shall each be responsible for paying its own costs, fees and expenses (including attorneys' fees and expenses) in connection with the drafting, negotiation and consummation of this Agreement and the transactions contemplated hereby.

**14.10** The terms and provisions of this Agreement shall be binding upon, and the benefits thereof shall inure to, the Parties and their respective successors and permitted assigns.

**14.11** Except as expressly provided herein, none of the provisions of this Agreement, express or implied, is intended to provide any rights or remedies to any person other than the Parties and their respective successors and assigns, if any.

**14.12** The headings of the sections of this Agreement are for guidance and convenience of reference only and shall not limit or otherwise affect, or be used to construe, any of the terms or provisions of this Agreement.

**14.13** This Agreement contains the entire understanding and agreement between the Parties with respect to the subject matter hereof and supersedes all prior negotiations, understandings, and agreements (whether written or oral) between the Parties with respect to the subject matter hereof. For the avoidance of doubt, the Parties acknowledge and agree that the General Services Agreement between the Parties dated April 17, 2015 will have no applicability to the transactions contemplated in this Agreement, and will not serve to amend or supplement this Agreement in any respect.

**14.14** This Agreement may not be assigned or transferred by either Party without the prior written consent of the other Party. Notwithstanding the foregoing, either Party may, without the need for consent from or notice to the other Party, assign or transfer this Agreement to a Permitted Transferee. For purposes of the foregoing, “Permitted Transferee” shall mean, with respect to a Party, the purchaser or lessee of all or substantially all of the assets or equity interests, as applicable, of or in such Party, provided such purchaser or lessee has (or has delivered a guaranty of such Party’s obligations under this Agreement in form satisfactory to the other Party from a person or entity that has) a credit rating of “BBB-” or higher, or that provides (or who has delivered a guaranty of such Party’s obligations under this Agreement from a person or entity that provides) evidence of its creditworthiness reasonably acceptable to the other Party. Any Permitted Transferee of this Agreement must, as a condition to the assignment or transfer to it, assume in writing for the express benefit of the other Party all of the assigning or transferring Party’s obligations under this Agreement. No permitted assignment or transfer of this Agreement or related assumption of the obligations of the assigning or transferring Party shall relieve that Party of or from any of its obligations under this Agreement.

**14.15** The provisions of Sections 14.3, 14.4, 14.5, 14.7, 14.14 and this Section 14.15 shall survive the expiration or termination of this Agreement to the extent any covenants or agreements of the Parties (or either of them) elsewhere in this Agreement shall survive that expiration or termination.

**14.16** The relationship of the Parties under this Agreement shall be solely that of an independent contractor. Nothing in this Agreement shall be deemed or construed to create a partnership, joint venture, agency, consignment or other association for any purpose. Neither Party shall have the authority to act for, represent or bind the other Party in any way.

[Signatures Appear on Following Page]

IN WITNESS WHEREOF, the Parties hereto have caused this Operation Agreement to be duly executed effective as of the Effective Date.

**Generator**

**[LG&E AND/OR KU]**

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

Name:

Title:

**Producer:**

**[\_\_\_\_\_[CCS Affiliate]\_\_\_\_\_]**

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

Name:

Title:

**EXHIBIT A**

**COAL SPECIFICATIONS**

**Specification for Eastern Bituminous Coal**

<b>Specification</b>	<b>Min</b>	<b>Max</b>
Moisture Content (%)	N/A	15.0
Ash Content (%)	N/A	15.0
Calorific Value (Btu/Lb)	10,500	N/A
Sulfur (Lbs/mmBtu)	1.25	3.25

**Specification for Sub-bituminous Powder River Basin (PRB) Coal**

<b>Specification</b>	<b>Min</b>	<b>Max</b>
Moisture Content (%)	N/A	32.0
Ash Content (%)	N/A	10.0
Calorific Value (Btu/Lb)	8,400	N/A
Sulfur (Lbs/mmBtu)	N/A	0.60

**Specification for Middlings Coal**

<b>Specification</b>	<b>Min</b>	<b>Max</b>
Moisture Content (%)	N/A	15.0
Ash Content (%)	N/A	32.0
Calorific Value (Btu/Lb)	9,000	N/A
Sulfur (Lbs/mmBtu)	1.25	3.25

**EXHIBIT B**

**FACILITY SITE**

**[NOTE: A Generator Site Photo with Superimposed Diagram of the CCS Facility will be attached for Ghent, Mill Creek or Trimble County, as applicable.]**

## **EXHIBIT C**

### **PRODUCER INSURANCE**

**Commercial General Liability Insurance.** Commercial General Liability Insurance (consistent with ISO CG 00 01 or its equivalent) with limits of \$1,000,000 each occurrence and in the aggregate.

**Worker's Compensation.** Worker's Compensation Insurance, including occupational disease coverage, in accordance with the benefits afforded by the statutory worker's compensation acts applicable to the state, territory or district of hire, supervision or place of accident.

**Employers Liability.** Insurance coverage, in an amount not less than \$1,000,000 each accident, \$1,000,000 disease each employee and \$1,000,000 disease policy limit each incident and including Broad Form All States Endorsement and Voluntary Compensation Endorsement.

**Commercial Automobile Liability.** Business Automobile Liability Insurance covering all owned, non-owned leased, rented, and hired motor vehicles, including coverage for loading and unloading, used in the performance of this Agreement, with limits of not less than \$1,000,000 combined single limit.

**Excess Liability Coverage.** Excess Liability Insurance with limits of not less than \$25,000,000 per occurrence and in the aggregate providing additional limits of insurance to the coverage described in subsections Employers Liability, Commercial General Liability and Commercial Automobile Liability.

**"All Risk" Property Insurance.** "All Risk" property damage insurance in an amount sufficient to cover the full replacement cost of: (i) the Coal and Refined Coal, to the extent owned by Producer, at full replacement value, which quantity of Coal and Refined Coal shall not exceed 250,000 Tons; and (ii) the Facility.



## **EXHIBIT D**

### **GENERATOR INSURANCE**

**Commercial General Liability Insurance.** Commercial General Liability Insurance (consistent with ISO CG 00 01 or its equivalent) with limits of \$1,000,000 each occurrence and in the aggregate.

**Worker's Compensation.** Worker's Compensation Insurance, including occupational disease coverage, in accordance with the benefits afforded by the statutory worker's compensation acts applicable to the state, territory or district of hire, supervision or place of accident.

**Employers Liability.** Insurance coverage, in an amount not less than \$1,000,000 each accident, \$1,000,000 disease each employee and \$1,000,000 disease policy limit each incident and including Broad Form All States Endorsement and Voluntary Compensation Endorsement.

**Commercial Automobile Liability.** Business Automobile Liability Insurance covering all owned, non-owned leased, rented, and hired motor vehicles, including coverage for loading and unloading, used in the performance of this Agreement, with limits of not less than \$1,000,000 combined single limit.

**Excess Liability Coverage.** Excess Liability Insurance with limits of not less than \$25,000,000 per occurrence and in the aggregate providing additional limits of insurance to the coverage described in subsections Employers Liability, Commercial General Liability and Commercial Automobile Liability.

## **EXHIBIT E**

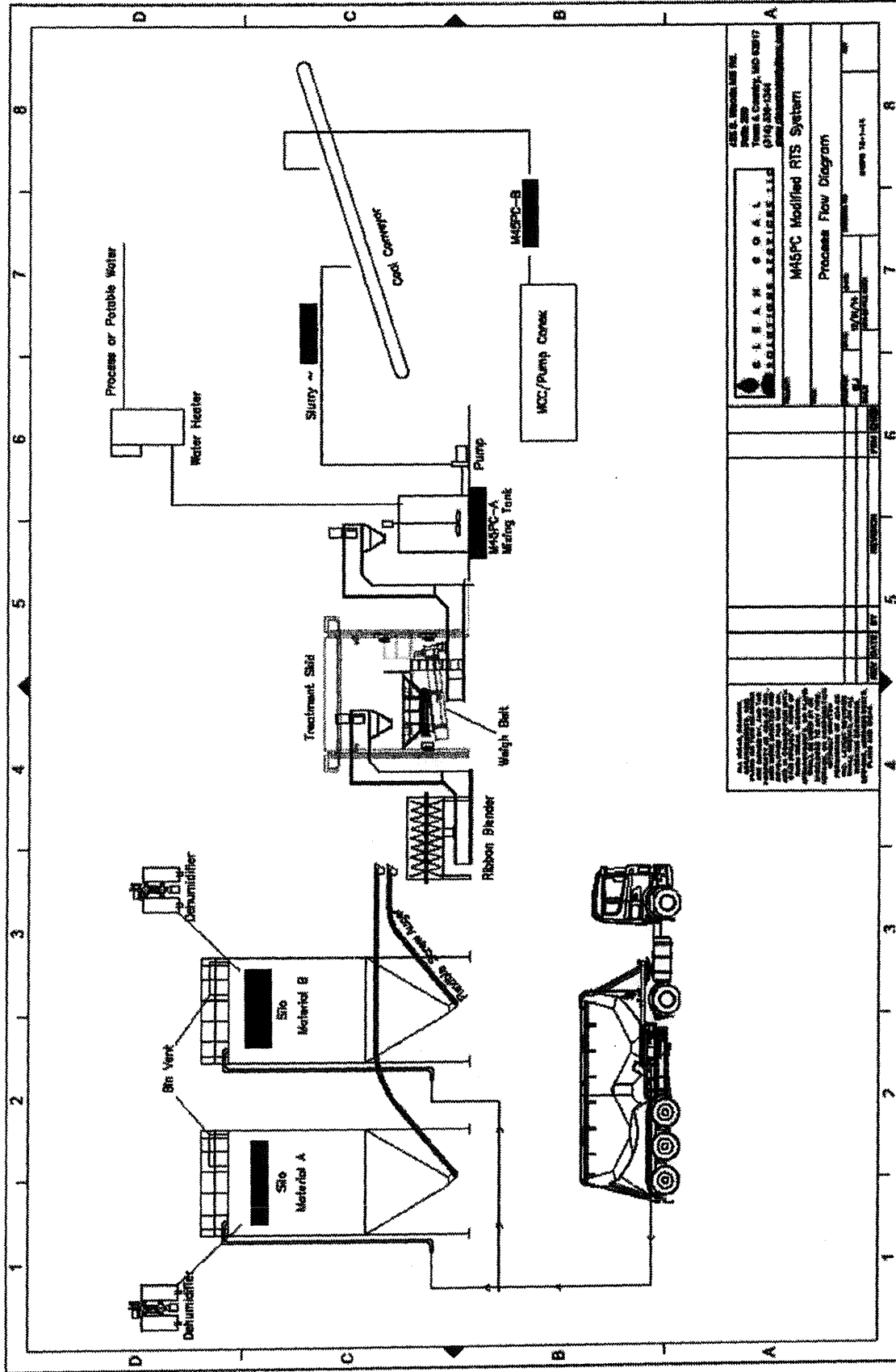
### **CHEMICALS USED TO PRODUCE REFINED COAL**

M-45-PCA is a solid or liquid urea, ammonia, or amine-based material, combined with a relatively pure form of an alkaline earth metal hydroxide ( $\text{Mg}(\text{OH})_2 >95\%$ ).

M-45-PCB is a halogen solution which reacts with mercury in flue gas to facilitate its capture in air pollution control devices.

# **EXHIBIT 6**

# M-45-PC™ "MODIFIED RTS" FACILITY SCHEMATIC

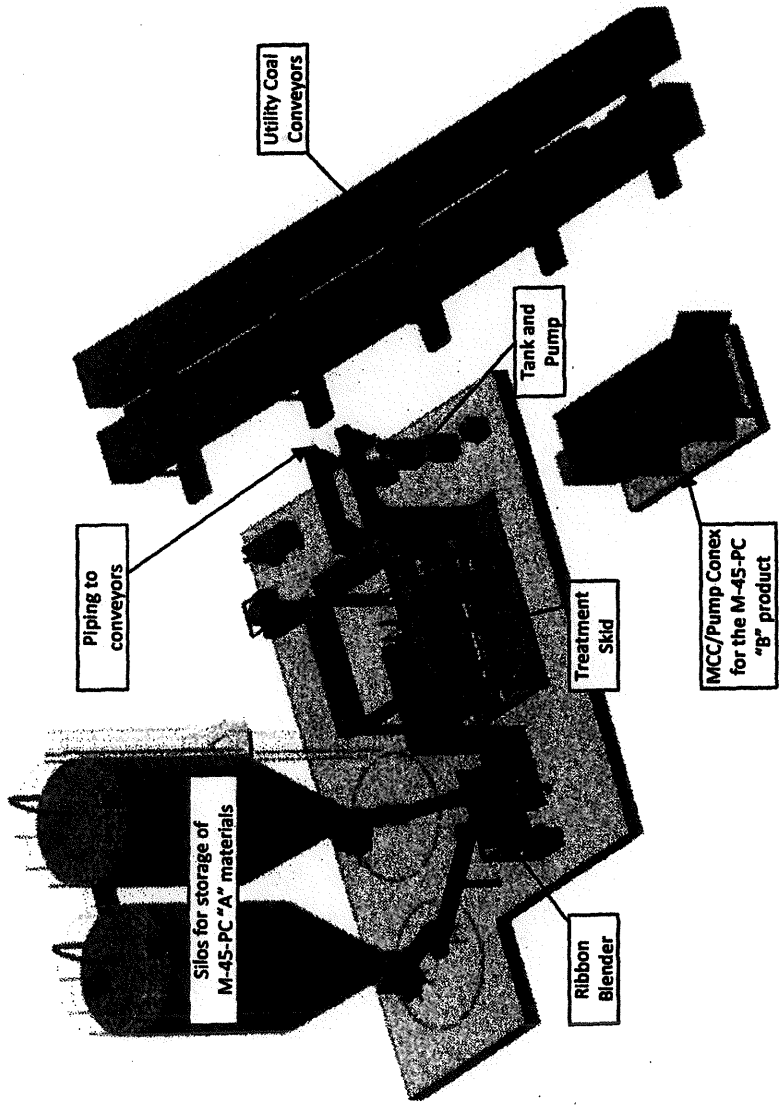


**CLEAN COAL SOLUTIONS, LLC**  
 435 S. WINDYBUSH LANE, INC.  
 YORK, PA 17402  
 YORK & COMPANY, INC. 0140 209-2344  
 1000 W. MARKET STREET, YORK, PA 17402

**MASPC Modified RTS System**  
 Process Flow Diagram

DATE: 10/15/14  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]  
 APPROVED BY: [Name]

# M-45-PC™ “MODIFIED RTS” 3D FACILITY SCHEMATIC



# **EXHIBIT 7**

**LKE**

**Refined Coal Evaluation**

1/7/2015

	Ghent	MC	TC	Avg/Total
Estimated Burn (M tons) <sup>1</sup>				
Estimated Incentive <sup>2</sup>				
Clean Coal Solutions \$/Ton				
Total annual incentive (M\$)				
Clean Coal Solutions *REVISED* <sup>3</sup>				
\$/Ton				
Total annual incentive (M\$)	\$ 10.20	\$ 6.00	\$ 4.90	\$ 21.10
\$/Ton				
Total annual incentive (M\$)				

**Notes:**

1. Assumes that 100% of estimated coal burn is used to produce refined coal.
2. The total annual incentive represents 100% for each station. It is not broken out by owner.

# **EXHIBIT 8**



**LG&E and KU**  
**Refined Coal Project**  
**Estimated Annual Benefit**

July 24, 2015

Station	Ghent	Mill Creek	Trimble County	Total System
Approximate Annual Burn (tons)				
Estimated Percentage of Annual Burn Refined				
<b>Estimated Annual Refined Coal Produced (tons)</b>				
<b>Fees Paid to LG&amp;E/KU on Refined Coal</b>				
Site License Fee (\$/ton)				
Coal Yard Service Fee (\$/ton)				
<b>Total Fees (\$/ton)</b>				
Estimated Annual Benefit	\$ 10,098,000	\$ 5,940,000	\$ 4,851,000	\$ 20,889,000
<b>LG&amp;E/KU Portion of the Estimated Annual Benefit<sup>1</sup></b>	\$ 10,098,000	\$ 5,940,000	\$ 3,638,250	\$ 19,676,250
<b>Allocation by Utility<sup>2</sup></b>				
Estimated Annual Benefit to LG&E	\$ -	\$ 5,940,000	\$ 1,954,260	\$ 7,894,260
Estimated Annual Benefit to KU	\$ 10,098,000	\$ -	\$ 1,683,990	\$ 11,781,990
<b>Estimated Portion of Annual KU Benefit for Municipal Customers<sup>3</sup></b>	\$ 878,526	\$ -	\$ 146,507	\$ 1,025,033

Notes:

1. For Trimble County the LG&E/KU benefit is based on its ownership portion of 75%.
2. The Trimble County LG&E and KU benefit allocation is based on TC2 ownership of 81% KU and 19% LG&E and does not include any estimated allocation resulting from energy supplied from one utility to the other.
3. Estimate based on 2014 municipal sales volumes (kwh) excluding Benham - 8.7% of total KU sales volumes.

# **EXHIBIT 9**

EXHIBIT 9

REDACTED IN ITS ENTIRETY

PURSUANT TO

KRS 131.190(1) AND KRS 61.878(1)(1)

# **EXHIBIT 10**

LOUISVILLE GAS AND ELECTRIC COMPANY

FINANCIAL EXHIBIT  
(807 KAR 5:001 SEC. 18(2)(a) and SEC. 12)

May 31, 2015

- (1) Amount and kinds of stock authorized.

75,000,000 shares of Common Stock, without par value  
1,720,000 shares of Preferred Stock at \$25.00 par value – authorized, but unissued  
6,750,000 shares of Preferred Stock, without par value – authorized, but unissued

- (2) Amount and kinds of stock issued and outstanding.

Common Stock:

21,294,223 shares issued and outstanding, without par value, recorded at \$424,334,535.

- (3) Terms of preference of preferred stock whether cumulative or participating, or on dividends or assets or otherwise.

None

- (4) Brief description of each mortgage on property of applicant, giving date of execution, name of mortgagor, name of mortgagee, or trustee, amount of indebtedness authorized to be secured thereby, and the amount of indebtedness actually secured, together with any sinking fund provisions.

Date of Execution; Filing with Commission: On May 11, 2015, copies of the October 1, 2010 Indenture and the October 15, 2010, November 1, 2010 and November 1, 2013 Supplemental Indentures were filed with the Commission in Case No. 2015-00138

Mortgagor: Louisville Gas and Electric Company

Trustee: The Bank of New York Mellon

Amount of Authorized Debt: One quintillion dollars

Amount of Debt Secured: \$1,359,304,000

Sinking Fund Provisions: None

Pledged Assets: Substantially all assets of Louisville Gas and Electric Company located in Kentucky

- (5) Amount of bonds authorized, and amount issued, giving the name of the public utility which issued the same, describing each class separately, and giving date of issue, face value, rate of interest, date of maturity and how secured, together with an amount of interest paid thereon during the most recent fiscal year.

Secured by first mortgage lien on substantially all assets in Kentucky.

Louisville Gas and Electric Company

<u>Date of Issue</u>	<u>Date of Maturity</u>	<u>Rate of Interest</u>	<u>Principal Amount</u>		<u>Interest Expense Year Ended December 31, 2014</u>
			<u>Authorized</u>	<u>Outstanding at December 31, 2014</u>	
<b>Pollution Control Bonds</b>					
05/19/00	05/01/27	Variable	\$ 25,000,000	\$ 25,000,000	\$ 193,191
08/09/00	08/01/30	Variable	83,335,000	83,335,000	105,882
09/11/01	09/01/27	Variable	10,104,000	10,104,000	13,208
03/06/02	09/01/26	Variable	22,500,000	22,500,000	54,962
03/06/02	09/01/26	1.05% *****	27,500,000	27,500,000	77,063
03/22/02	11/01/27	1.35% *****	35,000,000	35,000,000	109,632
03/22/02	11/01/27	1.35% *****	35,000,000	35,000,000	109,632
10/23/02	10/01/32	Variable	41,665,000	41,665,000	71,488
11/20/03	10/01/33	1.65% *	128,000,000	128,000,000	2,112,000
04/13/05	02/01/35	2.20% ****	40,000,000	40,000,000	876,055
04/26/07	06/01/33	1.15% ***	31,000,000	31,000,000	356,500
04/26/07	06/01/33	1.60% **	35,200,000	35,200,000	563,200
04/26/07	06/01/33	4.60%	60,000,000	60,000,000	2,760,000
<b>Interest Rate Swaps</b>					<b>7,934,003</b>
			<u>\$ 574,304,000</u>	<u>\$ 574,304,000</u>	<u>\$ 15,336,813</u>
<b>First Mortgage Bonds</b>					
11/16/10	11/15/15	1.625%	\$ 250,000,000	\$ 250,000,000	4,062,500
11/16/10	11/15/40	5.125%	285,000,000	285,000,000	14,606,250
11/14/13	11/15/43	4.650%	250,000,000	250,000,000	10,185,925
			<u>\$ 785,000,000</u>	<u>\$ 785,000,000</u>	<u>\$ 28,854,675</u>

\* On April 2, 2012, Louisville Gas and Electric (LG&E) remarketed the Louisville/Jefferson County Metro Government 2003 Series A bonds wherein the interest rate was fixed at 1.650% until April 3, 2017, at which time the Company must remarket the bonds or buy them back.

\*\* On June 1, 2012, LG&E remarketed the Louisville/Jefferson County Metro Government 2007 Series B bonds wherein the interest rate was fixed at 1.600% until June 1, 2017, at which time the Company must remarket the bonds or buy them back.

\*\*\* On December 1, 2012, LG&E remarketed the Louisville/Jefferson County Metro Government 2007 Series A bonds wherein the interest rate was fixed at 1.15% until June 1, 2017, at which time the Company must remarket the bonds or buy them back.

\*\*\*\* On December 2, 2013, LG&E remarketed the Louisville/Jefferson County Metro Government 2005 Series A bonds wherein the interest rate was fixed at the 2.20% until July 31, 2019, at which time the Company must remarket the bonds or buy them back.

\*\*\*\*\* On December 15, 2014, LG&E remarketed the Trimble County 2001 Series A bonds wherein the interest rate was fixed at 1.05% until March 1, 2018, at which time the Company must remarket the bonds or buy them back.

\*\*\*\*\* On December 15, 2014, LG&E remarketed the Trimble County 2001 Series B and Jefferson County 2001 Series B bonds wherein the interest rate was fixed at 1.35% until May 1, 2018, at which time the Company must remarket the bonds or buy them back.

- (6) Each note outstanding, giving date of issue, amount, date of maturity, rate of interest, in whose favor, together with amount of interest paid thereon during the last 12-month period.

There are no notes outstanding as of May 31, 2015.<sup>1</sup>

- (7) Other indebtedness, giving same by classes and describing security, if any, with a brief statement of the devolution or assumption of any portion of such indebtedness upon or by person or corporation if the original liability has been transferred, together with amount of interest paid thereon during the last fiscal year.

None, other than current and accrued liabilities.

- (8) Rate and amount of dividends paid during the five previous fiscal years, and the amount of capital stock on which dividends were paid each year. (1)

Dividends on Common Stock, without par value (not based on rate per share)

2010	55,000,000
2011	83,250,000
2012	75,250,000
2013	99,000,000
2014	112,000,000

(1) On November 1, 2010, PPL Corporation completed its acquisition of E.ON U.S. LLC., the Company's parent. Upon completion of the acquisition, E.ON U.S. LLC was renamed LG&E and KU Energy LLC. The 21,294,223 shares are currently owned by

<sup>1</sup> LG&E maintains a syndicated revolving credit facility of \$500 million. Although there isn't any outstanding balance on the revolver, LG&E has executed notes under the multiyear revolving credit program, and also has \$246 million of short term commercial paper outstanding as of May 31, 2015.

LG&E and KU Energy LLC. From May 1998 to October 31, 2010, the 21,294,223 shares were all owned by E.ON U.S. LLC (formerly LG&E Energy LLC) and all dividends declared by LG&E's Board of Directors were paid to E.ON U.S. LLC. Subsequent to October 31, 2010, all dividends declared by LG&E's Board of Directors were paid to LG&E and KU Energy LLC. During the 1<sup>st</sup> and 2<sup>nd</sup> quarters of 2015, LG&E declared and paid dividends on common stock of \$23,000,000 and \$35,000,000 respectively.

(9) Detailed Income Statement, Balance Sheet and Statement of Retained Earnings

Monthly Financial and Operating Reports are filed each month with the Kentucky Public Service Commission. Attached are detailed Statements of Income, Balance Sheets and Retained Earnings for the Company for the period ending May 31, 2015.

400001.148234/1239953.1



Louisville Gas and Electric Company  
Balance Sheet as of May 31, 2015

Assets		Liabilities and Proprietary Capital
Utility Plant		Proprietary Capital
Utility Plant at Original Cost.....	\$ 6,335,919,741.41	Common Stock.....
Less: Reserves for Depreciation and Amortization.....	<u>2,155,620,139.08</u>	Less: Common Stock Expense.....
		Paid-in Capital.....
Total.....	<u>4,180,299,602.33</u>	Other Comprehensive Income.....
		Retained Earnings.....
Investments		Total Proprietary Capital.....
Ohio Valley Electric Corporation.....	594,286.00	Other Long-Term Debt.....
Nonutility Property - Less Reserve.....	567,535.13	Total Long-Term Debt.....
Special Funds.....	<u>20,803,848.01</u>	Total Capitalization.....
Total.....	<u>21,965,669.14</u>	
Current and Accrued Assets		Current and Accrued Liabilities
Cash.....	4,025,608.25	ST Notes Payable to Associated Companies.....
Special Deposits.....		Notes Payable.....
Temporary Cash Investments.....	711,699.53	Accounts Payable.....
Accounts Receivable - Less Reserve.....	<u>160,136,379.05</u>	Accounts Payable to Associated Companies.....
Notes Receivable from Associated Companies.....		Customer Deposits.....
Accounts Receivable from Associated Companies.....	16,539,052.81	Taxes Accrued.....
Materials and Supplies - At Average Cost.....		Dividends Declared.....
Fuel.....	50,856,723.20	Interest Accrued.....
Plant Materials and Operating Supplies.....	34,925,949.28	Miscellaneous Current and Accrued Liabilities.....
Stores Expense.....	6,533,041.08	Total.....
Gas Stored Underground.....	<u>11,377,475.59</u>	
Emission Allowances.....	6,312.43	Deferred Credits and Other
Prepayments.....	7,672,934.34	Accumulated Deferred Income Taxes.....
Miscellaneous Current and Accrued Assets.....		Investment Tax Credit.....
Total.....	<u>292,785,175.56</u>	Regulatory Liabilities.....
Deferred Debits and Other		Customer Advances for Construction.....
Unamortized Debt Expense.....	12,246,865.77	Asset Retirement Obligations.....
Unamortized Loss on Bonds.....	17,548,310.17	Other Deferred Credits.....
Accumulated Deferred Income Taxes.....	<u>167,577,445.23</u>	Miscellaneous Long-Term Liabilities.....
Deferred Regulatory Assets.....	404,311,907.11	Accum Provision for Pension & Postretirement Benefits.....
Other Deferred Debits.....	<u>6,272,213.64</u>	Total.....
Total.....	<u>607,956,741.92</u>	
Total Assets.....	<u>\$ 5,103,007,188.95</u>	Total Liabilities and Stockholders' Equity.....
		<u>\$ 5,103,007,188.95</u>

**Louisville Gas and Electric Company**  
**Statement of Income**  
**May 31, 2015**

	Year Ended 5/31/2015
Electric Operating Revenues.....	\$ 1,158,364,568.11
Gas Operating Revenues.....	357,747,302.89
	1,516,111,871.00
Fuel for Electric Generation.....	385,396,243.22
Power Purchased.....	45,863,476.77
Gas Supply Expenses.....	187,678,409.10
Other Operation Expenses.....	252,076,368.20
Maintenance.....	109,442,490.33
Depreciation.....	150,803,815.03
Amortization Expense.....	10,164,226.11
Regulatory Credits.....	-
Taxes	
Federal Income.....	(40,964,489.49)
State Income.....	8,478,977.10
Deferred Federal Income - Net.....	137,056,828.47
Deferred State Income - Net.....	7,916,053.61
Property and Other.....	35,434,746.10
Amortization of Investment Tax Credit.....	(1,601,218.00)
Loss (Gain) from Disposition of Allowances.....	(122.56)
Accretion Expense.....	-
	1,287,745,803.99
Total Operating Expenses.....	
Net Operating Income.....	228,366,067.01
Other Income Less Deductions.....	(2,557,698.13)
	225,808,368.88
Income Before Interest Charges.....	
Interest on Long-Term Debt.....	44,644,649.02
Amortization of Debt Expense - Net.....	3,442,636.00
Other Interest Expenses.....	1,979,415.06
	50,066,700.08
Total Interest Charges.....	
Net Income.....	\$ 175,741,668.80

**Louisville Gas and Electric Company**  
**Analysis of Retained Earnings**  
**May 31, 2015**

	<u>Year Ended 5/31/15</u>
Balance at Beginning of Period.....	\$ 985,065,888.15
Add:	
Net Income for Period.....	175,741,668.80
Deduct:	
Adjustment to Retained Earnings.....	-
Common Dividends	
Common Stock Without Par Value.....	<u>110,000,000.00</u>
Balance at End of Period.....	<u>\$ 1,050,807,556.95</u>

# **EXHIBIT 11**

KENTUCKY UTILITIES COMPANY  
FINANCIAL EXHIBIT  
(807 KAR 5:001 SEC. 18(2)(a) and SEC. 12)

May 31, 2015

(1) Amount and kinds of stock authorized.

80,000,000 shares of Common Stock, without par value  
5,300,000 shares of Cumulative Preferred Stock, without par value -- authorized, but unissued  
2,000,000 shares of Preferred Stock, without par value -- authorized, but unissued

(2) Amount and kinds of stock issued and outstanding.

Common Stock:

37,817,878 shares issued and outstanding, without par value, recorded at \$307,818,689.

(3) Terms of preference of preferred stock whether cumulative or participating, or on dividends or assets otherwise.

None

(4) Brief description of each mortgage on property of applicant, giving date of execution name of mortgagor, name of mortgagee, or trustee, amount of indebtedness authorized to be secured thereby, and the amount of the indebtedness actually secured, together with any sinking fund provisions.

Date of Execution; Filing with Commission: On May 11, 2015, copies of the October 1, 2010 Indenture and the October 15, 2010, November 1, 2010 and November 1, 2013 Supplemental Indentures were filed with the Commission in Case No. 2015-00137.

Mortgagor: Kentucky Utilities Company

Trustee: The Bank of New York Mellon

Amount of Authorized Debt: One quintillion dollars

Amount of Debt Secured: \$2,100,779,405

Sinking Fund Provisions: None

Pledged Assets: Substantially all assets of Kentucky Utilities located in Kentucky

(5) Amount of bonds authorized, and amount issued giving the name of the public utility which issued the same, describing each class separately, and giving date of issue, face value, rate of interest, date of maturity and how secured, together with an amount of interest paid thereon during the most recent fiscal year.

Secured by first mortgage lien on substantially all assets in Kentucky.

Kentucky Utilities Company

Date of Issue	Date of Maturity	Rate of Interest	Principal Amount		Interest Expense Year Ended December 31, 2014
			Authorized	Outstanding at December 31, 2014	
<b>Pollution Control Bonds</b>					
05/01/00	05/01/23	Variable	\$ 12,900,000	\$ 12,900,000	\$ 7,196
02/01/02	02/01/32	Variable	20,930,000	20,930,000	\$ 55,611
02/01/02	02/01/32	Variable	2,400,000	2,400,000	\$ 6,312
02/01/02	02/01/32	Variable	7,400,000	7,400,000	18,893
02/01/02	02/01/32	Variable	7,200,000	2,400,000	6,505
07/01/02	10/01/32	Variable	96,000,000	96,000,000	152,560
10/01/04	10/01/34	Variable	50,000,000	50,000,000	29,767
02/23/07	10/01/34	Variable	54,000,000	54,000,000	32,755
05/24/07	02/01/26	5.75%	17,875,000	17,875,000	1,027,812
05/24/07	03/01/37	6.00%	8,927,000	8,927,000	535,620
10/17/08	02/01/32	Variable	<u>77,947,405</u>	<u>77,947,405</u>	<u>47,089</u>
<b>Interest Rate Swaps</b>					
					-
			<u>\$ 355,579,405</u>	<u>\$ 350,779,405</u>	<u>\$ 1,920,121</u>
<b>First Mortgage Bonds</b>					
11/16/10	11/01/15	1.625%	\$ 250,000,000	\$ 250,000,000	4,062,500
11/16/10	11/01/20	3.250%	500,000,000	500,000,000	16,250,000
11/16/10	11/01/40	5.125%	750,000,000	750,000,000	38,437,500
11/14/13	11/15/43	4.650%	<u>250,000,000</u>	<u>250,000,000</u>	<u>10,185,898</u>
			<u>\$ 1,750,000,000</u>	<u>\$ 1,750,000,000</u>	<u>\$ 68,935,898</u>

- (6) Each note outstanding, giving date of issue, amount, date of maturity, rate of interest in whose favor, together with amount of interest paid thereon during the last 12-month period.

There are no notes outstanding as of May 31, 2015.<sup>1</sup>

- (7) Other indebtedness, giving same by classes and describing security, if any with a brief statement of the devolution or assumption of any portion of such indebtedness upon or by person or corporation if the original liability has been transferred, together with amount of interest paid thereon during the last fiscal year.

None, other than current and accrued liabilities.

- (8) Rate and amount of dividends paid during the five previous fiscal years, and amount of capital stock on which dividends were paid. (1)

Dividends on Common Stock, without par value (not based on rate per share)

2010	\$50,000,000
2011	\$123,500,000
2012	\$99,500,000
2013	\$124,000,000
2014	\$148,000,000

- (1) On November 1, 2010, PPL Corporation completed its acquisition of E.ON U.S. LLC, the Company's parent. Upon completion of the acquisition, E.ON U.S. LLC was renamed LG&E and KU Energy LLC. The 37,817,878 shares are currently owned by LG&E and KU Energy LLC. From May 1998 to October 31, 2010, the 37,817,878 shares were all owned by E.ON U.S. LLC (formerly LG&E Energy LLC) and all dividends declared by KU's Board of Directors were paid to E.ON U.S. LLC. Subsequent to October 31, 2010, all dividends declared by KU's Board of Directors were paid to LG&E and KU Energy LLC. During the 1<sup>st</sup> and 2<sup>nd</sup> quarters of 2015, KU declared and paid dividends on common stock of \$30,000,000 and \$51,000,000 respectively.

- (9) Detailed Income Statement, Balance Sheet and Statement of Retained Earnings

Monthly Financial and Operating Reports are filed each month with the Kentucky Public Service Commission. Attached are detailed Statements of Income, Balance Sheets and Retained Earnings for the Company for the period ending May 31, 2015.

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<sup>1</sup> KU maintains a syndicated revolving credit facility of \$400 million. Although there isn't any outstanding balance on the revolver, KU has executed notes under the multiyear revolving credit program, and also has \$193 million of short term commercial paper outstanding as of May 31, 2015.

**Kentucky Utilities Company**  
**Balance Sheet as of May 31, 2015**

<b>Assets</b>		<b>Liabilities and Proprietary Capital</b>	
Utility Plant		Proprietary Capital	
Utility Plant at Original Cost	\$ 8,802,310,025.86	Common Stock	\$ 308,139,977.56
Less: Reserves for Depreciation and Amortization	2,826,457,728.53	Less: Common Stock Expense	321,288.87
		Paid-In Capital	563,858,083.00
Total	5,975,852,297.33	Other Comprehensive Income	(2,137,844.72)
		Retained Earnings	1,745,905,990.86
		Unappropriated Undistributed Subsidiary Earnings	-
Investments		Total Proprietary Capital	2,615,444,917.83
Electric Energy, Inc.	-	Other Long-Term Debt	2,091,056,646.48
Ohio Valley Electric Company	250,000.00	Total Long-Term Debt	2,091,056,646.48
Nonutility Property-Less Reserve	971,313.10	Total Capitalization	4,706,501,564.31
Special Fund	-		
Total	1,221,313.10		
Current and Accrued Assets		Current and Accrued Liabilities	
Cash	8,206,612.86	ST Notes Payable to Associated Companies	-
Special Deposits	-	Notes Payable	192,912,103.55
Temporary Cash Investments	531,207.78	Accounts Payable	117,464,116.94
Accounts Receivable-Less Reserve	200,113,862.31	Accounts Payable to Associated Companies	33,482,611.06
Accounts Receivable from Associated Companies	-	Customer Deposits	26,924,126.01
Notes Receivable from Associated Companies	-	Taxes Accrued	38,312,996.05
Materials and Supplies-At Average Cost		Interest Accrued	6,456,040.61
Fuel	95,073,396.34	Dividends Declared	51,000,000.00
Plant Materials and Operating Supplies	38,989,822.24	Miscellaneous Current and Accrued Liabilities	68,197,447.56
Stores Expense	10,048,613.24	Total	534,749,441.78
Emission Allowances	149,894.71		
Prepayments	-	Deferred Credits and Other	
Miscellaneous Current and Accrued Assets	9,575,108.78	Accumulated Deferred Income Taxes	1,160,095,747.23
Total	362,688,518.26	Investment Tax Credit	94,095,889.57
		Regulatory Liabilities	140,511,751.93
Deferred Debits and Other		Customer Advances for Construction	2,089,757.74
Unamortized Debt Expense	17,708,295.26	Asset Retirement Obligations	215,236,992.95
Unamortized Loss on Bonds	9,307,969.15	Other Deferred Credits	42,918,930.64
Accumulated Deferred Income Taxes	233,812,122.48	Miscellaneous Long-Term Liabilities	2,049,991.68
Deferred Regulatory Assets	351,325,173.81	Accum Provision for Pension & Postretirement Benefits	101,284,624.14
Other Deferred Debits	47,619,002.58	Total	1,758,283,685.88
Total	659,772,563.28		
Total Assets	\$ 6,999,534,691.97	Total Liabilities and Stockholders Equity	\$ 6,999,534,691.97



**Kentucky Utilities Company**  
**Statement of Income**  
**As of May 31, 2015**

	Year Ended 5/31/2015
Electric Operating Revenues.....	\$ 1,720,913,856.18
Rate Refunds.....	(6,536,777.00)
Total Operating Revenues.....	1,714,377,079.18
Fuel for Electric Generation.....	561,782,292.81
Power Purchased.....	77,296,668.29
Other Operation Expenses.....	271,284,533.96
Maintenance.....	133,193,007.19
Depreciation.....	195,411,762.78
Amortization Expense.....	10,258,246.61
Regulatory Credits.....	-
Taxes	
Federal Income.....	(102,689,741.13)
State Income.....	5,943,737.62
Deferred Federal Income - Net.....	219,641,524.51
Deferred State Income - Net.....	13,711,124.71
Property and Other.....	36,566,206.86
Investment Tax Credit.....	-
Loss (Gain) from Disposition of Allowances.....	(156.54)
Accretion Expense.....	-
Total Operating Expenses.....	1,422,399,207.67
Net Operating Income.....	291,977,871.51
Other Income Less Deductions	
Amortization of Investment Tax Credit.....	1,860,820.00
Other Income Less Deductions.....	506,518.83
AFUDC - Equity.....	2,260,558.30
Total Other Income Less Deductions.....	4,627,897.13
Income Before Interest Charges.....	296,605,768.64
Interest on Long-Term Debt.....	70,862,976.21
Amortization of Debt Expense - Net.....	3,527,433.31
Other Interest Expenses.....	3,775,518.37
AFUDC - Borrowed Funds.....	(791,509.07)
Total Interest Charges.....	77,374,418.82
Net Income.....	\$ 219,231,349.82

**Kentucky Utilities Company**  
**Analysis of Retained Earnings**  
**May 31, 2015**

	Year Ended 5/31/2015
Balance at Beginning of Period.....	\$ 1,669,674,641.04
Add:	
Net Income for Period.....	219,231,349.82
Deduct:	
Common Dividends	143,000,000.00
Balance at End of Period.....	<u>\$ 1,745,905,990.86</u>