



American Electric Power
155 W. Nationwide Blvd., Suite 500
Columbus, OH 43215
AEP.com

January 2, 2014

Mr. Monty Jones
Alpha Coal Sales Co., LLC
One Alpha Place
Bristol, VA 24202

Re: AEP Purchase Order 07-00-13-002 dated November 4, 2013, (the "Agreement") by and between Ohio Power Company ("Buyer") and Alpha Coal Sales Co., LLC ("Seller")

SUBJECT: NOTICE OF ASSIGNMENT

Dear Mr. Jones:

Reference is made to the above-mentioned Agreement wherein Seller is supplying Coal to Buyer.

This is to inform you that the corporate separation of Ohio Power Company's transmission and distribution business from its generation business and associated corporate reorganizations that involved the Mitchell Plant has been completed, and Kentucky Power Company is now the contract counterparty with Alpha Coal Sales Co., LLC.

Thank you for your attention in this matter. If you have any questions about the foregoing, please contact Joe Bilardello at 614-583-6100.

Sincerely,

A handwritten signature in cursive script that reads "Marguerite C. Mills".

Marguerite C. Mills
Vice President – Fuel Procurement *one GC LHM*
On behalf of American Electric Power Service Corporation
As agent for Kentucky Power Company



155 West Nationwide Boulevard
Columbus, OH 43215

AEP Purchase Order: 07-00-13-002
Effective Date: November 4, 2013

Seller: Alpha Coal Sales Co., LLC
One Alpha Place
Bristol, Virginia 24202
Attn: Monty Jones
Phone: (606) 739-4699
Fax: (276) 739-3553
Email: mjones@alphancr.com

Buyer: Ohio Power Company
155 West Nationwide Boulevard
Columbus, OH 43215
Attn: Clint Stutler
Phone: 614-583-6039
Cell Phone: 614-395-3562
Fax: 614-583-1627

Primary Plant: Mitchell

Commodity: Crushed, partially washed bituminous coal, containing no synthetic fuels, substantially free from any extraneous material, with no intermediate sizes to be added or removed and otherwise meeting the specifications of this Contract.

Term: January 1, 2015 through December 31, 2015

Quantity: 240,000 tons to be delivered ratably by barge during the Term (each barge shall constitute a "Shipment").

Price: \$63.25 per ton FOB at the Delivery Point, except as set forth hereafter in Quality Adjustments.

Quality: As-received basis in accordance with ASTM standards ("Standards") for each Shipment, as follows:

<u>Characteristic:</u>	<u>Contracted</u>	<u>Shipment</u>	<u>Shipment</u>
	<u>Half-Month:</u>	<u>Suspension Limit:</u>	<u>Rejection Limit:</u>
Heating Value (Btu/lb.):	12,200	11,900 minimum	11,800 minimum
SO ₂ (lbs. SO ₂ /MMBtu):	1.60	1.60 maximum	1.60 maximum
Moisture (%):	8.00	9.00 maximum	10.00 maximum
Ash (%):	13.50	14.00 maximum	14.00 maximum
Volatile Matter (%):	32.00	Not Applicable	27.00 minimum
Hardgrove Grindability:	45	Not Applicable	42 minimum
Ash Fusion Temperature (H=1/2W °F Red. Atm.)	2,700	Not Applicable	2,600 minimum

Sizing: 2 inches topsize, with maximum 55% passing one-quarter inch square wire cloth sieve to be determined on the basis of the primary cutter of the mechanical sampling system.

Source: Republic and Mammoth mines located in WV.

MSHA ID No.

Environmental Permit Nos.

Delivery Point: FOB barge at the Mammoth Dock or the Marmet Dock located at milepost 84.5 and milepost 69.0 on the Kanawha River.

Weighing Party: Seller shall be the weighing party. The weighing party shall weigh the Coal in accordance with Section 3 of the Alpha - AEP Coal Procurement Terms and Conditions attached.

Sampling & Analysis Party: Seller shall be the sampling party. The sampling party shall sample and analyze the Coal in accordance with Section 4 of the Alpha - AEP Coal Procurement Terms and Conditions attached.

Quality Adjustments: If coal delivered under this Purchase Order varies from the Quality specifications above (the "Specifications"), but Buyer does not exercise its rejection rights under Rejection and Suspension herein, quality adjustments shall be calculated pursuant to the formulas set forth in this section using the weighted averages by Purchase Order. All adjustment calculations shall be carried out four decimal places.

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**Quality
Adjustments
(Continued):**

(A) If the weighted average Heating Value (Btu/lb.)¹ of all coal unloaded and taken into account hereunder in a Half-Month is not equal to the Contracted Half-Month Btu, then there shall be an amount added to the Contract Price (if the calculated number is positive) or subtracted from the Contract Price (if such number is negative), as determined by the following formula, to arrive at the adjusted price for such coal:

$$\text{Amount Per Ton of Increase or Decrease for Btu} = \frac{(\text{Actual Btu} - \text{Contracted Btu})}{\text{Contracted Btu}} \times \text{Contract Price}$$

provided, however, no premium will be paid for Btu which exceeds the Contracted Half-Month Btu by 500 Btu per pound.

(B) For aggregate Half-Month Shipments of coal tested to have ash content greater than the Contracted Half-Month Specification, the Contract Price for coal will be decreased by \$0.15 for each 0.5% ash increment, or portion thereof, by which the aggregate Half-Month Shipment's ash content is tested to be above the Contracted Half-Month Specification. (For example, if the Contracted Half-Month is 13.00% and the aggregate Half-Month Shipment has a percent ash value of 13.70, then the Contract Price decrease shall be \$0.30 per ton.)

Payment:

Seller shall submit to Buyer invoices for coal shipped from the first through the fifteenth calendar day of each month, and from the sixteenth through the last calendar day of each month, which shall include the weighted average analytical and pricing data, as well as the above-referenced AEP Purchase Order number and the applicable transport vehicle numbers. Buyer will pay to Seller the invoice amount on or before the 20th calendar day following the Half-Month period, provided Seller's invoice is submitted in compliance with the preceding sentence. Buyer shall not be obligated to make payment to Seller for Shipments of Coal until the analytical results have been provided to Buyer.

Payment shall be made by wire transfer or electronic means in immediately available United States funds for all coal shipped, taken into account, and accepted hereunder. If not already provided in this Contract, Seller shall provide Buyer all pertinent remittance instructions in a letter (containing the bank name, account name, ABA number, and account number, as well as Seller's federal tax identification number) which shall be signed by a duly authorized representative of Seller. Any change in the remittance instructions shall be provided in the same manner. Overdue payments shall accrue interest (the prime rate of interest for United States Dollars as published from time to time during such period under the section titled, "Money Rates" by *The Wall Street Journal*, plus two percent per annum but not to exceed the maximum applicable lawful interest rate [hereinafter "Interest Rate"]) from the due date until paid.

SEND INVOICES TO:

AEP - Fuel Accounting
155 W. Nationwide Blvd, 3rd Floor
Columbus, OH 43215
Fax: 614-583-1640
E-mail: cantonfuelaccounting@aep.com

REMIT PAYMENT TO:

Bank of America
135 S. LaSalle
Chicago, IL
ABA# [REDACTED]
Account [REDACTED]
Account Name: Alpha Coal Sales Co., LLC

¹ Heating Value (Btu/lb.) shall be referred to hereafter as Btu.

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Payment (Continued): If any party in good faith reasonably disputes an invoice, it shall provide a written explanation specifying in detail the basis for the dispute and pay any undisputed portion no later than the due date. Upon resolution of any dispute involving an invoice, any additional amount owing shall be paid with interest at the Interest Rate. If any party fails to pay amounts under this Contract when due, unless such amount is the subject of a dispute as provided above, or is excused by Force Majeure, in addition to the rights and remedies provided in this Contract, the aggrieved party shall have the right to suspend performance under this Contract until such amounts plus interest have been paid, and/or exercise any remedy available at law or in equity to enforce payment of such amount plus interest at the Interest Rate defined herein.

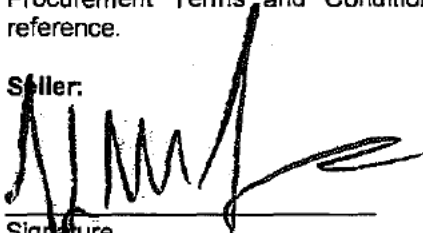
If applicable, Seller shall include on its invoice the statement "Seller certifies that (insert number) of tons were mined in Virginia," such statement to be separately signed by Seller.

Other Terms: **Item 6, Assignment,** the fourth paragraph shall be deleted and replaced with the following in lieu thereof:

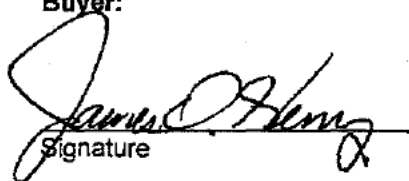
"No assignment under this Section 6 or conveyance of any interest in this Contract shall in any way relieve the assignor or the conveying party from liability for full performance under this Contract, except that, notwithstanding the foregoing, Buyer may, without the written consent of Seller, assign or convey any and/or all of its interest in this Contract to one or more affiliated entities of American Electric Power Company, Inc., and upon such assignment, assignor shall be released from any further obligations or liabilities under this Contract that have been assumed by such assignee(s) and such assignee(s) shall be considered as the Buyer for all purposes of this Contract with respect to such assignment(s). Any such affiliated assignee, or other entity to whom an interest is conveyed (which conveyance must be with the prior written consent of the other Party), shall assume and agree to be bound by the terms and conditions of this Contract."

Except as set forth above, this Purchase Order shall be governed by the Alpha – AEP Coal Procurement Terms and Conditions attached hereto and incorporated herein by specific reference.

Accepted:

Seller:

Signature
H.M. JONES
Name (Print)
SVP- EASTERN SALES
Title

Date: 11/27/13

Buyer:

Signature
James D. Henry
Vice President, Fuel Procurement
On behalf of American Electric Power
Service Corporation, as agent for
Ohio Power Company
Date: November 26, 2013
CMS
John
me

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ALPHA – AEP COAL PROCUREMENT TERMS AND CONDITIONS

- 1) The attached Purchase Order together with these Alpha - AEP Coal Procurement Terms and Conditions shall constitute the "Contract." Any changes or modifications to this Contract shall be made in writing and signed by both parties. In the event that any provision(s) of these Alpha - AEP Coal Procurement Terms and Conditions are conflicting or inconsistent with the Purchase Order, the provision(s) of the Purchase Order shall control.

- 2) **SCHEDULING, DELIVERY & TITLE, RISK OF LOSS AND INDEMNITY**

Unless otherwise provided in the Purchase Order, Buyer shall advise Seller of its desired loading dates and delivery schedule. The parties will work together in good faith to agree on a reasonable and mutually acceptable delivery schedule within the Term and within each month during the Term. Unless otherwise specified in the Purchase Order, Buyer shall designate to Seller the scheduling, routing and method of Shipments of coal purchased under this Contract. From time to time, and at any time, Buyer shall have the right, but not the obligation, to have all or any part of the coal hereunder reconsigned for delivery to any destination, and/or to make all or any part of the coal hereunder available for purchase by any person(s), whether or not affiliated with Buyer, through Buyer's purchase and subsequent resale to others of such coal.

Seller shall cause coal sold hereunder to be properly loaded into the transport vehicle (i.e. railcars, barges, trucks, etc.) for delivery to Buyer, provided that Buyer has provided Seller with applicable loading instructions (including minimum and maximum weights) no less than 24 hours prior to the arrival of Buyer's transport vehicle; provided, however, that any loading instructions given by Buyer which differ from current industry practice and impose an economic or operational burden on Seller shall not be binding on Seller without its consent. The delivery schedule specified in the Purchase Order or as mutually agreed by the parties prior to the loading date in absence of such in the Purchase Order is binding on both Buyer and Seller and may only be changed by mutual written agreement.

Seller represents and warrants that it has title to all coal sold hereunder and the same is shipped free and clear of all liens, encumbrances, and claims of all third parties. Title to and risk of loss of coal conforming to this Contract shall pass to Buyer as follows:

- a) For barge deliveries, as the loaded barges are pulled from the Delivery Point.
- b) For rail deliveries, as the loaded unit train or single car shipment is pulled from the Delivery Point.
- c) For truck deliveries, upon the coal being delivered and dumped at the Delivery Point.
- d) For all Non-Conforming Shipments (as hereinafter defined) title to and risk of loss of coal shall revert back to Seller immediately upon any rejection or nonacceptance by Buyer as provided elsewhere in this Contract.

Seller shall indemnify, defend and hold harmless Buyer from any and all claims related to the transportation, handling or loading of coal, or any loss thereof arising (i) out of events occurring prior to the point that title and risk of loss have passed to Buyer and (ii) arising out of any acts or omissions of Seller its employees or agents.

Buyer shall indemnify, defend and hold harmless Seller from any and all claims related to the transportation, unloading or handling of coal, or any loss thereof arising (i) out of events occurring after the point that title and risk of loss have passed to Buyer and (ii) arising out of any acts or omissions of Buyer its employees or agents.

FOR TRUCK DELIVERIES – Directly and/or through its trucking contractor, Seller, at its expense, shall have coverage of the insurance specified below and shall maintain this insurance at all times during performance of this Contract:

- 1) Certificate of Insurance:
 - a. Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and aggregate.
 - b. Commercial automobile liability insurance with a limit for bodily injury and property damage of not less than \$1,000,000 each accident.
- 2) Excess or Umbrella Liability:
 - a. Commercial Excess or Umbrella liability with not less than \$4,000,000 each occurrence and aggregate limit.

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- 3) **Worker's Compensation Certificate:**
- a. Coverage for the legal liability of Seller and its subcontractors under the worker's compensation laws of the state in which the work is to be performed.
 - b. Employer's liability coverage in an amount not less than \$1,000,000 for each accident shall be included.

Seller also warrants that it will make good faith efforts to ensure that its trucking contractor is in compliance with the Federal and State Motor Carrier Safety Acts (Financial Responsibility is USDO 387.9).

3) **WEIGHING**

All Deliveries: The weighing party shall determine the weight of the coal delivered hereunder at its expense using its rail, truck, or belt scales, as applicable.

(A) The accuracy of the weighing party's rail scale(s), truck scale(s), or batch weighing system, as applicable, shall be maintained to within plus or minus two tenths of one percent ($\pm 0.20\%$). The weighing party's rail scale(s), truck scale(s), or batch weighing system, as applicable, shall be calibrated at least once every six months in accordance with the guidelines established by NIST. The calibration shall be performed by a qualified third party (e.g., the rail carrier), using such equipment as deemed appropriate by such third party. At the non-weighing party's request, which may be made from time to time, the weighing party shall inform the non-weighing party of the results of such testing and calibration. It shall be the responsibility of the weighing party to arrange and schedule scale calibrations when required.

(B) The accuracy of the weighing party's belt scales shall be maintained to within plus or minus one-quarter of one percent ($\pm 0.25\%$) accuracy. The weighing party's belt scales shall be tested and calibrated at least once each month in accordance with the guidelines outlined by NIST or other procedures which shall be mutually acceptable to Seller and Buyer. At the non-weighing party's request, which may be made from time to time, the weighing party shall inform the non-weighing party of the results of such testing and calibration. It shall be the responsibility of the weighing party to arrange and schedule scale calibrations when required.

(C) If the weighing party's scales are discovered to be outside of acceptable tolerance ranges ($\pm 0.20\%$ for rail scale(s), truck scales, or batch weighing system, and $\pm 0.25\%$ for conveyor belt scales), then an appropriate adjustment will be made to the tonnage and invoiced retroactively to the date of the most recent calibration or 30 calendar days prior to the calibration which was found in error, whichever is later.

(D) Buyer shall have no obligation to pay for any coal being delivered via truck that Buyer determines is in excess of the maximum number of tons of coal that is legally deliverable to the plant or other consigned destination by such truck at the time of such delivery in accordance with applicable law.

Barge Draft Surveys: If there is no certified belt scale system at the Delivery Point, and if the parties specifically agree that weights shall be determined hereunder by draft survey taken at the Delivery Point, then all such draft surveys shall be conducted by an independent surveyor (certified commercial marine surveyor for vessels) experienced in the conduct of draft surveys selected by mutual agreement of the parties. In cases where (i) there is no certified belt scale system at the Delivery Point or in absence of a certified belt scale system and a draft survey is not taken at the Delivery Point or (ii) the Delivery Point is the ultimate destination, weights shall be determined at the destination by Buyer.

Weights determined in accordance with this section shall be deemed accepted as correct (absent manifest error) and shall govern all invoicing and payments hereunder. Unless otherwise specified, the costs of weighing shall be for the account of the weighing party.

Irrespective of which party's weights govern for payment hereunder, Seller shall properly weigh each shipment hereunder and report such weights to Buyer within 24 hours after the coal has been loaded for shipment. Seller's weights shall be reported to the recipients designated by and in the manner specified by Buyer.

4) **SAMPLING & ANALYSIS**

The sampling party shall perform all sampling and analysis of coal for payment hereunder.

Seller shall sample the coal or shall provide for the coal to be sampled as it is loaded, analyze the sample(s) so obtained, and, as provided in Section 20, notify Buyer and the consigned destination of such short proximate (calorific value per pound, percent moisture, percent ash, percent sulfur, and with respect to Illinois Basin coal, the sodium and chlorine content) average analytical results of each Shipment. All sampling and analysis

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performed hereunder shall be performed by the sampling party at its expense and shall comply with the governing ASTM procedures and specifications in effect at the time of such sampling and analysis.

Seller shall immediately notify Buyer if either its sampling system or its independent commercial laboratory becomes unavailable or unable, for any reason, to provide the short proximate analysis. Upon such occurrence(s), Buyer and Seller shall establish procedures for sampling and/or analyzing the coal shipped hereunder during such time that Seller's sampling system and/or its independent commercial laboratory are unable to provide the short proximate analysis for such coal.

Coal hereunder shall be sampled during the loading/unloading process by the sampling party, prior to its commingling with other coals. The coal samples shall then be prepared and analyzed in Buyer's laboratory, or, if Seller is the sampling party, by an independent commercial laboratory. The non-sampling party may observe the unloading, sampling, sample preparation and analysis hereunder. All sampling shall be performed using a mechanical sample system that has been certified within the previous 60 calendar months to be free of significant bias and that is properly operated and maintained.

Each coal sample collected by the sampling party shall be properly divided into at least three subsamples. One subsample shall be immediately analyzed by the applicable laboratory for the governing contractual analysis. The second sample is to be sealed in an airtight container and sent to the non-sampling party. The third subsample is to be sealed in an airtight container and held by the sampling party for a period of at least 30 days (hereinafter the "Referee Sample").

The non-sampling party may request analysis of the Referee Sample by an independent laboratory mutually agreed upon by the parties. If the results of the Referee Sample analysis and the governing contractual analysis are within ASTM Reproducibility Limits, the original governing analysis shall control and the cost of analyzing the Referee Sample shall be borne by the party requesting the Referee Sample analysis. If the results are outside such ASTM Reproducibility Limits, then the results of the Referee Sample analysis shall be used for payment, and the cost of analyzing the Referee Sample shall be borne by the sampling party.

Seller's analysis shall be reported to the recipients designated by and in the manner specified by Buyer. For purposes of determining moisture hereunder, the two-stage procedure as defined in ASTM D3302 shall be used.

5) REJECTION AND SUSPENSION

(A) If any Shipment of coal exceeds or is less than, as applicable, the Shipment Rejection Limits specified in the Purchase Order (a "Non-Conforming Shipment"), Buyer shall have the option, exercisable by notice to Seller of either (i) rejecting such Non-Conforming Shipment at the Delivery Point or en route, but prior to unloading from Transporter's equipment or (ii) accepting any Non-Conforming Shipment with a Contract Price adjustment agreed to between Seller and Buyer. "Shipment Rejection Limits" includes those limits set forth in the attached Purchase Order under the heading "Shipment Rejection Limits" as well as the limitations that the coal shall (i) be substantially free from any extraneous materials, (ii) be substantially consistent in quality throughout a Shipment, (iii) meet the size required, (iv) have no intermediate sizes (including fines) added or removed and (v) be free flowing. Should Buyer exercise such right of rejection, it shall notify Seller by E-mail or verbally upon discovery of the nonconformance, any verbal notification to be promptly confirmed in writing. If Buyer fails to exercise its rejection rights hereunder as to a Non-Conforming Shipment, Buyer shall be deemed to have waived such rights with respect to that Non-Conforming Shipment only. If Buyer rejects the Non-Conforming Shipment, Seller shall be responsible for promptly transporting the rejected coal to an alternative destination determined by Seller and, if applicable, promptly unloading such coal, and shall reimburse Buyer for all reasonable costs and expenses associated with the transportation, storage, handling and removal of the Non-Conforming Shipment. Seller shall, at Buyer's request, replace the rejected coal as soon as possible, provided that Buyer gives written notice to Seller of Buyer's desire for replacement coal within 30 days after rejection of the Non-Conforming Shipment.

(B) If there are three Non-Conforming Shipments, whether rejected or not, under this Contract in any three-month period or if two out of four consecutive Shipments under this Contract are Non-Conforming Shipments, then Buyer may upon notice to Seller suspend the receipt of future Shipments (except Shipments already loaded or in transit to Buyer) under this Contract. A waiver by Buyer of the suspension right for any one period shall not constitute a waiver for subsequent periods. If Seller, within ten days of its receipt of such notice, provides reasonable assurances in writing to Buyer that future Shipments under this Contract will conform to the Specifications and Buyer has accepted such assurances (such acceptance not to be unreasonably withheld), Shipments shall resume and any tonnage deficiencies shall be made up within the Term at Buyer's option. If (i) Seller fails to provide such acceptable assurances within such ten day period, or (ii) after such assurances are provided and for a period of three months thereafter, any Shipment of coal fails to meet any of Buyer's rejection

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rights under this section for the Rejection Limit parameter for which there was a prior suspension under this Contract, then such event shall constitute an Event of Default as provided in Section 10.

(C) If any of the Half-Month or Monthly (as applicable) weighted average coal qualities fail to conform to the Half-Month or Monthly (as applicable) Suspension specifications, then Buyer may suspend the receipt of future Shipments (except Shipments already loaded or in transit to Buyer) under this Contract. A waiver by Buyer of the suspension right for any one period shall not constitute a waiver for subsequent periods. If Seller, within ten days of its receipt of such notice, provides reasonable assurances in writing to Buyer that future Shipments under this Contract will conform to the Specifications and Buyer has accepted such assurances (such acceptance not to be unreasonably withheld), Shipments shall resume and any tonnage deficiencies shall be made up within the Term at Buyer's option. If (i) Seller fails to provide such acceptable assurances within such ten day period, or (ii) after such assurances are provided and for a period of six months thereafter, any Shipment of coal fails to meet any of the Suspension limits under this section for any of the Half-Month or Monthly (as applicable) Suspension limits for which there was a prior suspension under this Contract, then such event shall constitute an Event of Default as provided in Section 10.

(D) Buyer may terminate this Contract or terminate deliveries from the Source if Buyer in its reasonable judgment determines through operating experience that the coal therefrom causes unsatisfactory performance at the Plant of consignment, even if such coal meets the requirements and specifications of this Contract. In such event, Buyer shall provide Seller with written notice thereof, specifying the basis of such unsatisfactory performance.

6) **ASSIGNMENT**

(a) This Contract shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns and shall not be assigned or otherwise conveyed, in whole or in part, by either Party without the prior written consent of the other, except as provided in (b) and (c) below.

(b) Either Party may without the written consent of the other assign to any financing institution or institutions this Contract or any monies due or to become due hereunder.

(c) This Contract may be assigned to an Affiliate by either Party, without the prior written consent of the other, provided, that if this Contract is assigned or otherwise conveyed to an Affiliate, the assignor or conveying Party shall take all necessary actions, and shall require its affiliated assignee or Affiliate receiving entity, and any subsequent affiliated assignee(s) and affiliated receiving entity(ies), to take all necessary actions to prevent a non-Affiliate from acquiring the assignor's or conveying Party's rights and obligations pursuant to this Contract without the prior written consent of the other Party.

No assignment under this Section 6 or conveyance of any interest in this Contract shall in any way relieve the assignor or the conveying Party from liability for full performance under this Contract. Any such affiliated assignee, or other entity to whom an interest is conveyed (which conveyance must be with the prior written consent of the other Party), shall assume and agree to be bound by the terms and conditions of this Contract.

Written consent to one or more assignments shall not be construed as waiving the necessity of obtaining written consent to other and/or additional assignments.

7) **FORCE MAJEURE**

To the extent either party is prevented by Force Majeure from carrying out, in whole or part, its obligations under this Contract and such party (the "Claiming Party") gives notice and details, orally and confirmed promptly in writing, of the Force Majeure to the other party as soon as practicable (but in no event later than 30 days after the occurrence thereof), then the Claiming Party shall be excused from the performance of its obligations during such event. The Claiming Party shall remedy the Force Majeure with all reasonable dispatch. The non-Claiming Party shall not be required to perform or resume performance of its obligations to the Claiming Party corresponding to the obligations of the Claiming Party that are excused by Force Majeure. Failure to give such notice and furnish such information within the time specified shall be deemed a waiver of all rights under this Article for such period of time during which notice was not given. Buyer and Seller shall exercise reasonable efforts to mitigate or eliminate the conditions which have caused the Force Majeure condition, provided, however, nothing herein contained shall be construed as requiring Seller or Buyer to accede to any demands of labor, or labor unions, or suppliers, or other parties which Seller or Buyer considers unacceptable. The Claiming Party shall furnish the non-Claiming Party a monthly statement by the 15th day of the calendar month setting forth the amount of tonnage not shipped or to be reduced because of Force Majeure causes asserted during the second preceding calendar month.

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Except as set forth in this paragraph, no reduction by reasons of Force Majeure shall invalidate the remainder of this Contract but, on the removal of the cause, shipments shall resume at the specified rate. If an event of Force Majeure persists for (i) a continuous period of 60 days or (ii) an aggregate of 75 days in any twelve month period or during the Term of this Contract (if the Term is less than twelve months), then, at any time thereafter during the Force Majeure period, the non-Claiming Party shall have the option, upon three days' prior written notice, to terminate this Contract and the obligations of the parties thereunder.

In the event of a Force Majeure, delivery of the affected quantity of coal shall not be made up except at non-Claiming Party's sole discretion, in which case make-up shipments will be scheduled on a mutually agreeable delivery schedule, but in any event as soon as practicable.

If Seller claims Force Majeure under this Contract and has obligations to provide coal of a similar type and quality as the coal under other coal sales agreements, or if Buyer claims Force Majeure and has obligations to purchase coal of a similar type and quality as the coal under other coal sales agreements, then any reductions in Seller's deliveries or Buyer's purchases (as applicable) shall be allocated by the party claiming Force Majeure on a pro rata basis among this Contract and such other coal purchase or sales agreements involving coal of a similar type and quality as the coal, to the extent contractually permitted by such agreements. Without limiting the generality of this Article, in the event of a Force Majeure event which causes a partial or total curtailment of electrical generation from or electrical generating capacity at the consigned destination or partial or total curtailment of transmission or distribution of electricity therefrom, Buyer shall at its option, be relieved under this Article from its obligation to accept up to the pro rata (based on such partial curtailment) quantity or entire (based on such total curtailment) quantity of Seller's coal scheduled for delivery for the period during which such event or occurrence exists or existed.

8) **WAIVER**

The failure of Buyer or Seller to insist in any one or more instances upon strict performance of any of the provisions of this Contract or to take advantage of any of its rights hereunder shall not be construed as a future waiver of any such provisions or the relinquishment of any such rights, but the same shall continue and remain in full force and effect for the term of this Contract.

9) **FINANCIAL RESPONSIBILITY**

Either party shall have the right, but not the obligation, to request from the other party or its guarantor, as applicable, audited annual financial statements and unaudited quarterly financial statements. In the event a party's or its guarantor's financial statements are filed with the Securities and Exchange Commission and are available at www.sec.gov, then such party has fulfilled its obligations hereunder. In the event the performance, creditworthiness or financial condition of either party or its guarantor becomes unsatisfactory to the other at any time during which this Contract is in effect, that party ("Demanding Party") may demand Performance Assurance before further deliveries or receipts are made by it under this Contract.

10) **EVENT OF DEFAULT AND DAMAGES**

If an Event of Default (as hereafter defined) occurs with respect to a party or its guarantor (the "Defaulting Party") at any time during the term of this Contract, the other party (the "Non-Defaulting Party") may, in its sole discretion, do any or all of the following: (i) establish a date (which date shall be no earlier than the date that such notice is given to the Defaulting Party and no later than 20 days from notice) ("Early Termination Date") on which this Contract shall terminate, (ii) withhold any payments due in respect of this Contract, (iii) suspend performance under this Contract and/or (iv) exercise such other remedies as may be provided in this Contract. An event of default with respect to any party ("Event of Default") shall mean any of the following: (i) the failure of either party or its guarantor to make when due, any payment required hereunder if such failure is not remedied within two Business Days after notice of such failure is given to the Defaulting Party by the Non-Defaulting Party; (ii) the failure of either party or its guarantor to comply with any or all of its other respective obligations in good faith as herein set forth and such noncompliance is not cured within five Business Days after notice thereof to defaulting party; or (iii) failure to provide adequate Performance Assurance or other assurances satisfactory to the Non-Defaulting Party of its ability to perform its further obligations under this Contract within 48 hours, but at least within one Business Day of a reasonable written request by the Non-Defaulting Party; (iv) either party (a) filing a petition in bankruptcy, (b) having such a petition filed against it, (c) becoming otherwise insolvent or unable to pay its debts as they become due; (v) the failure of a party's guarantor, if any, to perform any covenant set forth in its guaranty, or such guaranty shall expire or be terminated or shall cease to guarantee the obligations of such party hereunder, or such guarantor shall become subject to any of the events specified in (iv) (a), (b) or (c); or (vi) an event described in the last sentence of subsections (B) and (C) of the Rejection & Suspension Rights of this Contract shall have occurred. If this Contract terminates on an Early Termination Date, the Non-Defaulting Party

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shall calculate, in a good faith commercially reasonable manner, the Settlement Amount as of the Early Termination Date as soon as is reasonably practicable and shall promptly notify the Defaulting Party of the amount thereof.

"Settlement Amount" shall mean the present value of the single net aggregate amount for the remaining term of the Contract, including any exercised option period, of any Losses, Costs and Gains, expressed in United States dollars, which the Non-Defaulting Party incurs as a result of the early termination of this Contract in accordance with this Section 10, including, but not limited to, Losses or Gains based upon the then current replacement value of this Contract, the amounts of any unpaid invoices, and the amount for coal delivered but not yet billed. In calculating the Settlement Amount, the Non-Defaulting Party shall set off all amounts that are due to the Defaulting Party against such Settlement Amount so that the Settlement Amount shall be netted to a single liquidated amount. Any collateral being held by the Non-Defaulting Party shall be setoff against the amount owed to the Non-Defaulting Party. If the Defaulting Party is holding collateral posted by the Non-Defaulting Party, then the Non-Defaulting Party will have the right to set off that amount against any payment to be made to the Defaulting Party.

The Non-Defaulting Party shall provide the Defaulting Party with an explanation of how it calculated the Settlement Amount, as well as supporting calculations and documentation reasonably requested by the Defaulting Party. The Non-Defaulting Party shall use good faith commercially reasonable efforts to mitigate any Costs or Losses it is entitled to hereunder. The Defaulting Party shall have the right to audit (through a third party independent auditor mutually agreed to by the parties) the calculation of all of the Non-Defaulting Party's Gains, Losses and Costs.

If the present value of the Non-Defaulting Party's aggregate Losses and Costs (net of any amounts due to the Defaulting Party) exceed the present value of its aggregate Gains, all as finally determined in accordance with the preceding provisions of this section, the Defaulting Party shall, within five Business Days of such final determination, pay the Settlement Amount to the Non-Defaulting Party, including interest thereon at the Interest Rate from the Early Termination Date until paid in full. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Settlement Amount, the Defaulting Party will provide its calculations to the Non-Defaulting Party within two Business Days of receipt of calculation from the Non-Defaulting Party. The Defaulting Party shall pay to the Non-Defaulting Party the undisputed portion of the Settlement Amount and provide Performance Assurance for the remaining amount.

The Non-Defaulting Party shall not be required to pay the Defaulting Party any amount under this Section 10, until the Non-Defaulting Party receives confirmation satisfactory to it, in its reasonable discretion (which may include an opinion of its counsel), that all other obligations of any kind whatsoever of the Defaulting Party to make any payments to the Non-Defaulting Party under this Contract (or otherwise) have been fully and finally performed. In addition, the Non-Defaulting Party shall not be required to pay a Settlement Amount to the Defaulting Party under this Section 10 where the Event of Default is solely related to one of the Events of Default listed above as either (i), (ii), (iii), or (vi).

11) **QUANTITY SHORTFALL DAMAGES**

(A) Unless excused by Force Majeure, by written agreement of Buyer and Seller, or Seller's failure to perform, if Buyer fails to accept all or any part of the quantity of coal to be delivered under this Contract, Buyer shall pay Seller for each ton of such deficiency an amount equal to the positive difference, if any, obtained by subtracting the Sales Price from the Contract Price plus (i) any additional transportation and storage costs incurred by Seller due to such failure and (ii) reasonable legal costs incurred by Seller in enforcement and protection of its rights under this Contract. "Sales Price" means the price, determined by Seller in a commercially reasonable manner, at which Seller resells (if at all) the coal, or, absent such a sale, the market price for such quantity of coal FOB Delivery Point.

(B) Unless excused by Force Majeure, by written agreement of Buyer and Seller, or Buyer's failure to perform, if Seller fails to deliver all or any part of the quantity of coal to be delivered under this Contract, Seller shall pay Buyer for each ton of such deficiency an amount equal to the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price plus (i) any additional transportation costs incurred by Buyer due to such failure, and (ii) reasonable legal costs incurred by Buyer in enforcement and protection of its rights under this Contract. "Replacement Price" means the price, determined by Buyer in a commercially reasonable manner, at which Buyer purchases (if at all) substitute coal for the deficiency or, absent such a purchase, the market price for such quantity of coal at the consigned destination.

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(C) Each hereby stipulates that the payment obligations set forth in (A) and (B) above are reasonable in light of the anticipated harm and each hereby waives the right to contest such payments as an unreasonable penalty or otherwise.

(D) Payment of amounts, if any, determined under this Section 11 shall be made in accordance with the Payment provision of this Contract; provided, that payment of any such amounts shall be made on the 20th calendar day of the month following such failure to deliver or accept coal, as applicable. All such determinations shall be made in a commercially reasonable manner. The Non-Defaulting Party shall not be required to enter into any actual replacement transaction in order to determine the Replacement Price or Sales Price, as appropriate, provided, however, that the Non-Defaulting Party shall take all reasonable steps to mitigate its damages.

12) **GRANT OF SECURITY INTEREST**

To secure its obligations under this Contract and to the extent either or both parties deliver Performance Assurance hereunder, each party (a "Pledgor") hereby grants to the other party (the "Secured Party") a present and continuing first priority secured interest in, and lien on (and right of recoupment and setoff against), and assignment of, all cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, such Secured Party, and each party agrees to take such action as the other party reasonably requires in order to perfect the Secured Party's first-priority security interest in, and lien on (and right of recoupment and/or setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof.

13) **HOLDING AND USE OF PERFORMANCE ASSURANCE**

Each party will be entitled to hold Performance Assurance so long as the credit rating of the senior unsecured debt obligation of the entity or its guarantor is rated at least BBB- by S&P's and Baa3 by Moody's and further provided that an Event of Default has not occurred and is not continuing with respect to the party. If an Event of Default has occurred and is continuing with respect to a party or its guarantor (if any) or if a Party or its guarantor, if any, is not rated or has a rating below the aforesaid standard, then, if it holds Performance Assurance, it shall be required to immediately place all such Performance Assurance in an escrow account with an independent third party financial institution mutually acceptable to the parties.

14) **GOVERNMENT IMPOSITIONS**

For any Contract with a Term of six months or less, this provision for Government Impositions shall not apply.

For any Contract with a Term of six months up to and including twelve months in duration, the following Government Impositions provision shall apply:

In the event that subsequent to the Effective Date, but prior to the commencement of the Term, of the attached Purchase Order any legislative, judicial or regulatory bodies revise or alter any existing legislation, regulations or requirements or enact, promulgate, or adopt new legislation, regulations or requirements which directly impose a new or increased tax or fee that is assessed on a per ton or percentage of the price basis (a "Governmental Imposition") and increase Seller's costs associated with the mining, production, processing, loading, delivery, or sale of the coal sold hereunder, Seller shall promptly advise Buyer of the effect of such change. If such new or increased tax or fee results in the total of such increases since the Effective Date exceeding two dollars and fifty cents (\$2.50) (the "Threshold Amount"), or if prior to such new or increased tax or fee the total of such increases since the Effective Date exceeds the Threshold Amount, then (a) if such increase results in the total fees and expenses exceeding the Threshold Amount, the Contract Price of Coal shall be increased by fifty percent (50%) of the amount by which the direct, actual increase in Seller's costs exceeds the Threshold Amount, or (b) if prior to such new or increased tax or fee the total of such increases since the Effective Date exceeds the Threshold Amount, the Contract Price of coal shall be adjusted to reflect one-half of the direct, actual increase in Seller's costs as a result of the Government Imposition. Any such changes in the Contract Price shall take effect as of the effective date of Seller's increased costs due to the Governmental Imposition.

For any Contract with a Term of over twelve months in duration, the following Government Imposition provision shall apply:

In the event that subsequent to the Effective Date, but prior to nine months before the end of the Term, of the attached Purchase Order any legislative, judicial or regulatory bodies revise or alter any existing legislation, regulations or requirements or enact, promulgate, or adopt new legislation, regulations or requirements which directly impose a new or increased tax or fee that is assessed on a per ton or

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percentage of the price basis (a "Governmental Imposition") and increase Seller's costs associated with the mining, production, processing, loading, delivery, or sale of the coal sold hereunder, Seller shall promptly advise Buyer of the effect of such change. If such new or increased tax or fee results in the total of such increases since the Effective Date exceeding two dollars and fifty cents (\$2.50) (the "Threshold Amount"), or if prior to such new or increased tax or fee the total of such increases since the Effective Date exceeds the Threshold Amount, then (a) if such increase results in the total fees and expenses exceeding the Threshold Amount, the Contract Price of coal shall be increased by fifty percent (50%) of the amount by which the direct, actual increase in Seller's costs exceeds the Threshold Amount, or (b) if prior to such new or increased tax or fee the total of such increases since the Effective Date exceeds the Threshold Amount, the Contract Price of coal shall be adjusted to reflect one-half of the direct, actual increase in Seller's costs as a result of the Government Imposition. Any such changes in the Contract Price shall take effect as of the effective date of Seller's increased costs due to the Governmental Imposition.

15) **NETTING AND SETOFF**

If Buyer and Seller are required to pay any amount in the same month under this Contract, then such amounts with respect to each party may be aggregated and the parties may discharge their obligations to pay through netting, in which case the party, if any, owing the greater aggregate amount shall pay to the party owed the difference between the amounts owed. Each party reserves to itself all rights, setoffs, counterclaims, combination of accounts, liens and other remedies and defenses which such party has or may be entitled to (whether by operation of law or otherwise). The obligations to make payments under this Contract may be offset against each other, set off or recouped therefrom.

16) **CONFIDENTIALITY**

The parties and their respective Affiliates shall keep confidential any and all matters relating to this Contract, except those readily obtainable from public information, requested by a regulatory commission, or otherwise required by law to be disclosed. However, for planning purposes, either party may disclose information regarding anticipated future shipments to the Transporter of the coal being supplied hereunder.

17) **ENTIRE AGREEMENT; MODIFICATION**

This Contract, together with any attachments or exhibits specifically referenced herein, constitutes the entire contract between the Seller and the Buyer with respect to the subject matter hereof, supersedes all prior oral or written representations and contracts, and may be modified only by a written amendment signed by Buyer and Seller.

18) **COMPLIANCE WITH LAW**

Seller and Buyer shall make good faith efforts to comply with the provisions of all applicable federal, state, and other governmental laws and any applicable order and/or regulations, or any amendments or supplements thereto, which have been, or may at any time be, issued by a governmental agency.

19) **GOVERNING LAW; WAIVER OF JURY TRIAL; UCC; VENUE, GOVERNMENT CONTRACTOR COMPLIANCE**

This Contract shall be construed, enforced, and performed in accordance with the laws of the State of New York, including New York General Obligation Law Sections 5-1401 and 5-1402. Each party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Contract. Except as otherwise provided for herein, the provisions of the Uniform Commercial Code ("UCC") of the State of New York shall govern this Contract and coal provided hereunder shall be deemed to be "goods" for purposes of the UCC. Each party hereby submits to the exclusive jurisdiction of state or federal courts located in Franklin County, Ohio and all appellate courts therefrom and waives any objection which it may have at any time to the laying of venue of any proceedings brought in such court, waives any claim that such proceedings have been brought in an inconvenient forum, and further waives the right to object, with respect to such proceedings, that such court does not have jurisdiction over such party.

Unless exempted, Seller shall comply with the equal employment opportunity clause in Section 202 of Executive Order 11246 and all applicable rules, regulations, and relevant orders pertaining to Executive Order 11246, Section 503 of the Rehabilitation Act of 1973, and Section 4212 of the Vietnam Era Readjustment Assistance Act of 1974, as amended.

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20) **NOTICES**

Notices provided for or required under this Contract may be exercised verbally, but shall be confirmed in writing as soon as practicable. The parties shall be legally bound from the date the notification is exercised. Notices provided for or required in writing herein shall be delivered by hand or electronic means or transmitted by facsimile or sent by certified mail, postage prepaid, return receipt requested, or by overnight mail or courier.

Unless Seller otherwise notifies Buyer in writing, notices to Seller shall be sent to the Seller as provided on page one of this Contract.

Following each Shipment, Seller shall provide Buyer with a shipping notice that includes: (i) the applicable AEP Purchase Order number; (ii) the Plant destination; (iii) the short proximate (calorific value per pound, percent moisture, percent ash, percent sulfur, and with respect to Illinois Basin coal, the sodium and chlorine content) average analytical results of each Shipment; (iv) Seller's weight determination and the identifying number(s) of each Shipment; and (v) the date the coal was loaded into the railcars or barges, with the starting and stopping times of the loading. If the coal is to be sold FOB rail, then the notice shall also include the transportation agreement number, the origin station, and the train number. If the coal is to be sold FOB barge, then the notice shall also include the shipping origin (dock name and milepost number) and barge number. Such notice shall be provided within 24 hours after the coal is loaded for shipment, or within 36 hours should the Shipment be loaded on a Saturday. Seller's analysis shall be reported to the recipients designated by and in the manner specified by Buyer.

Shipping notices shall be sent to fuels@aep.com, and the Primary Plant.

For all notices, other than shipping notices, to AEP and/or its Affiliates:

American Electric Power Service Corporation
Attn: Fuel Contract Administration
155 West Nationwide Boulevard
Columbus, OH 43215
Fax: 614-583-1627

All notices hand delivered or delivered by electronic means, shall be deemed delivered by the close of the Business Day on which it was hand delivered or delivered by electronic means (unless hand delivered or transmitted by electronic means after the close of the Business Day in which case it shall be deemed received by the close of the next Business Day). Notices provided by facsimile shall be deemed to have been received upon the sending party's receipt of its facsimile machine's confirmation of a successful transmission. If the day on which such facsimile is received is not a Business Day or is after five p.m. Eastern Prevailing Time on a Business Day, then such facsimile shall be deemed to have been received on the following Business Day. Notices provided by certified mail, postage prepaid, return receipt requested, or by overnight mail or courier, shall be deemed delivered upon mailing.

All notices to Seller shall be addressed as follows:

Alpha Coal Sales Co., LLC
One Alpha Place
Bristol, Virginia 24202
Attn: Contract Administration
Fax: 276-739-3662

and with a copy to:

Monty Jones
Alpha Coal Sales Co., LLC
P.O. Box 497
Catlettsburg, Kentucky 41129
Fax: 276-739-3553

Seller may change its notice address designated above by giving written notice thereof to Buyer.

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21) **DEFINITIONS**

The following definitions and any terms defined internally in this Contract shall apply to this Contract and all notices and communications made pursuant to this Contract.

"AEP" means American Electric Power Service Corporation, as agent.

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

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

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

"Contract Price" means the price in United States dollars per ton (unless otherwise specified in the Purchase Order) to be paid by Buyer to Seller for purchase of coal pursuant to this Contract.

"Costs" means any costs and other transactional costs and expenses reasonably incurred by the Non-Defaulting Party as a result of entering into new arrangements to replace the Contract Quantity not delivered by Seller when Buyer is the Non-Defaulting Party or not received by Buyer when Seller is the Non-Defaulting Party including brokerage fees, commissions, and reasonable legal costs incurred by the Non-Defaulting Party.

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

"Effective Date" means and refers to the date first appearing in the Purchase Order and such date usually can be found immediately below the AEP Purchase Order number at the top of the first page.

"Force Majeure" means an event or circumstance which prevents one party (the "Claiming Party") from performing its obligations under this Contract, which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided. Force Majeure includes, but is not limited to, an event or occurrence beyond the control of Buyer, such as without limitation, acts of God, war, insurrection, riots, nuclear disaster, strikes, labor disputes, threats of violence, labor and material shortages, fires, explosions, floods, river freeze-ups, breakdowns or damage to mines, plants, equipment, or facilities (including a forced outage or an extension of a scheduled outage of equipment or facilities to make repairs to avoid breakdowns thereof or damage thereto), inability to obtain, maintain, renew or operate under necessary permits, licenses, and other governmental or third-party approvals provided that the Claiming Party has made reasonable and diligent efforts in regards thereto, interruptions to or slowdowns in transportation, railcar shortages, barge shortages, embargoes, orders, or acts of civil or military authority, laws, regulations, or administrative rulings, or total or partial interruptions of Buyer's operations which are due to any enforcement action or other administrative or judicial action arising from an environmental law or regulation. Force Majeure shall not be based on: (1) Buyer's inability economically to use or resell the coal purchased hereunder; (2) Buyer's ability to purchase coal at a price lower than the Contract Price; (3) the Seller's ability to sell the coal at a price greater than the Contract Price; or (4) Seller's inability to economically produce or obtain the coal; or (5) adverse geological or mining conditions, except those resulting from extraordinary geologic conditions that are unforeseeable on the basis of previous experience, prudent mining practices and test borings.

"Gains" means with respect to a Party, an amount, determined in a commercially reasonable manner, equal to the present value of any economic benefit to such Party (generally reflected by comparing the then market price with the Contract Price, but exclusive of Costs), resulting from the early termination of this Contract, which

(a) if Seller is the Non-Defaulting Party will generally, though not exclusively, be reflected as an amount equal to the positive difference between (i) the market price at which Seller would be able to sell remaining Contract Quantities of Coal minus (ii) the Contract Price for such remaining Contract Quantities; or

(b) if Buyer is the Non-Defaulting Party will generally, though not exclusively, be reflected as an amount equal to the positive difference between (i) the Contract Price, minus (ii) the market price at which Buyer would be able to purchase remaining Contract Quantities of Coal.

"Half-Month" means the first 15 days of a calendar month or the 16th through the last calendar day of a calendar month, as applicable.

"Letters of Credit" means one or more irrevocable, transferable, standby letter of credit, issued by a major United States commercial bank or the United States branch office of a foreign bank, reasonably acceptable to the

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beneficiary with, in either case, a senior unsecured credit rating of at least (a) "A-" by Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. ("S&P"), and "A3" by Moody's Investors Service, Inc. ("Moody's"), if such entity is rated by both S&P and Moody's or (b) "A-" by S&P or "A3" by Moody's, if such entity is rated by either S&P or Moody's, but not both.

"Losses" means with respect to a party, an amount, determined in a commercially reasonable manner, equal to the present value of the economic loss, if any, (exclusive of Costs) to such party resulting from the termination of its obligations with respect to this Contract, which:

(a) if Seller is the Non-Defaulting Party will generally, though not exclusively, be reflected as an amount equal to the negative difference between (i) the market price at which Seller would be able to sell remaining Contract Quantities of Coal, minus (ii) the Contract Price; or

(b) if Buyer is the Non-Defaulting Party will generally, though not exclusively, be reflected as an amount equal to the negative difference between (i) the Contract Price, minus (ii) the market price at which Buyer would be able to purchase remaining Contract Quantities of Coal.

"NIST" means the National Institute of Standards and Technology Handbook #44.

"Performance Assurance" means collateral in the form of either cash or Letters of Credit or such other security of the type and amount reasonably requested by the party demanding Performance Assurance.

"Shipment" means, as applicable, one unit trainload or at Buyer's election a composite of two or more unit trainloads, the aggregate of single railcars loaded on any one day (only where single car rates apply), one barge or at Buyer's election a composite of two or more barges, one vessel load, or the aggregate of the truckloads that are unloaded on any one day.

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



AEP: America's Energy Partner

1 Riverside Plaza
Columbus, OH 43215

AEP Purchase Order: 03-30-14-007

RWE Deal Nr.: _____

Effective Date: July 8, 2014

Seller: RWE Supply & Trading GmbH
Acting through its agent RWE Trading Americas Inc.
Windmill Hill Business Park
Whitehill Way
Swindon SN5 6PB
United Kingdom
Attn: Vince McDonald
Phone: 212-852-4663
Email: vince.mcdonald@rwe.com

Buyer: Kentucky Power Company
1 Riverside Plaza, 14th Floor
Columbus, OH 43215
Attn: Chuck West
Phone: 614-716-6117
Cell Phone: 614-425-9889
Fax: 614-583-1627
Email: cfwest@aep.com

Primary Plant: Big Sandy

Commodity: Crushed, bituminous coal, containing no synthetic fuels, substantially free from any extraneous material, with no intermediate sizes to be added or removed and otherwise meeting the specifications of this Contract ("Coal").

Term: July 8, 2014 through July 16, 2014

Quantity: Approximately 11,000 tons delivered by train during the Term (such unit train shall constitute a "Shipment"). "Ton" is short ton which shall mean 2,000 pounds avoirdupois.

Price: \$60.05 per Ton FOB at the Delivery Point, except as set forth hereafter in Quality Adjustments.

Quality: As-received basis in accordance with ASTM standards ("Standards") for each Shipment, as follows:

<u>Characteristic:</u>	<u>Contracted:</u>	<u>Rejection Limit:</u>
Btu/lb:	12,500	12,200 minimum
Sulfur (%):	1.00	1.00 maximum
Moisture (%):	7-8.00	Not Applicable
Ash (%):	12.00	13.50 maximum
Volatile Matter (%):	30.00	Not Applicable
Hardgrove Grindability:	42-45	40 minimum

Sizing: 2 X 0 inches topsize, nominal, with maximum 55% passing one quarter inch square wire cloth sieve to be determined on the basis of the primary cutter of the mechanical sampling system.

Delivery Point: FOB railcar at Spurlock Mine.

Weighing Party: Seller shall be the weighing party. The weighing party shall weigh the Coal in accordance with Section 4 of the AEP and RWE Terms and Conditions – 10/31/2013 attached.

Sampling & Analysis Party: Seller shall be the sampling party. The sampling party shall sample and analyze the Coal in accordance with Section 5 of the AEP and RWE Terms and Conditions – 10/31/2013 attached.

Quality Adjustments: BTU Price Adjustment:
Price Adjustment (\$/Ton of Coal) = Price x [(Actual Btu/lb – Contracted Btu/lb) / Contracted Btu/lb]

1 Riverside Plaza
Columbus, OH 43215

AEP Purchase Order: 03-30-14-007

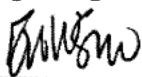
Effective Date: July 8, 2014

RWE Deal Nr.: _____

Other Terms: This Purchase Order/Confirmation shall be governed by the AEP and RWE Terms and Conditions – 10/31/2013 attached hereto and incorporated herein by specific reference. If there are any inconsistencies between the provisions of this Purchase Order/Confirmation and those in the attached Terms and Conditions, those in this Purchase Order/Confirmation shall govern.

Accepted:

Seller:
RWE Supply & Trading GmbH acting
through its agent RWE Trading Americas Inc.



Signature

ERIC SCHMIDT

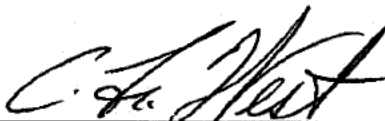
Name (Print)

CEO

Title

Date: 7/9/14

Buyer:



Signature

Charles F. West

Manager, Coal Procurement
American Electric Power Service Corporation
as agent for Kentucky Power Company

Date: 7-09-14

GDC





Brett Bucci
Head of Risk

7/9/14



AEP and RWE TERMS AND CONDITIONS – 10/31/2013

1) ACCEPTANCE/AGREEMENT

The attached Confirmation together with these Terms and Conditions shall constitute a "Contract." Failure of Buyer or Seller, as the case may be, to execute and return this Contract or to notify AEP of its disagreement with any of the terms thereof within three (3) Business Days of receiving this Contract constitutes the other party's agreement to the terms set forth in this Contract. AEP hereby objects to any additions to or modifications of this Contract.

2) WARRANTY

Seller represents and warrants that it has title to all coal sold hereunder and the same is shipped free and clear of all liens, encumbrances, and claims of all third parties. OTHER THAN THOSE EXPRESSLY PROVIDED HEREIN, SELLER MAKES NO OTHER REPRESENTATION OR WARRANTY, WRITTEN OR VERBAL, EXPRESS OR IMPLIED, IN CONNECTION WITH THE SALE AND PURCHASE OF COAL HEREUNDER. ALL WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE ARE SPECIFICALLY EXCLUDED. SELLER MAKES NO WARRANTY CONCERNING THE SUITABILITY OF COAL DELIVERED HEREUNDER FOR USE IN ANY FACILITIES.

3) SCHEDULING, DELIVERY & TITLE AND RISK OF LOSS

Unless otherwise provided in the Confirmation, Buyer shall advise Seller on or before the 23rd day of the month preceding scheduled Shipments of the loading dates and delivery schedule, and Seller shall advise Buyer on or before the 25th day of the month preceding scheduled Shipments of the source of the scheduled Shipments if more than one (1) or none is specified in the Confirmation. Unless otherwise specified in the Confirmation, Buyer shall designate to Seller the scheduling, routing and method of Shipments of coal purchased under this Contract. Seller shall cause coal sold hereunder to be properly loaded into the transport vehicle (i.e., railcars or barges) for delivery to Buyer, provided that Buyer has provided Seller with applicable loading instructions (including minimum and maximum weights) no less than 24 hours prior to the arrival of Buyer's transport vehicle and said instructions comply with industry standards. The delivery schedule specified in the Confirmation or as designated by Buyer in absence of such in the Confirmation is binding on both Buyer and Seller and may only be changed by mutual agreement confirmed in writing.

Title to and risk of loss of coal conforming to this Contract shall pass to Buyer as follows:

- a) For barge deliveries, as the barges are loaded and trimmed.
- b) For rail deliveries, upon completion of loading all railcars in each unit train and as such unit train is pulled from the Delivery Point.
- c) For all Non-Conforming Shipments (as hereinafter defined) title to and risk of loss of coal shall revert back to Seller immediately upon any rejection by Buyer as provided elsewhere in this Contract.

Seller and Buyer shall each indemnify, defend, and save harmless the other party, and its Affiliates and their respective officers, directors, agents, and employees from and against any liabilities, losses, claims, damages, penalties, causes of action, or suits arising out of or in connection with its failure to comply with its obligations under this Contract while title to and risk of loss of the coal is vested in the indemnifying party.

Seller shall indemnify, save harmless, and defend Buyer and its Affiliates and their officers, directors, agents, and employees (all referred to in this sentence as "Buyer") from and against any liabilities, expenses, losses, claims, damages, penalties, causes of action, or suits, and all other obligations whatsoever, including without limitation, all judgments rendered against and all fines and penalties imposed upon Buyer (whether severally, or in combination with others) and any reasonable attorneys' fees and any other costs of litigation (all of which are referred to as "Liabilities") arising out of injuries or death to any person(s), or damage to any property, caused by or related to, in whole or in part the railcars (or barges, if applicable) furnished hereunder, between the time that such railcars (or barges, if applicable) are delivered to Seller or Seller's agent and the time that custody thereof is properly returned to Buyer (or to Buyer's carrier, if applicable). Any injury or death to person(s) or damage to property as described above shall be reported to Buyer by Seller immediately upon the occurrence thereof, and confirmed in writing as soon as possible.

4) WEIGHING

Rail Deliveries: Unless otherwise specified in the Confirmation, weights of coal delivered by rail shall be determined by Seller by use of a certified scale system located at the Delivery Point (as set forth in the Confirmation). If there is no certified scale system at the Delivery Point, railway weights shall govern all settlements hereunder with respect to rail deliveries. As to deliveries by rail when no railway weights are available, or where the Delivery Point is the ultimate destination, weights shall be taken at the destination by Buyer.

Barge Deliveries: Unless otherwise specified in the Confirmation, weights of coal delivered by barge shall be determined by Seller by use of a certified belt scale system located at the Delivery Point (as set forth in the Confirmation). If there is no certified belt scale system at the Delivery Point, weights shall be made by draft survey taken at the Delivery Point prior to the departure of the barge(s) from the Delivery Point. All such draft surveys at the Delivery Point shall be conducted by an independent surveyor experienced in the conduct of draft surveys selected by mutual agreement of the parties, or failing agreement, by Seller unless otherwise stated in the relevant Confirmation. In cases where (i) there is no certified belt scale system at the Delivery Point or in absence of a certified belt scale system and a draft survey is not taken at the Delivery Point or (ii) the Delivery Point is the ultimate destination, weights shall be taken at the destination by Buyer.

General: Weights taken in accordance with this Section 4 shall be governed by the NIST guidelines in effect at the time of such weighing and shall be deemed accepted as correct (absent manifest error) and shall govern all invoicing and payments hereunder. Unless otherwise specified in the Confirmation, the costs of weighing shall be for Seller's account. Seller shall weigh each shipment hereunder and report such weights to Buyer within 24 hours after the coal has been loaded for shipment. Seller's weights shall be reported to the recipients designated by and in the manner specified by Buyer.

The Seller's rail scale systems shall be calibrated at least once every six (6) months in accordance with the guidelines established by NIST by a qualified third party (e.g., the rail carrier), using such equipment as deemed appropriate by such third party. Seller's belt scale systems shall be tested and calibrated at least once each month in accordance with the guidelines outlined by NIST or other procedures which shall be mutually acceptable to Seller and Buyer. The accuracy of Seller's belt scales shall be maintained to within plus or minus one half of one percent (! 0.50%) accuracy and to within plus or minus two tenths of one percent (! 0.2%) for its rail scales. At the Buyer's request, which may be made from time to time, Seller shall inform the Buyer of the results of such testing and calibration. If the scales are discovered to be outside of acceptable tolerance ranges (! 0.2% for rail scales, and ! 0.5% for belt scales), then an appropriate adjustment will be made to the Seller's tonnage and invoiced retroactively to the date of the most recent calibration or 30 calendar days prior to the calibration which was found in error, whichever is later.

5) SAMPLING AND ANALYSIS

Unless otherwise specified in the Confirmation, Seller shall perform all sampling and analysis at its expense and shall comply with the governing ASTM procedures and specifications in effect at the time of such sampling and analysis. Buyer may observe the loading, sampling, sample preparation and analysis hereunder. All sampling shall be performed using a mechanical sample system that has been certified within the previous 24 calendar months by an independent commercial laboratory to be free of bias and that is properly operated and maintained by Seller.

Seller's analysis shall be sent to the recipients designated by Buyer within 24 hours after a Shipment is loaded, unless such loading takes place on a Friday, Saturday, Sunday or federal holiday in which case it shall be sent to Buyer by the later of (i) 48 hours after loading of the Shipment or (ii) the next Business Day. Such analysis shall be provided in a format specified by Buyer.

Each coal sample collected by the Seller shall be properly divided into at least two (2) subsamples. One (1) subsample shall be analyzed for the governing contractual analysis. The second subsample is to be sealed in an airtight container and sent to Buyer at the Buyer's request provided such request is made in writing within 30 days after the date of such sampling. In the event that Buyer does not so request, Seller shall retain the second subsample for no less than 30 days. In case of disagreement as to the results of the analysis reported by the Seller, Buyer may request analysis of the second subsample by an independent referee laboratory selected by mutual agreement of the Parties. If the results of the independent analysis for the disputed Specification are within ASTM (interlaboratory) reproducibility limits, the original short proximate analysis shall control and the costs of the independent analysis shall be paid by the Buyer. If such results for any disputed specification are not within such reproducibility limits, the results of the independent analysis for the disputed specification shall control and the costs of the independent analysis shall be borne by the Seller.

6) QUALITY ADJUSTMENTS; REJECTION AND SUSPENSION RIGHTS

(A) If coal delivered under this Confirmation varies from the coal Characteristics reflected under Quality in the Confirmation (the "Specifications"), but Buyer does not exercise its rejection rights under Paragraph (B) below, quality adjustments shall be calculated pursuant to the formulas set forth in such Confirmation, if any. Within ten (10) days after the end of each month during the Term, the quality adjustments, if any, shall be netted against each other and the net quality adjustment, as appropriate, for all Shipments of coal during such month shall be determined by Seller, and Buyer shall pay Seller the net positive adjustment, if any, or Seller shall credit Buyer the

net negative adjustment, if any, on the next invoice (or pay such amount to Buyer in the event no further invoices are due) in accordance with the billing and payment terms of Section 7.

(B) If any Shipment of coal triggers any of the Rejection Limits specified in the Confirmation (a "Non-Conforming Shipment"), Buyer shall have the option, exercisable by notice to Seller of either (i) rejecting such Non-Conforming Shipment at the Delivery Point or en route, but prior to unloading from Transporter's equipment or (ii) accepting any Non-Conforming Shipment with a Contract Price adjustment agreed to between Seller and Buyer. Should Buyer exercise such right of rejection, it shall notify Seller by E-mail or verbally upon discovery of the nonconformance, such notification to be promptly confirmed in writing. If Buyer fails timely to exercise its rejection rights hereunder as to a Non-Conforming Shipment, Buyer shall be deemed to have waived such rights with respect to that Non-Conforming Shipment only. If Buyer timely rejects the Non-Conforming Shipment, Seller shall be responsible for promptly transporting the rejected coal to an alternative destination determined by Seller and, if applicable, promptly unloading such coal, and shall reimburse Buyer for all reasonable costs and expenses associated with the transportation, storage, handling and removal of the Non-Conforming Shipment. Seller shall, at Buyer's request, use commercially reasonable efforts to replace the rejected coal as soon as possible, provided that Buyer gives written notice to Seller of Buyer's desire for replacement coal within 48 hours after rejection of the Non-Conforming Shipment.

(C) If there are three (3) Non-Conforming Shipments, whether rejected or not, under this Contract in any three (3)-month period or if two (2) out of four (4) consecutive Shipments under this Contract [with respect to barged coal the preceding test shall be determined by one (1) or more rejectable barges being loaded in each of two (2) days of sequential Shipments under this Contract whether or not there are any intervening days without Shipments] are Non-Conforming Shipments, then Buyer may upon notice to Seller suspend the receipt of future Shipments (except Shipments already loaded or in transit to Buyer) under this Contract. A waiver by Buyer of the suspension right for any one (1) period shall not constitute a waiver for subsequent periods. If Seller, within ten (10) days of its receipt of such notice, provides reasonable assurances in writing to Buyer that future Shipments under this Contract will conform to the Specifications and Buyer has accepted such assurances (such acceptance not to be unreasonably withheld), Shipments shall resume and any tonnage deficiencies shall be made up within the Term at Buyer's option. If (i) Seller fails to provide such acceptable assurances within such ten (10) day period, or (ii) after such assurances are provided and for a period of three (3) months thereafter, any Shipments of coal trigger any of Buyer's rejection rights under this Section for the Rejection Limit parameter for which there was a prior suspension under this Contract, then such event shall constitute an Event of Default as provided in Section 12 hereof.

Notwithstanding any provision in this Section 6 to the contrary, Buyer shall not be entitled to reject any Shipment if it is accepted by the ultimate buyer of the coal.

7) PAYMENT

On or before the later of the twentieth (20th) day of the month following Shipment, or tenth (10th) calendar day following receipt by Buyer of Seller's invoice, if such day is not a Business Day, then on the next following Business Day, Buyer will pay to Seller the invoice amount. Payment shall be made by wire transfer or electronic means in immediately available United States funds for all coal received for which title has transferred from Seller to Buyer. Seller shall provide Buyer all pertinent remittance instructions on each invoice (including the AEP order number referenced on the first page of this Contract). Overdue payments shall accrue interest at the prime rate of interest for United States dollars as published from time to time during such period under the section titled, "Money Rates" by *The Wall Street Journal* or any successor publication, plus two percent [2%] per annum, but not to exceed the maximum applicable lawful interest rate (the "Interest Rate") from the due date until paid.

If any party in good faith reasonably disputes an invoice, it shall provide a written explanation specifying in detail the basis for the dispute and pay any undisputed portion no later than the due date. Upon resolution of any dispute involving an invoice, any additional amount owing shall be paid with interest at the Interest Rate. If any party fails to pay any amount under this Contract when due, unless such amount is the subject of a dispute as provided above, or is excused by Force Majeure, in addition to the rights and remedies provided in this Contract, the aggrieved party shall have the right to suspend performance under this Contract until such amounts plus interest have been paid, and/or exercise any remedy available at law or in equity to enforce payment of such amount plus interest at the Interest Rate defined herein.

8) ASSIGNMENT/DELEGATION

This Contract shall inure to the benefit of and be binding upon the parties and their respective successors and permitted assigns. However, no party shall assign this Contract or any of its rights or obligations hereunder without the prior written consent of the other party. Notwithstanding the foregoing, any party may, without the need for consent from the other party (and without relieving itself from liability hereunder), (a) transfer, sell, pledge, encumber

or assign this Contract or the accounts, revenues or proceeds hereof or thereof in connection with any financing or other financial arrangements or (b) transfer or assign this Contract to an Affiliate of such party; provided, however, that no such assignment shall in any way relieve the assignor from liability for full performance under this Contract. Any such assignee shall assume and agree to be bound by the terms and conditions of this Contract.

Written consent to one (1) or more assignments shall not be construed as waiving the necessity of obtaining written consent to other and/or additional assignments.

9) FORCE MAJEURE

No party shall be subject to liability to the other party for the failure to perform in conformity with this Contract where such failure results from a Force Majeure. A party affected by Force Majeure shall advise the other in writing within ten (10) Business Days of any Force Majeure condition, its expected effect on deliveries and expected duration. The party affected by the Force Majeure shall (subject to the provisions of the last sentence of this Section 9) remedy the Force Majeure with all reasonable dispatch. In the event of a Force Majeure, delivery of the affected quantity of coal shall be made up in full or in part only at the discretion of the party not claiming Force Majeure. If an event of Force Majeure persists for a continuous period of at least 60 days, then the party not claiming Force Majeure shall have the option, upon three (3) days' prior written notice, to terminate this Contract, and the obligations of the parties hereunder shall terminate (other than obligations and liabilities for prior performance hereunder). If Seller claims Force Majeure and is unable to meet all of its sales obligations under this Contract and any other of its coal sales agreements involving coal of a similar type and quality as the coal sold hereunder, or if Buyer claims Force Majeure and is unable to meet all of its purchase obligations under this Contract and any other of its coal purchase agreements involving coal of a similar type and quality as the coal purchased hereunder, then any reductions in Seller's deliveries or Buyer's purchases (as applicable) shall be allocated by the party claiming Force Majeure on a pro rata basis among this Contract and such other coal purchase agreements involving coal of a similar type and quality as the coal to be sold and purchased hereunder to the extent contractually permitted by this Contract and such other agreements.

10) WAIVER

The failure of Buyer or Seller to insist in any one or more instances upon strict performance of any of the provisions of this Contract or to take advantage of any of its rights hereunder shall not be construed as a future waiver of any such provisions or the relinquishment of any such rights, but the same shall continue and remain in full force and effect for the term of this Contract.

11) FINANCIAL RESPONSIBILITY

Either party shall have the right, but not the obligation, to request from the other party audited annual financial statements and quarterly unaudited financial statements. At any time during which this Contract is in effect, should the performance, creditworthiness or financial responsibility of a party or its guarantor become unsatisfactory, in the reasonable judgement of the other party, Performance Assurance may be required before further deliveries/receipts are made under this Contract.

12) EVENT OF DEFAULT AND DAMAGES

An "Event of Default" with respect to any party shall mean any of the following: (i) the failure of either party or its guarantor to make when due, any payment required hereunder if such failure is not remedied within two (2) Business Days after notice of such failure is given to the Defaulting Party by the Non-Defaulting Party; (ii) failure to provide Performance Assurance when required under Section 11 within three (3) Business Day of a reasonable written request by the Non-Defaulting Party; (iii) either party (a) filing a petition in bankruptcy, (b) having such a petition filed against it, (c) becoming otherwise insolvent or unable to pay its debts as they become due; (iv) the failure of a party's guarantor, if any, to perform any covenant set forth in its guaranty, or such guaranty shall expire or be terminated or shall cease to guarantee the obligations of such party hereunder, or such guarantor shall become subject to any of the events specified in (iv) (a), (b) or (c); or (v) an event described in the last sentence of Section 6 (C) shall have occurred; or (vii) the failure of either party or its guarantor to comply with any or all of its other respective obligations in good faith as herein set forth and such noncompliance is not cured within five (5) Business Days after notice thereof to the Defaulting Party.

If an Event of Default occurs with respect to a party or its guarantor (the "Defaulting Party") at any time during the term of this Contract, the other party (the "Non-Defaulting Party") may, in its sole discretion, do any or all of the following: (i) establish a date (which date shall be no earlier than the date that such notice is given to the Defaulting Party and no later than 20 days from notice) ("Early Termination Date") on which this Contract shall terminate, (ii) withhold any payments due in respect of this Contract, (iii) suspend performance under this Contract and/or (iv) exercise such other remedies as may be provided in this Contract. If this Contract terminates on an Early Termination Date, the Non-Defaulting Party shall calculate, in a good faith commercially reasonable manner, the

Settlement Amount as of the Early Termination Date as soon as is reasonably practicable and shall promptly notify the Defaulting Party of the amount thereof.

"Settlement Amount" shall mean the present value of the net aggregate amount for the remaining term of the Contract, including any exercised option period, of any Losses, Costs and Gains, expressed in United States dollars, which the Non-Defaulting Party incurs as a result of the early termination of this Contract in accordance with this Section 12, including, but not limited to, Losses or Gains based upon the then current replacement value of this Contract, the amounts of any unpaid invoices, and the amounts due for coal delivered but not yet billed. In calculating the Settlement Amount the Non-Defaulting Party may at its option and in its sole discretion set off against such Settlement Amount any amounts that are due and owing between the parties under any other agreements, instruments or undertakings between the parties. Any collateral being held by the Non-Defaulting Party may be set off against the amount(s) owed to the Non-Defaulting Party at the Non-Defaulting Party's option and in its sole discretion. If the Defaulting Party is holding collateral posted by the Non-Defaulting Party, then the Non-Defaulting Party, in its sole discretion, will have the right to set off that amount against any payment to be made to the Defaulting Party at the Non-Defaulting Party's option.

As soon as practicable after the Early Termination Date, the Non-Defaulting Party will notify the Defaulting Party of the net Settlement Amount and to whom it is due. The notice will include an explanation in reasonable detail of how the Non-Defaulting Party calculated the net Settlement Amount.

The party owing the net Settlement Amount shall pay that amount to the party to whom it is due within five (5) Business Days of the date the notice is effective. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the net Settlement Amount, the Defaulting Party shall provide to the Non-Defaulting Party a detailed written explanation of the dispute within two (2) Business Days of date the Non-Defaulting Party's notice is effective. The Defaulting Party shall nevertheless pay to the Non-Defaulting Party the undisputed portion of the Settlement Amount and provide Performance Assurance for the remaining amount.

Notwithstanding any provision to the contrary contained in this Contract, the Non-Defaulting Party shall not be required to pay the Defaulting Party any amount under this Section 12, until the Non-Defaulting Party receives confirmation satisfactory to it, in its reasonable discretion (which may include an opinion of its counsel), that all other obligations of any kind whatsoever of the Defaulting Party to the Non-Defaulting Party under this Contract (or otherwise) have been fully and finally performed.

13) **QUANTITY SHORTFALL DAMAGES**

(A) Unless excused by Force Majeure, by written agreement of Buyer and Seller, or Seller's failure to perform, if Buyer fails to accept all or any part of the quantity of coal to be delivered under this Contract, Buyer shall pay Seller for each ton of such deficiency an amount equal to the positive difference, if any, obtained by subtracting the Sales Price from the Contract Price plus (i) any additional transportation costs incurred by Seller due to such failure and (ii) reasonable legal costs incurred by Seller in enforcement and protection of its rights under this Contract. "Sales Price" means the price, determined by Seller in a commercially reasonable manner, at which Seller resells (if at all) the coal, or, absent such a sale, the market price for such quantity of coal FOB Delivery Point.

(B) Unless excused by Force Majeure, by written agreement of Buyer and Seller, or Buyer's failure to perform, if Seller fails to deliver all or any part of the quantity of coal to be delivered under this Contract, Seller shall pay Buyer for each ton of such deficiency an amount equal to the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price plus (i) any additional transportation costs incurred by Buyer due to such failure and (ii) reasonable legal costs incurred by Buyer in enforcement and protection of its rights under this Contract. "Replacement Price" means the price, determined by Buyer in a commercially reasonable manner, at which Buyer purchases (if at all) substitute coal for the deficiency or, absent such a purchase, the market price for such quantity of coal FOB Delivery Point.

(C) Each party hereby stipulates that the payment obligations set forth in (A) and (B) above are reasonable in light of the anticipated harm and each party hereby waives the right to contest such payments as an unreasonable penalty or otherwise. The remedy set forth in (A) or (B), as applicable, of this Section 13 shall be the sole and exclusive remedy of the aggrieved party for the failure of the other party to deliver or accept, as the case may be, the quantity of coal specified herein and all other damages and remedies are hereby waived as to such failure(s).

(D) Payment of amounts, if any, determined under this Section 13 shall be made in accordance with Section 7, provided, that payment of any such amounts shall be made on the 20th calendar day of the month following such failure to deliver or accept coal, as applicable. All such determinations shall be made in a commercially reasonable manner. The Non-Defaulting Party shall not be required to enter into any actual replacement transaction in order to

determine the Replacement Price or Sales Price, as appropriate, provided, however, that the Non-Defaulting Party shall take all reasonable steps to mitigate its damages.

14) GRANT OF SECURITY INTEREST

To secure its obligations under this Contract and to the extent either or both parties deliver Performance Assurance hereunder, each party (a "Pledgor") hereby grants to the other party (the "Secured Party") a present and continuing first priority secured interest in, and lien on (and right of recoupment and set-off against), and assignment of, all cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, such Secured Party, and each party agrees to take such action as the other party reasonably requires in order to perfect the Secured Party's first-priority security interest in, and lien on (and right of recoupment and/or setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof.

15) HOLDING AND USE OF PERFORMANCE ASSURANCE

Each party will be entitled to hold Performance Assurance so long as the credit rating of the senior unsecured debt obligations of the entity or its guarantor is rated at least BBB- by S&P's and Baa3 by Moody's and further provided that an Event of Default has not occurred and is not continuing with respect to the party. If an Event of Default has occurred and is continuing with respect to a party or its guarantor, then, if it holds Performance Assurance, it shall be required to immediately place all such Performance Assurance in an escrow account with an independent third party financial institution mutually acceptable to the parties.

16) LIMITATION ON LIABILITY

NO WAIVER OF REMEDIES OR DAMAGES HEREIN SHALL APPLY TO CLAIMS OF ANTICIPATORY REPUDIATION OR REMEDIES THEREFOR PROVIDED BY LAW. NEITHER SELLER NOR BUYER SHALL BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS, OR BUSINESS INTERRUPTION DAMAGES, WHETHER BY STATUTE, IN TORT OR IN CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE.

17) FORWARD CONTRACT

Buyer and Seller each acknowledge that it is a "forward contract merchant" and that this Contract constitutes a "forward contract" within the meaning of the United States Bankruptcy Code.

18) NETTING AND SETOFF

If Buyer and Seller are required to pay any amount on the same day in the same month, then such amounts with respect to each party may be aggregated and the parties may discharge their obligations to pay through netting, in which case the party, if any, owing the greater aggregate amount shall pay to the party owed the difference between the amounts owed. Each party reserves to itself all rights, setoffs, counterclaims, combination of accounts, liens and other remedies and defenses which such party has or may be entitled to (whether by operation of law or otherwise). The obligations to make payments under this Contract and/or any other contract between the parties hereto may be offset against each other, set off or recouped therefrom.

19) CONFIDENTIALITY

Buyer and Seller and their respective Affiliates shall keep confidential any and all matters relating to this Contract, except those readily obtainable from public information, requested by a regulatory commission, or otherwise required by law to be disclosed.

20) ENTIRE AGREEMENT; MODIFICATIONS

This Contract, together with any attachments or exhibits specifically referenced herein, constitutes the entire contract between the Seller and the Buyer with respect to the subject matter hereof, supersedes all prior oral or written representations and contracts, and may be modified only by a written amendment signed by Buyer and Seller.

21) COMPLIANCE WITH THE LAW

Seller and Buyer shall make good faith efforts to comply with the provisions of all federal, state, and other governmental laws and any applicable order and/or regulations, or any amendments or supplements thereto, which have been, or may at any time be, issued by a governmental agency.

22) GOVERNING LAW; WAIVER OF JURY TRIAL; UCC

This Contract shall be construed, enforced, and performed in accordance with the laws of the State of New York, including New York General Obligations Law Sections 5-1401 and 5-1402. Each party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Contract. Except as otherwise

provided for herein, the provisions of the Uniform Commercial Code ("UCC") of the State of New York shall govern this Contract and coal provided hereunder shall be deemed to be "goods" for purposes of the UCC.

23) **NOTICES**

Notices provided for or required under this Contract may be exercised verbally, but shall be confirmed in writing as soon as practicable. The parties shall be legally bound from the date the notification is exercised. Notices provided for or required in writing herein shall be delivered by hand or electronic means or transmitted by facsimile or sent by certified mail, postage prepaid, return receipt requested, or by overnight mail or courier.

Notices hand delivered or delivered by electronic means, shall be deemed delivered by the close of the Business Day on which it was hand delivered or delivered by electronic means (unless hand delivered or transmitted by electronic means after the close of the Business Day in which case it shall be deemed received by the close of the next Business Day). Notices provided by facsimile shall be deemed to have been received upon the sending party's receipt of its facsimile machine's confirmation of a successful transmission. If the day on which such facsimile is received is not a Business Day or is after close of the Business Day, then such facsimile shall be deemed to have been received on the following Business Day. Notices provided by certified mail, postage prepaid, return receipt requested, or by overnight mail or courier, shall be deemed delivered upon mailing.

24) **DEFINITIONS**

The following definitions and any terms defined internally in this Contract shall apply to this Contract and all notices and communications made pursuant to this Contract.

"AEP" means American Electric Power Service Corporation, as agent.

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

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

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

"Contract Price" means the price in United States dollars per ton (unless otherwise specified in the Confirmation) to be paid by Buyer to Seller for purchase of coal and any other proper charges pursuant to this Contract.

"Costs" means, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third party transaction costs and expenses reasonably incurred by such party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace a terminated transaction; and all reasonable attorneys' fees and expenses incurred by the Non-Defaulting Party in connection with the termination of a transaction.

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

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

"Force Majeure" means an event or circumstance which prevents one party from performing its obligations under this Contract, which is not within the reasonable control of, or the result of the negligence of, the party claiming Force Majeure, and which by the exercise of due diligence, the claiming party is unable to overcome or avoid or cause to be avoided or is unable in good faith to obtain a substitute therefore. Force Majeure shall not be based on: (1) the loss of the Buyer's markets; (2) Buyer's inability economically to use or resell the coal purchased hereunder; (3) the loss or failure of Seller's supply (including, without limitation, adverse mining conditions, or loss of feedstocks or raw materials); (4) the Seller's ability to sell the coal at a price greater than the Contract Price; or (5) Seller's inability to economically produce or obtain the coal.

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

"Letters of Credit" means one or more irrevocable, standby letters of credit issued by a United States commercial bank or a foreign bank with a United States branch (with such bank being both (1) acceptable to the party to whose

benefit the Letter of Credit is issued and (2) having a credit rating of at least "A-" from S&P and "A3" from Moody's) in a form acceptable to the party in whose favor the Letter of Credit is issued. Costs of a Letter of Credit shall be borne by the applicant for such Letter of Credit.

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

"Moody's" means Moody's Investors Service, Inc. or its successor.

"NIST" means the National Institute of Standards and Technology Handbook #44.

"Performance Assurance" means collateral in the form of either cash or Letters of Credit in an amount acceptable to the party requiring Performance Assurance or such other security of the type and amount acceptable to the party requiring Performance Assurance.

"Shipment" means, as applicable, one (1) unit trainload or one (1) barge load in accordance with the applicable transportation specifications.

"S&P" means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. or its successor.

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



AEP America's Energy Partners

1 Riverside Plaza
Columbus, OH 43215

AEP Purchase Order: 09-00-14-020

Effective Date: July 28, 2014

Seller: Koch Carbon, LLC
20 East Greenway Plaza, Suite 600
Houston, TX 77046-2002
Attn: Kenny Bailey
Phone: 808-739-6177
Fax: 808-739-6190
Email: baileyk@kochind.com

Buyer: Kentucky Power Company
1 Riverside Plaza, 14th Floor
Columbus, OH 43215
Attn: Grant D. Cirilo
Phone: 614-716-6284
Cell Phone: 614-216-9195
Email: gdcirilo@aep.com

Primary Plant: Mitchell

Commodity: Crushed, bituminous coal, containing no synthetic fuels, substantially free from any extraneous material, with no intermediate sizes to be added or removed and otherwise meeting the specifications of this Contract.

Term: September 1, 2014 through September 30, 2014

Quantity: Approximately 15,500 tons delivered by barge during the Term (each barge shall constitute a "Shipment"). Buyer and Seller shall determine a mutually agreeable shipping schedule.

Price: \$60.00 per short ton fixed FOB barge at the Delivery Point, except as set forth hereafter in Quality Adjustments.

Quality: As-received basis in accordance with ASTM standards ("Standards") for each Shipment, as follows:

<u>Characteristic:</u>	<u>Contracted Monthly:</u>	<u>Rejection Limit:</u>
Btu/lb:	12,000	11,750 minimum
Sulfur (%):	1.00	1.05 maximum
Moisture (%):	9.00	10.00 maximum
Ash (%):	12.00	13.50 maximum
Volatile Matter (%):	30.00	30.00 minimum
Hardgrove Grindability:	41	38 minimum

Sizing: 3 X 0 inches topsize, nominal, with maximum 55% passing one quarter inch square wire cloth sieve to be determined on the basis of the primary cutter of the mechanical sampling system.

Source: ~~Various mines located in Wayne County, WV and Pike County, KY.~~

Various mines located in Southern WV and Eastern KY

KB. 8-14-14 GDC 8-14-14

Delivery Point: FOB Buyer's barge at any dock located between mileposts 308 and 317 on the Ohio River or on the Big Sandy River.

Weighing Party: Seller shall be the weighing party. The weighing party shall weigh the Coal in accordance with Section 4 of the AEP and KOCH TERMS AND CONDITIONS - 3/25/14 attached.

Sampling & Analysis Party: Seller shall be the sampling party. The sampling party shall sample and analyze the Coal in accordance with Section 5 of the AEP and KOCH TERMS AND CONDITIONS - 3/25/14 attached.

1 Riverside Plaza
Columbus, OH 43215

AEP Purchase Order: 03-00-14-020

Effective Date: July 29, 2014

Quality BTU Price Adjustment:

Adjustments: Price Adjustment (\$/ton of coal) = Price x [(Actual Btu/lb - Contracted Btu/lb) / Contracted Btu/lb]

Price adjustments shall be made to the nearest \$0.001 and calculated on a monthly weighted average.

Other Terms: This Purchase Order shall be governed by the AEP and KOCH TERMS AND CONDITIONS - 3/25/14 attached hereto and incorporated herein by specific reference.

Accepted:

Seller:

Buyer:

Kenneth Bailey

Signature

Kenneth Bailey

Name (Print)

General Manager Coal Marketing

Title

Date: 8-14-14

Marguerite C. Mills

Signature

Marguerite C. Mills

Vice President

Date: 8/13/14

*DC
CJM
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AEP and KOCH TERMS AND CONDITIONS – 3/25/14

1) ACCEPTANCE/AGREEMENT

Failure of Buyer or Seller, as the case may be, to execute and return the attached Confirmation (together with these Terms and Conditions, herein referred to as the "Contract") or to notify the other party of its disagreement with any of the terms thereof within three Business Days of receiving this Contract constitutes the other party's agreement to the terms set forth in this Contract.

2) WARRANTY

Seller represents and warrants that it will have title to all coal sold hereunder at the time of delivery and the same will be shipped free and clear of all liens, encumbrances, and claims of all third parties. NEITHER BUYER NOR SELLER SHALL BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES UNDER THIS CONTRACT, INCLUDING BUT NOT LIMITED TO LOSSES, DAMAGES OR EXPENSES, DIRECTLY OR INDIRECTLY ARISING FROM THE SALE, HANDLING OR USE OF THE COAL, OR FROM ANY OTHER CAUSE RELATING THERETO. SELLER MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE QUALITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE COAL TO BE DELIVERED BY SELLER OR AS TO THE RESULTS TO BE OBTAINED BY THE USE OF SUCH COAL.

3) SCHEDULING, DELIVERY & TITLE AND RISK OF LOSS

Buyer shall advise Seller on or before the 25th day of the month preceding scheduled Shipments of the loading dates and delivery schedule. Unless otherwise provided in the Confirmation, Seller shall advise Buyer on or before the 27th day of the month preceding scheduled Shipments of the source of the scheduled Shipments if more than one is specified in the Confirmation. Unless otherwise specified in the Confirmation, Buyer shall designate to Seller the scheduling, routing and method of Shipments of coal purchased under this Contract. Seller shall cause coal sold hereunder to be properly loaded into the transport vehicle (i.e. railcars, barges, vessels, trucks, etc.) for delivery to Buyer, provided that Buyer has provided Seller with applicable loading instructions (including minimum and maximum weights) no less than 24 hours prior to the arrival of Buyer's transport vehicle and said instructions comply with generally recognized industry standards. The delivery schedule specified in the Confirmation or as designated by Buyer in absence of such in the Confirmation is binding on both Buyer and Seller and may only be changed by mutual written agreement between the parties.

Seller warrants that it will have title to the coal at the time of shipment and delivery to Buyer and that such coal will be free and clear of all third-party liens, claims, and encumbrances arising prior to the transfer of title to Buyer. Seller and Buyer shall each indemnify, defend, and save harmless the other party and its affiliates, including their respective officers, directors, affiliates, agents, and employees from and against any liabilities, losses, claim, damages, penalties, causes of action, or suits arising out of or in connection with its failure to comply with its obligations under this Contract while title to and risk of loss of the coal is vested in the indemnifying party.

Title to and risk of loss of coal conforming to this Contract shall pass to Buyer as follows:

- a) For barge deliveries, as the loaded barges are pulled from the Delivery Point;
- b) For rail deliveries, upon completion of loading all railcars in each unit train and as such unit train is pulled from the Delivery Point;
- c) For truck deliveries, upon the coal being delivered and dumped at the Delivery Point; and
- d) For all Non-Conforming Shipments (as hereinafter defined) title to and risk of loss of coal shall revert back to Seller immediately upon any rejection or nonacceptance by Buyer as provided elsewhere in this Contract, except for loss or damage caused by the negligent acts or omissions of the Buyer, its employees, agents and contractors; provided, however, that notwithstanding anything to the contrary set forth above, it is understood and agreed that Seller shall have no liability under this Contract or otherwise for any loss or damage to coal as a result of being loaded into faulty or defective transportation equipment supplied by or through the Buyer, its employees, agents or contractors.

4) WEIGHING

Rail and Truck Deliveries: Unless otherwise specified in the Confirmation, weights of coal delivered by rail or truck shall be determined by Seller by use of a scale system located at the Delivery Point (as set forth in the Confirmation) and certified no less frequently than every six months by an appropriate testing agency in accordance with the guidelines established by the National Institute of Standards and Technology Handbook #44. Seller shall certify the scale system no less than semi-annually and provide evidence of same to Buyer upon Buyer's request. If there is no certified scale system at the Delivery Point, railway weights shall govern all settlements hereunder with respect to rail deliveries. As to all deliveries (i) by truck where there are no certified scales at the Delivery Point, (ii) by rail when no railway weights are available or (iii) where the Delivery Point is the ultimate destination, weights shall be taken at the destination by Buyer by use of a scale system which conforms to the foregoing or as otherwise agreed in writing between Seller and Buyer.

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Barge or Vessel Deliveries: Unless otherwise specified in the Confirmation, weights of coal delivered by barge or vessel shall be determined by Seller by use of a belt scale system located at the Delivery Point (as set forth in the Confirmation) and certified no less frequently than every six months by an appropriate testing agency in accordance with the guidelines established by the National Institute of Standards and Technology Handbook #44. If there is no certified belt scale system at the Delivery Point, weights shall be made by draft survey taken at the Delivery Point prior to the departure of the barge(s) or vessel(s) from the Delivery Point. All such draft surveys at the Delivery Point shall be conducted by an independent surveyor (certified commercial marine surveyor for vessels) experienced in the conduct of draft surveys and selected by mutual agreement of the Parties, or failing agreement, by Seller unless otherwise stated in the relevant Confirmation. In cases where (i) there is no certified belt scale system at the Delivery Point or in absence of a certified belt scale system a draft survey is not taken at the Delivery Point or (ii) the Delivery Point is the ultimate destination, weights shall be taken at the destination by Buyer by use of a scale system which conforms to the foregoing or as otherwise agreed in writing between Seller and Buyer.

Weights taken in accordance with this Section 4 shall be deemed accepted as correct (absent manifest error) and shall govern all invoicing and payments hereunder. Unless otherwise specified, the costs of weighing shall be for Seller's account, except where the weights are taken at the destination by Buyer in which case the costs of weighing shall be for Buyer's account.

5) SAMPLING AND ANALYSIS

Unless otherwise specified, all sampling and analysis performed hereunder shall be performed by Seller at its expense and shall comply with governing ASTM procedures and specifications in effect at the time of such sampling and analysis. Buyer may observe any loading where Seller performs the sampling or sample preparation. Each coal sample collected by Seller shall be divided into two parts. One part shall be immediately analyzed at the direction of the Seller for the governing contractual analysis. The results of the analysis shall be sent to Buyer within 48 hours after a Shipment is loaded unless such loading takes place on a Friday, Saturday, Sunday or federal holiday in which case it shall be sent to Buyer by the later of (i) 72 hours of loading the Shipment and (ii) the next Business Day. The remaining sample is to be sealed in an airtight container and sent to Buyer, at Buyer's request, provided such request is made in writing within 30 days after the date of such sampling. In the event that Buyer does not so request, the sample shall be retained by Seller for no less than such thirty-day period. In case of disagreement as to the results of the analysis reported by the Seller, Buyer may request analysis of Buyer's sample in accordance with ASTM procedures by an independent referee laboratory selected by Buyer and approved by Seller, which approval shall not be unreasonably withheld or delayed, and the final governing analysis shall be the average of the Seller's analysis and Buyer's analysis. The cost of analyzing Buyer's sample shall be borne by Buyer.

6) QUALITY ADJUSTMENTS; REJECTION AND SUSPENSION RIGHTS

(A) If coal delivered under this Confirmation varies from the Quality Specifications in the Confirmation (the "Specifications"), but Buyer does not exercise its rejection rights under Paragraph (B) below, quality adjustments shall be calculated pursuant to the formulas set forth in such Confirmation, if any. Within 10 days after the end of each month during the Term for each Transaction, the quality adjustments, if any, shall be netted against each other and the net quality adjustment, as appropriate, for all Shipments of coal during such month shall be determined by Seller, and Buyer shall pay Seller the net positive adjustment, if any, or Seller shall credit Buyer the net negative adjustment, if any, on the next invoice (or pay such amount to Buyer in the event no further invoices are due) in accordance with the billing and payment terms of Section 7.

(B) If any Shipment of coal triggers any of the Rejection Limits specified in the Confirmation (a "Non-Conforming Shipment"), Buyer shall have the option, exercisable by notice to Seller within 24 hours of Buyer's receipt of Seller's analysis of the coal provided pursuant to Section 5, which shall be promptly followed by written notice to Seller of either (i) rejecting such Non-Conforming Shipment at the Delivery Point or in route, but prior to unloading from Transporter's equipment or (ii) accepting any Non-Conforming Shipment with a Contract Price adjustment agreed to in writing between Seller and Buyer. If Buyer fails timely to exercise its rejection rights hereunder as to a Non-Conforming Shipment, Buyer shall be deemed to have waived such rights with respect to that Non-Conforming Shipment only. If Buyer timely rejects the Non-Conforming Shipment, Seller shall be responsible for promptly transporting the rejected coal to an alternative destination determined by Seller and, if applicable, promptly unloading such coal, and shall reimburse Buyer for all reasonable costs and expenses associated with the transportation, storage, handling and removal of the Non-Conforming Shipment. Seller shall, at Buyer's request, use commercially reasonable efforts to replace the rejected coal as soon as possible, provided that Buyer gives written notice to Seller of Buyer's desire for replacement coal within 48 hours after rejection of the Non-Conforming Shipment.

(C) If there are three Non-Conforming Shipments, whether rejected or not, under this Contract in any three-month period or if two out of four consecutive Shipments under this Contract (with respect to barged coal the preceding test shall be determined by one or more rejectable barges being loaded in each of two days of sequential Shipments under this Contract whether or not there are any intervening days without Shipments) are Non-Conforming Shipments, then Buyer may upon written notice to Seller suspend the receipt of future Shipments (except Shipments already loaded or in transit to Buyer) under this Contract. A waiver by Buyer of the suspension right for any one period shall not constitute a waiver for subsequent periods. If Seller, within ten (10) days of its receipt of such notice, provides reasonable assurances in writing to Buyer that future Shipments under this Contract will conform to the Specifications and Buyer has accepted such assurances (such acceptance not to be unreasonably withheld or delayed), Shipments shall resume and any tonnage deficiencies shall be made up within the Term at Buyer's option. If (i) Seller fails to provide such acceptable assurances within such ten (10) day period, or (ii) after such assurances are provided and for a period of three months thereafter, any Shipments of coal trigger any of Buyer's rejection rights under this Section in

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connection with the Rejection Limit parameter for which there was a prior suspension under this Contract, then such event shall constitute an Event of Default as provided in Section 12 hereof.

Notwithstanding any provision in this Section 6 to the contrary, Buyer shall not be entitled to reject any Shipment if it is accepted by the ultimate consumer of the coal.

7) PAYMENT

Net cash via wire transfer to Seller's designated account on or before the 10th Business Day following receipt of the Shipment invoice(s), determined by the Seller's dated fax confirmation. Overdue payments shall accrue interest from the due date at the rate of two percent over the prime lending rate as published from time to time during such period in the Wall Street Journal, but in no event to exceed the maximum lawful rate ("Interest Rate"). Seller reserves the right to suspend all further Shipments in the event Buyer is delinquent on invoice payments.

8) ASSIGNMENT/DELEGATION

Neither Buyer nor Seller shall assign this Contract nor delegate any of its duties hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, it is understood and agreed that either party may assign this Contract to an affiliated entity without the prior written consent of the other party, except that the assigning party shall not be released from any of its duties and obligations under this Contract.

9) FORCE MAJEURE

No party shall be subject to liability to the other party for the failure to perform in conformity with this Contract where such failure results from a Force Majeure event or conditions beyond the reasonable control of the affected party. A party affected by force majeure shall advise the other in writing within 10 Business Days of any force majeure condition, its expected effect on deliveries and expected duration. The party affected by the Force Majeure shall (subject to the provisions of the last sentence of this Section 9) remedy the Force Majeure with all reasonable dispatch and to the extent commercially reasonable. In the event of a Force Majeure, delivery of the affected quantity of coal shall be made up in full or in part only upon mutual written agreement of the parties and upon such delivery schedule as the parties shall mutually agree in writing. If an event of Force Majeure persists for a continuous period of at least 60 days, then the party not claiming Force Majeure shall have the option, upon three days' prior written notice, to terminate this Contract and the obligations of the parties thereunder shall terminate (other than obligations and liabilities which may have accrued under this Contract).

10) WAIVER

The failure of Buyer or Seller to insist in any one or more instances upon strict performance of any of the provisions of this Contract or to take advantage of any of its rights or remedies hereunder shall not be construed as a future waiver of any such provisions or the relinquishment of any such rights or remedies, but the same shall continue and remain in full force and effect for the term of this Contract.

11) FINANCIAL ASSURANCE

Prior to commencement of performance, or at any other time during the term of this Contract, either party may require the other to provide financial information reasonably needed to ascertain the other party's ability to pay for coal to be received under this Contract or to meet any other obligation which may accrue, including without limitation the obligation to pay damages in the event of failure to perform. If either party's creditworthiness becomes unsatisfactory in this regard, as determined in the sole judgment of the dissatisfied party, then the dissatisfied party (the "Unsecured Party") may require assurance of the other party's ability to pay or may require different terms of payment. The Unsecured Party may suspend deliveries or receipts hereunder or terminate this Contract if, in the sole opinion of the Unsecured Party, the other party fails to deliver the requested credit information or assurance of its ability to pay within two (2) Business Days of such request. Such assurance may, at the option of the Unsecured Party, include, without limitation, (i) the required posting of a letter of credit as security for payment and performance (in a format and issued by a commercial bank acceptable to the requesting party); (ii) cash prepayments or (iii) other security acceptable to the Unsecured Party. The amount of financial assurance due will be equal to the difference between actual contract price and the mark-to-market price at the time of request for financial assurance plus the difference between mark-to-market price at the time of request for financial assurance and future mark-to-market volatility as calculated by the requesting party in accordance with applicable industry standards. In addition to the future mark-to-market amount, a prepayment or acceptable letter of credit for the full amount of any coal shipment should be received by the requesting party no later than four (4) days prior to such shipment.

12) EVENT OF DEFAULT AND DAMAGES

A) If an Event of Default (as hereafter defined) occurs with respect to a party (the "Defaulting Party") at any time during the term and any extension of this Contract, the other party (the "Non-Defaulting Party") may, in its sole discretion, do any or all of the following: (i) establish a date (which date shall be no earlier than the date that such notice is given to the Defaulting Party) ("Early Termination Date") on which this Contract shall terminate, (ii) withhold any payments due in respect of this Contract, (iii) suspend performance under this Contract and/or (iv) exercise such other rights or remedies as may be provided at law or in equity or as otherwise provided in this Contract. An event of default with respect to any party ("Event of Default") shall mean any of the following: (i) the failure of either party to make when due, any payment required hereunder if such failure is not remedied within five Business Days after written notice of such failure is given to the Defaulting Party by the Non-defaulting Party; (ii) the failure of either party to comply with any or all of its other respective duties and obligations in good faith as herein set forth and such

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noncompliance is not cured within 10 Business Days after written notice thereof to Defaulting Party; or (iii) failure to provide adequate security for or assurance of its ability to perform its duties and obligations under this Contract within 48 hours, but at least within one Business Day of a reasonable written request by the Non-Defaulting Party; (iv) either party (a) filing a petition in bankruptcy, (b) having such a petition filed against it, (c) becoming otherwise insolvent or unable to pay its debts as they become due; (v) the failure of a party's guarantor, if any, to perform any covenant set forth in its guaranty, or such guaranty shall expire or be terminated or shall cease to guarantee the obligations of such party hereunder, or such guarantor shall become subject to any of the events specified in (iv) (a), (b) or (c), or (vi) an event described in the last sentence of Section 6(C) shall have occurred. If an Early Termination Date is established, the Non-Defaulting Party shall calculate, using the formula described in (B) or (C) below, as applicable, and otherwise in a commercially reasonable manner, its damages, including any associated costs, resulting from the early termination of this Contract. Such damages and costs, if any, shall be paid by the Defaulting Party to the Non-Defaulting Party within five Business Days of the Defaulting Party's receipt of written notice of the damages amount. If such payment is not timely made, it shall bear interest at the Interest Rate until paid.

B) Unless excused by an event or condition of force majeure or Seller's failure to perform, if Buyer fails to accept all or any part of the quantity of coal to be delivered under this Contract, Buyer shall pay Seller for each ton of such deficiency an amount equal to the positive difference, if any, obtained by subtracting the Sales Price from the Contract Price plus (i) any additional transportation costs incurred by Seller due to such failure, and (ii) reasonable legal costs incurred by Seller in enforcement and protection of its rights under this Contract. "Sales Price" means the price, determined by Seller in a commercially reasonable manner, at which Seller resells (if at all) the coal, or, absent such a sale, the market price for such quantity of coal FOB Delivery Point.

C) Unless excused by an event or condition of force majeure or Buyer's failure to perform, if Seller fails to deliver all or any part of the quantity of coal to be delivered under this Contract, Seller shall pay Buyer for each ton of such deficiency an amount equal to the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price plus (i) any additional transportation costs incurred by Buyer due to such failure, and (ii) reasonable legal costs incurred by Buyer in enforcement and protection of its rights under this Contract. "Replacement Price" means the price, determined by Buyer in a commercially reasonable manner, at which Buyer purchases (if at all) substitute coal for the deficiency or, absent such a purchase, the market price for such quantity of coal FOB Delivery Point.

D) Each party hereby stipulates that the payment obligations set forth in (B) and (C) above are reasonable in light of the anticipated harm and each party hereby waives the right to contest such payments as an unreasonable penalty or otherwise. The remedy set forth in (B) and (C) of this Paragraph 12 shall be the sole and exclusive remedy of the aggrieved party for the failure of the other to deliver or accept, as the case may be, the quantity of coal specified herein and all other damages and remedies are hereby waived as to such failure(s), except as set forth in Paragraph 13 below.

13) **LIMITATION ON LIABILITY**

No waiver of remedies or damages herein shall apply to claims of anticipatory repudiation or remedies therefor provided by law. Neither Seller nor Buyer shall be liable to the other for consequential, incidental, punitive, exemplary or indirect damages, lost profits, or business interruption damages, whether by statute, in tort or in contract, under any indemnity provision, based upon the failure of essential purpose, or otherwise.

14) **FORWARD CONTRACT**

Buyer and Seller each acknowledge that it is a "forward contract merchant" and that all transactions pursuant to this Contract constitute "forward contracts" within the meaning of the United States Bankruptcy Code.

15) **NETTING AND SETOFF**

If Buyer and Seller are required to pay any amount on the same day or in the same month, then such amounts with respect to each party shall be aggregated and the parties may discharge their obligations to pay through netting, in which case the party, if any, owing the greater aggregate amount shall pay to the party owed the difference between the amounts owed. Each party reserves to itself all rights, setoffs, counterclaims, combination of accounts, liens and other remedies and defenses which such party has or may be entitled to (whether by operation of law or otherwise). The obligations to make payments under this Contract and/or any other contract may be offset against each other, set off or recouped therefrom.

16) **CONFIDENTIALITY**

The parties and their respective affiliates shall keep confidential any and all matters relating to this Contract, except those readily obtainable from public information, requested by a regulatory commission, or otherwise required by law to be disclosed.

17) **ENTIRE AGREEMENT**

This Contract, together with any attachments or exhibits specifically referenced herein, constitutes the entire contract between the Seller and the Buyer with respect to the subject matter hereof, supersedes all prior oral or written representations and contracts, and may be modified only by a written amendment signed by Buyer and Seller.

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18) **COMPLIANCE WITH THE LAW**

Seller and Buyer shall comply with the provisions of all applicable federal, state, and other governmental laws and any applicable order and/or regulations, or any amendments or supplements thereto, which have been, or may at any time be, issued by a governmental agency.

19) **GOVERNING LAW**

This Contract shall be construed, enforced, and performed in accordance with the substantive laws of the State of New York, without reference to its conflicts of laws rules. Except as otherwise provided for herein, the provisions of the Uniform Commercial Code ("UCC") as presently adopted by the State of New York shall govern this Contract and coal provided hereunder shall be deemed to be "goods" for purposes of the UCC.

20) **NOTICES**

Notices provided for or required under this Contract may be exercised verbally, but shall be confirmed in writing as soon as practicable. The parties shall be legally bound from the date the notification is exercised. Notices provided for or required in writing herein shall be delivered by hand or electronic means or transmitted by facsimile or sent by certified mail, postage prepaid, return receipt requested, or by overnight mail or courier.

Notices hand delivered or delivered by electronic means, shall be deemed delivered by the close of the business day on which it was hand delivered or delivered by electronic means (unless hand delivered or transmitted by electronic means after the close of the business day in which case it shall be deemed received by the close of the next business day). Notices provided by facsimile shall be deemed to have been received upon the sending party's receipt of its facsimile machine's confirmation of a successful transmission. If the day on which such facsimile is received is not a business day or is after five p.m. Eastern Prevailing Time on a business day, then such facsimile shall be deemed to have been received on the following business day. Notices provided by certified mail, postage prepaid, return receipt requested, or by overnight mail or courier, shall be deemed delivered upon mailing.



AEP: America's Energy Partner®

1 Riverside Plaza
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AEP Purchase Order: 03-00-14-027

Effective Date: September 3, 2014

Seller: EDF Trading North America, LLC
4700 W. Sam Houston Parkway North
Suite 250
Houston, TX 77041
Attn: John Rizzo
Phone: (301) 634-2613
Email: john.rizzo@edftrading.com

Buyer: Kentucky Power Company
1 Riverside Plaza, 14th Floor
Columbus, OH 43215
Attn: Grant D. Circle
Phone: 614-716-6284
Cell Phone: 614-216-9195
Email: gdcircle@aep.com

Primary Plant: Mitchell

Commodity: Crushed, bituminous coal, partially washed, containing no synthetic fuels, substantially free from any extraneous material, with no intermediate sizes to be added or removed and otherwise meeting the specifications of this Contract.

Term: January 1, 2015 through March 31, 2015

Quantity: 46,500 tons delivered by barge at the rate of 15,500 tons per month (approximately 10 barges per month, each barge shall constitute a "Shipment") during the Term.

Price: \$57.80 per ton fixed FOB barge at the Delivery Point, except as set forth hereafter in Quality Adjustments

Quality: As-received basis in accordance with ASTM standards ("Standards") for each Shipment, as follows:

<u>Characteristic:</u>	<u>Contracted</u>	
	<u>Monthly:</u>	<u>Rejection Limit:</u>
Btu/lb:	12,000	11,750 minimum
Sulfur (%):	1.00	1.05 maximum
Moisture (%):	10.00	10.00 maximum
Ash (%):	13.50	13.50 maximum
Volatile Matter (%):	30.00	30.00 minimum
Hardgrove Grindability:	41	38 minimum

Sizing: 3 inches topsize, nominal, with maximum 55% passing one quarter inch square wire cloth sieve to be determined on the basis of the primary cutter of the mechanical sampling system.

Delivery Point: FOB Buyer's barge at Seller's delivery facility on the Ohio River between mileposts 306 and 317, or on the Big Sandy River.

Weighing Party: Seller shall be the weighing party. The weighing party shall weigh the Coal in accordance with Section 4 of the EDF - AEP Terms and Conditions attached.

Sampling & Analysis Party: Seller shall be the sampling party. The sampling party shall sample and analyze the Coal in accordance with Section 5 of the EDF - AEP Terms and Conditions attached.

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AEP Purchase Order: 03-00-14-027

Effective Date: September 3, 2014

Quality Adjustments: BTU Price Adjustment:
Price Adjustment (\$/ton of coal) = Price x [(Actual Btu/lb – Contracted Btu/lb) / Contracted Btu/lb]
Price adjustments shall be made to the nearest \$0.001 and calculated on each shipment pursuant to Section 6A.

Price adjustments shall be made to the nearest \$0.001 and calculated on a monthly weighted average.

Other Terms: This Purchase Order shall be governed by the EDF – AEP Terms and Conditions attached hereto and incorporated herein by specific reference.

Accepted:

Seller:
EDF Trading North America, LLC

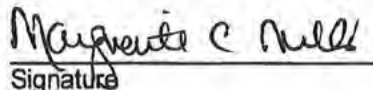

Signature

W. Eric Dennison
Name (Print)
Senior Vice President

Title

Date: 9/18/14

Buyer:
Kentucky Power Company


Signature

Marguerite C. Mills

Vice President

Date: 9/17/14



EDF Legal AK
EDF Credit LS
EDF Settlements LWS 9/17/14
C/L LS

EDF - AEP TERMS AND CONDITIONS

1) ACCEPTANCE/AGREEMENT

The attached Purchase Order together with these EDF – AEP Terms and Conditions shall constitute a "Contract." In the event that any provision(s) of these EDF – AEP Terms and Conditions are conflicting or inconsistent with the Purchase Order, the provision(s) of the Purchase Order shall control.

2) WARRANTY

Seller represents and warrants that it has title to all coal sold hereunder and the same is shipped free and clear of all liens, encumbrances, and claims of all third parties. OTHER THAN THOSE EXPRESSLY PROVIDED HEREIN, SELLER MAKES NO OTHER REPRESENTATION OR WARRANTY, WRITTEN OR VERBAL, EXPRESS OR IMPLIED, IN CONNECTION WITH THE SALE AND PURCHASE OF COAL HEREUNDER. ALL WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE ARE SPECIFICALLY EXCLUDED. SELLER MAKES NO WARRANTY CONCERNING THE SUITABILITY OF COAL DELIVERED HEREUNDER FOR USE IN ANY FACILITIES.

3) SCHEDULING, DELIVERY & TITLE AND RISK OF LOSS

Unless otherwise provided in the Purchase Order, Buyer shall advise Seller on or before the 23rd day of the month preceding scheduled Shipments of the loading dates and delivery schedule, and Seller shall advise Buyer on or before the 25th day of the month preceding scheduled Shipments of the source of the scheduled Shipments if more than one (1) or none is specified in the Purchase Order. Unless otherwise specified in the Purchase Order, Buyer shall designate to Seller the scheduling, routing and method of Shipments of coal purchased under this Contract. Seller shall cause coal sold hereunder to be properly loaded into the transport vehicle (i.e., railcars or barges) for delivery to Buyer, provided that Buyer has provided Seller with applicable loading instructions (including minimum and maximum weights) no less than 24 hours prior to the arrival of Buyer's transport vehicle and said instructions comply with industry standards. The delivery schedule specified in the Purchase Order or as designated by Buyer in absence of such in the Purchase Order is binding on both Buyer and Seller and may only be changed by mutual agreement confirmed in writing.

Title to and risk of loss of coal conforming to this Contract shall pass to Buyer as follows:

- a) For barge deliveries, as the loaded barges are pulled from the Delivery Point.
- b) For rail deliveries, upon completion of loading all railcars in each unit train and as such unit train is pulled from the Delivery Point.
- c) For all Non-Conforming Shipments (as hereinafter defined) title to and risk of loss of coal shall revert back to Seller immediately upon any rejection by Buyer as provided elsewhere in this Contract.

Seller and Buyer shall each indemnify, defend, and save harmless the other party, and its Affiliates and their respective officers, directors, agents, and employees from and against any liabilities, losses, claims, damages, penalties, causes of action, or suits arising out of or in connection with its failure to comply with its obligations under this Contract while title to and risk of loss of the coal is vested in the indemnifying party.

Seller shall indemnify, save harmless, and defend Buyer and its Affiliates and their officers, directors, agents, and employees (all referred to in this sentence as "Buyer") from and against any liabilities, expenses, losses, claims, damages, penalties, causes of action, or suits, and all other obligations whatsoever, including without limitation, all judgments rendered against and all fines and penalties imposed upon Buyer (whether severally, or in combination with others) and any reasonable attorneys' fees and any other costs of litigation (all of which are referred to as "Liabilities") arising out of injuries or death to any person(s), or damage to any property, caused by or related to, in whole or in part the railcars (or barges, if applicable) furnished hereunder, between the time that such railcars (or barges, if applicable) are delivered to Seller or Seller's agent and the time that custody thereof is properly returned to Buyer (or to Buyer's carrier, if applicable). Any injury or death to person(s) or damage to property as described above shall be reported to Buyer by Seller immediately upon the occurrence thereof, and confirmed in writing as soon as possible.

4) WEIGHING

Rail Deliveries: Unless otherwise specified in the Purchase Order, weights of coal delivered by rail shall be determined by Seller by use of a certified scale system located at the Delivery Point (as set forth in the Purchase Order). If there is no certified scale system at the Delivery Point, railway weights shall govern all settlements hereunder with respect to rail deliveries. As to deliveries by rail when no railway weights are available, or where the Delivery Point is the ultimate destination, weights shall be taken at the destination by Buyer.

Barge Deliveries: Unless otherwise specified in the Purchase Order, weights of coal delivered by barge shall be determined by Seller by use of a certified belt scale system located at the Delivery Point (as set forth in the Purchase Order). If there is no certified belt scale system at the Delivery Point, weights shall be made by draft survey taken at the Delivery Point prior to the departure of the barge(s) from the Delivery Point. All such draft surveys at the Delivery Point shall be conducted by an independent surveyor experienced in the conduct of draft surveys selected by mutual agreement of the parties, or failing agreement, by Seller unless otherwise stated in the relevant Purchase Order. In cases where (i) there is no certified belt scale system at the Delivery Point or in absence of a certified belt scale system and a draft survey is not taken at the Delivery Point or (ii) the Delivery Point is the ultimate destination, weights shall be taken at the destination by Buyer.

General: Weights taken in accordance with this Section 4 shall be governed by the NIST guidelines in effect at the time of such weighing and shall be deemed accepted as correct (absent manifest error) and shall govern all invoicing and payments hereunder. Unless otherwise specified in the Purchase Order, the costs of weighing shall be for Seller's account. Seller shall weigh each shipment hereunder and report such weights to Buyer within 24 hours after the coal has been loaded for shipment. Seller's weights shall be reported to the recipients designated by and in the manner specified by Buyer.

The Seller's rail scale systems shall be calibrated at least once every six (6) months in accordance with the guidelines established by NIST by a qualified third party (e.g., the rail carrier), using such equipment as deemed appropriate by such third party. Seller's belt scale systems shall be tested and calibrated at least once each month in accordance with the guidelines outlined by NIST or other procedures which shall be mutually acceptable to Seller and Buyer. The accuracy of Seller's belt scales shall be maintained to within plus or minus one half of one percent ($\pm 0.50\%$) accuracy and to within plus or minus two tenths of one percent ($\pm 0.2\%$) for its rail scales. At the Buyer's request, which may be made from time to time, Seller shall inform the Buyer of the results of such testing and calibration. If the scales are discovered to be outside of acceptable tolerance ranges ($\pm 0.2\%$ for rail scales, and $\pm 0.5\%$ for belt scales), then an appropriate adjustment will be made to the Seller's tonnage and invoiced retroactively to the date of the most recent calibration or 30 calendar days prior to the calibration which was found in error, whichever is later.

5) **SAMPLING AND ANALYSIS**

(a) Seller shall, at its expense, mechanically sample each Shipment during the loading process in accordance with ASTM Standards. If mechanical sampling cannot be performed due to equipment unavailability, Seller shall collect manual samples in accordance with ASTM Standards. Shipments that are scheduled for more than 10,000 tons and loaded within any 24-hour period shall be sampled so as to have two (2) samples, each representing approximately one-half of the Shipment. Shipments which, because of abnormal conditions, require more than twenty-four (24) hours to load shall be sampled so as to have separate samples representing each day's loading. Multiple samples shall not be composited physically or statistically, but shall separately stand alone in determining whether any of the Rejection Limits have been breached.

(b) Each sample taken shall be divided into three (3) splits and placed in sealed airtight containers in accordance with ASTM Standards. Any analysis of a split must be performed on an "as-received" basis and conducted in accordance with ASTM Standards.

(c) Lab results shall include a proximate analysis, Btu and sulfur content, as well as other data required in connection with the applicable Shipment ("Analysis Report"). At the request of either Buyer or Seller, and at the expense of the requesting Party, additional analyses may be performed. One split ("Seller's Split") will be analyzed by a mutually agreeable independent commercial laboratory at Seller's expense and the results will be promptly reported to Buyer by telephone. Seller will use commercially reasonable efforts to provide Buyer with a copy of the Analysis Report within twenty-four (24) hours of loading of the Shipment, but in no event later than forty-eight (48) hours of loading of the Shipment. The second split shall be sent to Buyer or Buyer's agent in accordance with Buyer's instructions as soon as practicable following the completion of loading, provided that if Buyer's does not provide instructions, Seller shall retain for no less than thirty (30) days ("Buyer's Split"). The third split ("Referee Split") shall be retained by Seller or the independent commercial laboratory for a period of forty-five (45) days after the sample is taken. If Buyer analyzes Buyer's Split in accordance with ASTM Standards and its analysis differs from analysis of Seller's Split in an amount which is above ASTM Reproducibility Limits, Buyer reserves the right to request an analysis of the Referee Split, in which case Seller shall forward or shall have the Referee Split forwarded to an independent commercial testing laboratory not used for analysis of either Buyer's or Seller's Splits. Unless Buyer so requests an analysis of the Referee Split, the results of the analysis of Seller's Split shall be final and shall govern. If Buyer does request such an analysis, the results obtained from the analysis of the Referee Split shall be final and binding. The cost of such analysis shall be borne by Seller if the results differ from analysis of Seller's Split in an amount that is above ASTM Reproducibility Limits; otherwise, such cost shall be borne by Buyer.

Buyer may observe the loading, sampling, sample preparation and analysis hereunder. All sampling shall be performed using a mechanical sample system that has been certified within the previous 24 calendar months by an independent commercial laboratory to be free of bias and that is properly operated and maintained by Seller.

6) **QUALITY ADJUSTMENTS; REJECTION AND SUSPENSION RIGHTS**

(A) If coal delivered under this Purchase Order varies from the coal Characteristics reflected under Quality in the Purchase Order (the "Specifications"), but Buyer does not exercise its rejection rights under Paragraph (B) below, quality adjustments shall be calculated pursuant to the formulas set forth in such Purchase Order, if any. Within ten (10) days after the end of each month during the Term, the quality adjustments, if any, shall be netted against each other and the net quality adjustment, as appropriate, for all Shipments of coal during such month shall be determined by Seller, and Buyer shall pay Seller the net positive adjustment, if any, or Seller shall credit Buyer the net negative adjustment, if any, on the next invoice (or pay such amount to Buyer in the event no further invoices are due) in accordance with the billing and payment terms of Section 7.

(B) If any Shipment of coal triggers any of the Rejection Limits specified in the Purchase Order (a "Non-Conforming Shipment"), Buyer shall have the option, exercisable by notice to Seller of either (i) rejecting such Non-Conforming Shipment at the Delivery Point or en route, but prior to unloading from Transporter's equipment or (ii) accepting any Non-Conforming Shipment with a Contract Price adjustment agreed to between Seller and Buyer. Should Buyer exercise such right of rejection, it shall notify Seller by E-mail or verbally upon discovery of the nonconformance, such notification to be promptly confirmed in writing. If Buyer fails timely to exercise its rejection rights hereunder as to a Non-Conforming Shipment, Buyer shall be deemed to have waived such rights with respect to that Non-Conforming Shipment only. If Buyer timely rejects the Non-Conforming Shipment, Seller shall be responsible for promptly transporting the rejected coal to an alternative destination determined by Seller and, if applicable, promptly unloading such coal, and shall reimburse Buyer for all reasonable costs and expenses associated with the transportation, storage, handling and removal of the Non-Conforming Shipment. Seller shall at Buyer's request, use commercially reasonable efforts to replace the rejected coal as soon as possible, provided that Buyer gives written notice to Seller of Buyer's desire for replacement coal within 48 hours after rejection of the Non-Conforming Shipment.

(C) If there are three (3) Non-Conforming Shipments, whether rejected or not, under this Contract in any three (3)-month period or if two (2) out of four (4) consecutive Shipments under this Contract [with respect to barged coal the preceding test shall be determined by one (1) or more rejectable barges being loaded in each of two (2) days of sequential Shipments under this Contract whether or not there are any intervening days without Shipments] are Non-Conforming Shipments, then Buyer may upon notice to Seller suspend the receipt of future Shipments (except Shipments already loaded or in transit to Buyer) under this Contract. A waiver by Buyer of the suspension right for any one (1) period shall not constitute a waiver for subsequent periods. If Seller, within ten (10) days of its receipt of such notice, provides reasonable assurances in writing to Buyer that future Shipments under this Contract will conform to the Specifications and Buyer has accepted such assurances (such acceptance not to be unreasonably withheld), Shipments shall resume and any tonnage deficiencies shall be made up within the Term at Buyer's option. If (i) Seller fails to provide such acceptable assurances within such ten (10) day period, or (ii) after such assurances are provided and for a period of three (3) months thereafter, any Shipments of coal trigger any of Buyer's rejection rights under this Section for the Rejection Limit parameter for which there was a prior suspension under this Contract, then such event shall constitute an Event of Default as provided in Section 12 hereof.

Notwithstanding any provision in this Section 6 to the contrary, Buyer shall not be entitled to reject any Shipment if it is accepted by the ultimate buyer of the coal.

7) **PAYMENT**

Unless otherwise specified, on or about the tenth (10th) day of each calendar month after the start of the Term, Seller shall provide an invoice, to Buyer setting forth the amount owed by Buyer in respect of (i) the Commodity delivered during the immediately preceding calendar month, together with the reports detailing the quality and quantity of such Commodity. Subject to Buyer's "Rejection Rights" and any "Calorific Value Adjustment" described above, Buyer shall pay for all Commodities delivered by Seller. Unless otherwise agreed by the parties, all invoices in respect of this Purchase Order shall be due and payable in accordance with the invoice instructions on or before the later of the twentieth (20th) day of the month following Shipment, or tenth (10th) day after receipt of the invoice or, if such day is not a Business Day, then on the next following Business Day. "Business Day" shall mean any day on which Federal Reserve member banks in New York City are open for business. Payment shall be made by wire transfer or electronic means in immediately available United States funds for all coal received for which title has transferred from Seller to Buyer. Seller shall provide Buyer all pertinent remittance instructions on each invoice

(including the Purchase Order number referenced on the first page of this Purchase Order. [Overdue payments shall accrue interest at the prime rate of interest for United States dollars as published from time to time during such period under the section titled, "Money Rates" by *The Wall Street Journal* or any successor publication, plus two percent [2%] per annum, but not to exceed the maximum applicable lawful interest rate (the "Interest Rate") from the due date until paid.

If any party in good faith reasonably disputes an invoice, it shall provide a written explanation specifying in detail the basis for the dispute, provide supporting documentation acceptable in industry practice if such dispute is related to Section 13, and pay any undisputed portion no later than the due date. Upon resolution of any dispute involving an invoice, any additional amount owing shall be paid with interest at the Interest Rate. If any party fails to any pay amount under this Contract when due, unless such amount is the subject of a dispute as provided above, or is excused by Force Majeure, in addition to the rights and remedies provided in this Contract, the aggrieved party shall have the right to suspend performance under this Contract until such amounts plus interest have been paid, and/or exercise any remedy available at law or in equity to enforce payment of such amount plus interest at the Interest Rate defined herein.

8) **ASSIGNMENT/DELEGATION**

This Contract shall inure to the benefit of and be binding upon the parties and their respective successors and permitted assigns. However, no party shall assign this Contract or any of its rights or obligations hereunder without the prior written consent of the other party. Notwithstanding the foregoing, any party may, without the need for consent from the other party (and without relieving itself from liability hereunder), (a) transfer, sell, pledge, encumber or assign this Contract or the accounts, revenues or proceeds hereof or thereof in connection with any financing or other financial arrangements or (b) transfer or assign this Contract to an Affiliate of such party; provided, however, that no such assignment shall in any way relieve the assignor from liability for full performance under this Contract. Any such assignee shall assume and agree to be bound by the terms and conditions of this Contract.

Written consent to one (1) or more assignments shall not be construed as waiving the necessity of obtaining written consent to other and/or additional assignments.

9) **FORCE MAJEURE**

No party shall be subject to liability to the other party for the failure to perform in conformity with this Contract where such failure results from a Force Majeure. A party affected by Force Majeure shall advise the other in writing within ten (10) Business Days of any Force Majeure condition, its expected effect on deliveries and expected duration. The party affected by the Force Majeure shall (subject to the provisions of the last sentence of this Section 9) remedy the Force Majeure with all reasonable dispatch. In the event of a Force Majeure, delivery of the affected quantity of coal shall be made up in full or in part only at the discretion of the party not claiming Force Majeure. If an event of Force Majeure persists for a continuous period of at least 60 days, then the party not claiming Force Majeure shall have the option, upon three (3) days' prior written notice, to terminate this Contract, and the obligations of the parties hereunder shall terminate (other than obligations and liabilities for prior performance hereunder). If Seller claims Force Majeure and is unable to meet all of its sales obligations under this Contract and any other of its coal sales agreements involving coal of a similar type and quality as the coal sold hereunder, or if Buyer claims Force Majeure and is unable to meet all of its purchase obligations under this Contract and any other of its coal purchase agreements involving coal of a similar type and quality as the coal purchased hereunder, then any reductions in Seller's deliveries or Buyer's purchases (as applicable) shall be allocated by the party claiming Force Majeure on a pro rata basis among this Contract and such other coal purchase agreements involving coal of a similar type and quality as the coal to be sold and purchased hereunder to the extent contractually permitted by this Contract and such other agreements.

10) **WAIVER**

The failure of Buyer or Seller to insist in any one or more instances upon strict performance of any of the provisions of this Contract or to take advantage of any of its rights hereunder shall not be construed as a future waiver of any such provisions or the relinquishment of any such rights, but the same shall continue and remain in full force and effect for the term of this Contract.

11) **FINANCIAL RESPONSIBILITY**

Either party shall have the right, but not the obligation, to request from the other party audited annual financial statements and quarterly unaudited financial statements. At any time during which this Contract is in effect, should the performance, creditworthiness or financial responsibility of a party or its guarantor become unsatisfactory, in the reasonable judgement of the other party, Performance Assurance may be required before further deliveries/receipts are made under this Contract.

12) **EVENT OF DEFAULT AND DAMAGES**

An "Event of Default" with respect to any party shall mean any of the following: (i) the failure of either party or its guarantor to make when due, any payment required hereunder if such failure is not remedied within two (2) Business Days after notice of such failure is given to the Defaulting Party by the Non-Defaulting Party; (ii) failure to provide Performance Assurance when required under Section 11 within 48 hours, but within at least one (1) Business Day of a reasonable written request by the Non-Defaulting Party; (iii) either party (a) filing a petition in bankruptcy, (b) having such a petition filed against it, (c) becoming otherwise insolvent or unable to pay its debts as they become due; (iv) the failure of a party's guarantor, if any, to perform any covenant set forth in its guaranty, or such guaranty shall expire or be terminated or shall cease to guarantee the obligations of such party hereunder, or such guarantor shall become subject to any of the events specified in (iii) (a), (b) or (c); or (v) an event described in the last sentence of Section 6 (C) shall have occurred; or (vii) the failure of either party or its guarantor to comply with any or all of its other respective obligations in good faith as herein set forth and such noncompliance is not cured within five (5) Business Days after notice thereof to the Defaulting Party.

If an Event of Default occurs with respect to a party or its guarantor (the "Defaulting Party") at any time during the term of this Contract, the other party (the "Non-Defaulting Party") may, in its sole discretion, do any or all of the following: (i) establish a date (which date shall be no earlier than the date that such notice is given to the Defaulting Party and no later than 20 days from notice) ("Early Termination Date") on which this Contract shall terminate, (ii) withhold any payments due in respect of this Contract, (iii) suspend performance under this Contract and/or (iv) exercise such other remedies as may be provided in this Contract. If this Contract terminates on an Early Termination Date, the Non-Defaulting Party shall calculate, in a good faith commercially reasonable manner, the Settlement Amount as of the Early Termination Date as soon as is reasonably practicable and shall promptly notify the Defaulting Party of the amount thereof.

"Settlement Amount" shall mean the present value of the net aggregate amount for the remaining term of the Contract, including any exercised option period, of any Losses, Costs and Gains, expressed in United States dollars, which the Non-Defaulting Party incurs as a result of the early termination of this Contract in accordance with this Section 12, including, but not limited to, Losses or Gains based upon the then current replacement value of this Contract, the amounts of any unpaid invoices, and the amounts due for coal delivered but not yet billed. In calculating the Settlement Amount the Non-Defaulting Party may at its option and in its sole discretion set off against such Settlement Amount any amounts that are due and owing between the parties under any other agreements, instruments or undertakings between the parties. Any collateral being held by the Non-Defaulting Party may be set off against the amount(s) owed to the Non-Defaulting Party at the Non-Defaulting Party's option and in its sole discretion. If the Defaulting Party is holding collateral posted by the Non-Defaulting Party, then the Non-Defaulting Party, in its sole discretion, will have the right to set off that amount against any payment to be made to the Defaulting Party at the Non-Defaulting Party's option.

As soon as practicable after the Early Termination Date, the Non-Defaulting Party will notify the Defaulting Party of the net Settlement Amount and to whom it is due. The notice will include an explanation in reasonable detail of how the Non-Defaulting Party calculated the net Settlement Amount.

The party owing the net Settlement Amount shall pay that amount to the party to whom it is due within five (5) Business Days of the date the notice is effective. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the net Settlement Amount, the Defaulting Party shall provide to the Non-Defaulting Party a detailed written explanation of the dispute within two (2) Business Days of date the Non-Defaulting Party's notice is effective. The Defaulting Party shall nevertheless pay to the Non-Defaulting Party the undisputed portion of the Settlement Amount and provide Performance Assurance for the remaining amount.

Notwithstanding any provision to the contrary contained in this Contract, the Non-Defaulting Party shall not be required to pay the Defaulting Party any amount under this Section 12, until the Non-Defaulting Party receives confirmation satisfactory to it, in its reasonable discretion (which may include an opinion of its counsel), that all other obligations of any kind whatsoever of the Defaulting Party to the Non-Defaulting Party under this Contract (or otherwise) have been fully and finally performed.

13) **QUANTITY SHORTFALL DAMAGES**

(A) Unless excused by Force Majeure, by written agreement of Buyer and Seller, or Seller's failure to perform, if Buyer fails to accept all or any part of the quantity of coal to be delivered under this Contract, Buyer shall pay Seller for each ton of such deficiency an amount equal to the positive difference, if any, obtained by subtracting the Sales Price from the Contract Price plus (i) any additional transportation costs incurred by Seller due to such failure and (ii) reasonable legal costs incurred by Seller in enforcement and protection of its rights under this Contract. "Sales

Price" means the price, determined by Seller in a commercially reasonable manner, at which Seller resells (if at all) the coal, or, absent such a sale, the market price for such quantity of coal FOB Delivery Point.

(B) Unless excused by Force Majeure, by written agreement of Buyer and Seller, or Buyer's failure to perform, if Seller fails to deliver all or any part of the quantity of coal to be delivered under this Contract, Seller shall pay Buyer for each ton of such deficiency an amount equal to the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price plus (i) any additional transportation costs incurred by Buyer due to such failure and (ii) reasonable legal costs incurred by Buyer in enforcement and protection of its rights under this Contract. "Replacement Price" means the price, determined by Buyer in a commercially reasonable manner, at which Buyer purchases (if at all) substitute coal for the deficiency or, absent such a purchase, the market price for such quantity of coal FOB Delivery Point.

(C) Each party hereby stipulates that the payment obligations set forth in (A) and (B) above are reasonable in light of the anticipated harm and each party hereby waives the right to contest such payments as an unreasonable penalty or otherwise. The remedy set forth in (A) or (B), as applicable, of this Section 13 shall be the sole and exclusive remedy of the aggrieved party for the failure of the other party to deliver or accept, as the case may be, the quantity of coal specified herein and all other damages and remedies are hereby waived as to such failure(s).

(D) Payment of amounts, if any, determined under this Section 13 shall be made in accordance with Section 7; provided, that payment of any such amounts shall be made on the 20th calendar day of the month following such failure to deliver or accept coal, as applicable. All such determinations shall be made in a commercially reasonable manner. The Non-Defaulting Party shall not be required to enter into any actual replacement transaction in order to determine the Replacement Price or Sales Price, as appropriate, provided, however, that the Non-Defaulting Party shall take all reasonable steps to mitigate its damages.

14) **GRANT OF SECURITY INTEREST**

To secure its obligations under this Contract and to the extent either or both parties deliver Performance Assurance hereunder, each party (a "Pledgor") hereby grants to the other party (the "Secured Party") a present and continuing first priority secured interest in, and lien on (and right of recoupment and set-off against), and assignment of, all cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, such Secured Party, and each party agrees to take such action as the other party reasonably requires in order to perfect the Secured Party's first-priority security interest in, and lien on (and right of recoupment and/or setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof.

15) **HOLDING AND USE OF PERFORMANCE ASSURANCE**

Each party will be entitled to hold Performance Assurance so long as the credit rating of the senior unsecured debt obligations of the entity or its guarantor, or in the absence of such rating, its issuer rating is at least BBB- by S&P's and Baa3 by Moody's and further provided that an Event of Default has not occurred and is not continuing with respect to the party. If an Event of Default has occurred and is continuing with respect to a party or its guarantor, then, if it holds Performance Assurance, it shall be required to immediately place all such Performance Assurance in an escrow account with an independent third party financial institution mutually acceptable to the parties.

16) **LIMITATION ON LIABILITY**

NO WAIVER OF REMEDIES OR DAMAGES HEREIN SHALL APPLY TO CLAIMS OF ANTICIPATORY REPUDIATION OR REMEDIES THEREFOR PROVIDED BY LAW. NEITHER SELLER NOR BUYER SHALL BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS, OR BUSINESS INTERRUPTION DAMAGES, WHETHER BY STATUTE, IN TORT OR IN CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE.

17) **FORWARD CONTRACT**

Buyer and Seller each acknowledge that it is a "forward contract merchant" and that this Contract constitutes a "forward contract" within the meaning of the United States Bankruptcy Code.

18) **NETTING AND SETOFF**

If Buyer and Seller are required to pay any amount on the same day in the same month, then such amounts with respect to each party may be aggregated and the parties may discharge their obligations to pay through netting, in which case the party, if any, owing the greater aggregate amount shall pay to the party owed the difference between the amounts owed. Each party reserves to itself all rights, setoffs, counterclaims, combination of accounts, liens and other remedies and defenses which such party has or may be entitled to (whether by operation of law or otherwise).

The obligations to make payments under this Contract and/or any other contract between the parties hereto may be offset against each other, set off or recouped therefrom.

19) **CONFIDENTIALITY**

Buyer and Seller and their respective Affiliates shall keep confidential any and all matters relating to this Contract, except those readily obtainable from public information, requested by a regulatory commission, or otherwise required by law to be disclosed.

20) **ENTIRE AGREEMENT; MODIFICATIONS**

This Contract, together with any attachments or exhibits specifically referenced herein, constitutes the entire contract between the Seller and the Buyer with respect to the subject matter hereof, supersedes all prior oral or written representations and contracts, and may be modified only by a written amendment signed by Buyer and Seller.

21) **COMPLIANCE WITH THE LAW**

Seller and Buyer shall make good faith efforts to comply with the provisions of all federal, state, and other governmental laws and any applicable order and/or regulations, or any amendments or supplements thereto, which have been, or may at any time be, issued by a governmental agency.

22) **GOVERNING LAW; WAIVER OF JURY TRIAL; UCC**

This Contract shall be construed, enforced, and performed in accordance with the laws of the State of New York, including New York General Obligations Law Sections 5-1401 and 5-1402. Each party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Contract. Except as otherwise provided for herein, the provisions of the Uniform Commercial Code ("UCC") of the State of New York shall govern this Contract and coal provided hereunder shall be deemed to be "goods" for purposes of the UCC.

23) **NOTICES**

Notices provided for or required under this Contract may be exercised verbally, but shall be confirmed in writing as soon as practicable. The parties shall be legally bound from the date the notification is exercised. Notices provided for or required in writing herein shall be delivered by hand or electronic means or transmitted by facsimile or sent by certified mail, postage prepaid, return receipt requested, or by overnight mail or courier.

Notices hand delivered or delivered by electronic means, shall be deemed delivered by the close of the Business Day on which it was hand delivered or delivered by electronic means (unless hand delivered or transmitted by electronic means after the close of the Business Day in which case it shall be deemed received by the close of the next Business Day). Notices provided by facsimile shall be deemed to have been received upon the sending party's receipt of its facsimile machine's confirmation of a successful transmission. If the day on which such facsimile is received is not a Business Day or is after close of the Business Day, then such facsimile shall be deemed to have been received on the following Business Day. Notices provided by certified mail, postage prepaid, return receipt requested, or by overnight mail or courier, shall be deemed delivered upon mailing.

24) **DEFINITIONS**

The following definitions and any terms defined internally in this Contract shall apply to this Contract and all notices and communications made pursuant to this Contract.

"*AEP*" means American Electric Power Service Corporation, as agent.

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

"*ASTM*" means ASTM International, formerly known as the American Society for Testing and Materials.

"*Business Day*" means any day on which Federal Reserve member banks in New York, New York are open for business, and a Business Day shall open at 8:00 a.m. and close at 5:00 p.m. Eastern Prevailing Time.

"*Contract Price*" means the price in United States dollars per ton (unless otherwise specified in the Purchase Order) to be paid by Buyer to Seller for purchase of coal and any other proper charges pursuant to this Contract.

"*Costs*" means, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third party transaction costs and expenses reasonably incurred by such party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace a terminated transaction; and all

reasonable attorneys' fees and expenses incurred by the Non-Defaulting Party in connection with the termination of a transaction.

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

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

"Force Majeure" means an event or circumstance which prevents one party from performing its obligations under this Contract, which is not within the reasonable control of, or the result of the negligence of, the party claiming Force Majeure, and which by the exercise of due diligence, the claiming party is unable to overcome or avoid or cause to be avoided or is unable in good faith to obtain a substitute therefore. Force Majeure shall not be based on: (1) the loss of the Buyer's markets; (2) Buyer's inability economically to use or resell the coal purchased hereunder; (3) the loss or failure of Seller's supply (including, without limitation, adverse mining conditions, or loss of feedstocks or raw materials); (4) the Seller's ability to sell the coal at a price greater than the Contract Price; or (5) Seller's inability to economically produce or obtain the coal.

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

"Letters of Credit" means one or more irrevocable, standby letters of credit issued by a United States commercial bank or a foreign bank with a United States branch (with such bank being both (1) acceptable to the party to whose benefit the Letter of Credit is issued and (2) having a credit rating of at least "A-" from S&P or "A3" from Moody's) in a form acceptable to the party in whose favor the Letter of Credit is issued. Costs of a Letter of Credit shall be borne by the applicant for such Letter of Credit.

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

"Moody's" means Moody's Investors Service, Inc. or its successor.

"NIST" means the National Institute of Standards and Technology Handbook #44.

"Performance Assurance" means collateral in the form of either cash or Letters of Credit in an amount acceptable to the party requiring Performance Assurance or such other security of the type and amount acceptable to the party requiring Performance Assurance.

"Shipment" means, as applicable, one (1) unit trainload or one (1) barge load in accordance with the applicable transportation specifications.

"S&P" means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. or its successor.

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



AEP America's Energy Partner®

AEP Purchase Order: 03-00-14-028 ✓

Seller's Reference:

Effective Date: September 8, 2014

Seller: ✓ Trafigura AG
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Email: Martin.Sonesson@Trafigura.com

Buyer: Kentucky Power Company
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Columbus, OH 43215
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Phone: 614-716-6284
Cell Phone: 614-216-9195
Email: gdcircle@aep.com

Primary Plant: Mitchell

Commodity: Crushed, bituminous coal, partially washed, containing no synthetic fuels, substantially free from any extraneous material, with no intermediate sizes to be added or removed and otherwise meeting the specifications of this Contract.

Term: October 1, 2014 through October 31, 2014

Quantity: ✓ A total of 15,500 Tons to be delivered by barge during the Term at the rate of 10 barges per month (each barge shall constitute a "Shipment"). Buyer and Seller shall determine a mutually agreeable shipping schedule. "Ton" is short ton which shall mean 2,000 pounds avoirdupois.

Price: ✓ \$56.50 per short Ton fixed FOB barge at the Delivery Point, except as set forth hereafter in Quality Adjustments.

Quality: As-received basis in accordance with ASTM standards ("Standards") for each Shipment, as follows:

Table with 3 columns: Characteristic, Contracted Monthly, and Rejection Limit. Rows include Btu/lb, Sulfur (%), Moisture (%), Ash (%), Volatile Matter (%), and Hardgrove Grindability.

Sizing: 3 X 0 inches topsize, nominal, with maximum 55% passing one quarter inch square wire cloth sieve to be determined on the basis of the primary cutter of the mechanical sampling system.

Delivery Point: FOB Buyer's barge at a delivery facility located between mileposts 300 and 316 on the Ohio River, or on the Big Sandy River, at Seller's option.

Weighing Party: Seller shall be the weighing party. The weighing party shall weigh the Coal in accordance with Section 4 of the OTC Terms and Conditions attached.

Sampling & Analysis Party: Seller shall be the sampling party. The sampling party shall sample and analyze the Coal in accordance with Section 5 of the OTC Terms and Conditions attached.

Quality Adjustments: BTU Price Adjustment: Price Adjustment (\$/ton of coal) = Price x [(Actual Btu/lb - Contracted Btu/lb) / Contracted Btu/lb]

Price adjustments shall be made to the nearest \$0.001 and calculated on a monthly weighted average.

AEP Purchase Order: 03-00-14-028

Seller's Reference:

Effective Date: September 8, 2014

Other Terms: The following are changes to the attached OTC Terms and Conditions:
Section 5, second paragraph, the first sentence is deleted in its entirety and the following is inserted in place thereof:

"Seller's analysis shall be sent to the Buyer via email to gdcircle@aep.com and fuels@aep.com, and such other recipients designated by Buyer, within 24 hours after a Shipment is loaded, unless such loading takes place on a Friday, Saturday, Sunday or federal holiday in which case it shall be sent to Buyer by the later of (i) 48 hours after loading of the Shipment or (ii) the next Business Day."

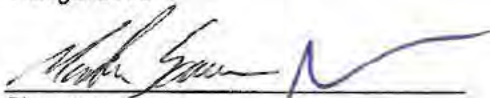
Section 6(B) is deleted in its entirety and the following is inserted in place thereof:

"(B) If any Shipment of coal triggers any of the Rejection Limits specified in the Confirmation (a "Non-Conforming Shipment"), Buyer shall have the option, exercisable by notice to Seller of either (i) rejecting such Non-Conforming Shipment, with such notice of rejection to be given by the later of a) three (3) Business Days following the date the Shipment is loaded at the Delivery Point, or b) two (2) Business Days following Buyer's receipt of the certificate of analysis, but in any event prior to unloading from Transporter's equipment, or (ii) accepting any Non-Conforming Shipment with a Contract Price adjustment agreed to between Seller and Buyer. Should Buyer exercise such right of rejection, it shall notify Seller by E-mail or verbally upon discovery of the nonconformance, such notification to be promptly confirmed in writing. If Buyer fails timely to exercise its rejection rights hereunder as to a Non-Conforming Shipment, Buyer shall be deemed to have waived such rights with respect to that Non-Conforming Shipment only. If Buyer timely rejects the Non-Conforming Shipment, Seller shall be responsible for promptly transporting the rejected coal to an alternative destination determined by Seller and, if applicable, promptly unloading such coal, and shall reimburse Buyer for all reasonable costs and expenses associated with the transportation, storage, handling and removal of the Non-Conforming Shipment. Seller shall, at Buyer's request, use commercially reasonable efforts to replace the rejected coal as soon as possible, provided that Buyer gives written notice to Seller of Buyer's desire for replacement coal within 48 hours after rejection of the Non-Conforming Shipment."

Except as set forth above, this Purchase Order (referenced in the OTC Terms and Conditions as a "Confirmation") shall be governed by the OTC Terms and Conditions attached hereto and incorporated herein by specific reference.

Accepted:

Seller:
Trafigura AG



Signature

Martin Sonesson

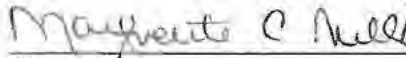
Name (Print)

Trader

Title

Date: 9/22/14

Buyer:
Kentucky Power Company



Signature

Marguerite C. Mills

Vice President

Date: 9/17/14





AEP America's Energy Partners

OTC TERMS AND CONDITIONS

1) ACCEPTANCE/AGREEMENT

The attached Confirmation together with these Terms and Conditions shall constitute a "Contract." Failure of Buyer or Seller, as the case may be, to execute and return this Contract or to notify AEP of its disagreement with any of the terms thereof within three (3) Business Days of receiving this Contract constitutes the other party's agreement to the terms set forth in this Contract. AEP hereby objects to any additions to or modifications of this Contract.

2) WARRANTY

Seller represents and warrants that it has title to all coal sold hereunder and the same is shipped free and clear of all liens, encumbrances, and claims of all third parties. OTHER THAN THOSE EXPRESSLY PROVIDED HEREIN, SELLER MAKES NO OTHER REPRESENTATION OR WARRANTY, WRITTEN OR VERBAL, EXPRESS OR IMPLIED, IN CONNECTION WITH THE SALE AND PURCHASE OF COAL HEREUNDER. ALL WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE ARE SPECIFICALLY EXCLUDED. SELLER MAKES NO WARRANTY CONCERNING THE SUITABILITY OF COAL DELIVERED HEREUNDER FOR USE IN ANY FACILITIES.

3) SCHEDULING, DELIVERY & TITLE AND RISK OF LOSS

Unless otherwise provided in the Confirmation, Buyer shall advise Seller on or before the 23rd day of the month preceding scheduled Shipments of the loading dates and delivery schedule, and Seller shall advise Buyer on or before the 25th day of the month preceding scheduled Shipments of the source of the scheduled Shipments if more than one (1) or none is specified in the Confirmation. Unless otherwise specified in the Confirmation, Buyer shall designate to Seller the scheduling, routing and method of Shipments of coal purchased under this Contract. Seller shall cause coal sold hereunder to be properly loaded into the transport vehicle (i.e., railcars or barges) for delivery to Buyer, provided that Buyer has provided Seller with applicable loading instructions (including minimum and maximum weights) no less than 24 hours prior to the arrival of Buyer's transport vehicle and said instructions comply with industry standards. The delivery schedule specified in the Confirmation or as designated by Buyer in absence of such in the Confirmation is binding on both Buyer and Seller and may only be changed by mutual agreement confirmed in writing.

Title to and risk of loss of coal conforming to this Contract shall pass to Buyer as follows:

- a) For barge deliveries, as the barges are loaded and trimmed.
- b) For rail deliveries, upon completion of loading all railcars in each unit train and as such unit train is pulled from the Delivery Point.
- c) For all Non-Conforming Shipments (as hereinafter defined) title to and risk of loss of coal shall revert back to Seller immediately upon any rejection by Buyer as provided elsewhere in this Contract.

Seller and Buyer shall each indemnify, defend, and save harmless the other party, and its Affiliates and their respective officers, directors, agents, and employees from and against any liabilities, losses, claims, damages, penalties, causes of action, or suits arising out of or in connection with its failure to comply with its obligations under this Contract while title to and risk of loss of the coal is vested in the indemnifying party.

Seller shall indemnify, save harmless, and defend Buyer and its Affiliates and their officers, directors, agents, and employees (all referred to in this sentence as "Buyer") from and against any liabilities, expenses, losses, claims, damages, penalties, causes of action, or suits, and all other obligations whatsoever, including without limitation, all judgments rendered against and all fines and penalties imposed upon Buyer (whether severally, or in combination with others) and any reasonable attorneys' fees and any other costs of litigation (all of which are referred to as "Liabilities") arising out of injuries or death to any person(s), or damage to any property, caused by or related to, in whole or in part the railcars (or barges, if applicable) furnished hereunder, between the time that such railcars (or barges, if applicable) are delivered to Seller or Seller's agent and the time that custody thereof is properly returned to Buyer (or to Buyer's carrier, if applicable). Any injury or death to person(s) or damage to property as described above shall be reported to Buyer by Seller immediately upon the occurrence thereof, and confirmed in writing as soon as possible.

4) WEIGHING

Rail Deliveries: Unless otherwise specified in the Confirmation, weights of coal delivered by rail shall be determined by Seller by use of a certified scale system located at the Delivery Point (as set forth in the Confirmation). If there is no certified scale system at the Delivery Point, railway weights shall govern all settlements hereunder with respect to rail deliveries. As to deliveries by rail when no railway weights are available, or where the Delivery Point is the ultimate destination, weights shall be taken at the destination by Buyer.

Barge Deliveries: Unless otherwise specified in the Confirmation, weights of coal delivered by barge shall be determined by Seller by use of a certified belt scale system located at the Delivery Point (as set forth in the Confirmation). If there is no certified belt scale system at the Delivery Point, weights shall be made by draft survey taken at the Delivery Point prior to the departure of the barge(s) from the Delivery Point. All such draft surveys at the Delivery Point shall be conducted by an independent surveyor experienced in the conduct of draft surveys selected by mutual agreement of the parties, or failing agreement, by Seller unless otherwise stated in the relevant Confirmation. In cases where (i) there is no certified belt scale system at the Delivery Point or in absence of a certified belt scale system and a draft survey is not taken at the Delivery Point or (ii) the Delivery Point is the ultimate destination, weights shall be taken at the destination by Buyer.

General: Weights taken in accordance with this Section 4 shall be governed by the NIST guidelines in effect at the time of such weighing and shall be deemed accepted as correct (absent manifest error) and shall govern all invoicing and payments hereunder. Unless otherwise specified in the Confirmation, the costs of weighing shall be for Seller's account. Seller shall weigh each shipment hereunder and report such weights to Buyer within 24 hours after the coal has been loaded for shipment. Seller's weights shall be reported to the recipients designated by and in the manner specified by Buyer.

The Seller's rail scale systems shall be calibrated at least once every six (6) months in accordance with the guidelines established by NIST by a qualified third party (e.g., the rail carrier), using such equipment as deemed appropriate by such third party. Seller's belt scale systems shall be tested and calibrated at least once each month in accordance with the guidelines outlined by NIST or other procedures which shall be mutually acceptable to Seller and Buyer. The accuracy of Seller's belt scales shall be maintained to within plus or minus one half of one percent (! 0.50%) accuracy and to within plus or minus two tenths of one percent (! 0.2%) for its rail scales. At the Buyer's request, which may be made from time to time, Seller shall inform the Buyer of the results of such testing and calibration. If the scales are discovered to be outside of acceptable tolerance ranges (! 0.2% for rail scales, and ! 0.5% for belt scales), then an appropriate adjustment will be made to the Seller's tonnage and invoiced retroactively to the date of the most recent calibration or 30 calendar days prior to the calibration which was found in error, whichever is later.

5) SAMPLING AND ANALYSIS

Unless otherwise specified in the Confirmation, Seller shall perform all sampling and analysis at its expense and shall comply with the governing ASTM procedures and specifications in effect at the time of such sampling and analysis. Buyer may observe the loading, sampling, sample preparation and analysis hereunder. All sampling shall be performed using a mechanical sample system that has been certified within the previous 24 calendar months by an independent commercial laboratory to be free of bias and that is properly operated and maintained by Seller.

Seller's analysis shall be sent to the recipients designated by Buyer within 24 hours after a Shipment is loaded, unless such loading takes place on a Friday, Saturday, Sunday or federal holiday in which case it shall be sent to Buyer by the later of (i) 48 hours after loading of the Shipment or (ii) the next Business Day. Such analysis shall be provided in a format specified by Buyer.

Each coal sample collected by the Seller shall be properly divided into at least two (2) subsamples. One (1) subsample shall be analyzed for the governing contractual analysis. The second subsample is to be sealed in an airtight container and sent to Buyer at the Buyer's request provided such request is made in writing within 30 days after the date of such sampling. In the event that Buyer does not so request, Seller shall retain the second subsample for no less than 30 days. In case of disagreement as to the results of the analysis reported by the Seller, Buyer may request analysis of the second subsample by an independent referee laboratory selected by Buyer and the final governing analysis shall be the average of the first subsample and Buyer's analysis of the second subsample. Should Buyer request a subsample be analyzed by an independent referee laboratory, the cost for such analysis shall be borne by Buyer.

6) QUALITY ADJUSTMENTS; REJECTION AND SUSPENSION RIGHTS

(A) If coal delivered under this Confirmation varies from the coal Characteristics reflected under Quality in the Confirmation (the "Specifications"), but Buyer does not exercise its rejection rights under Paragraph (B) below, quality adjustments shall be calculated pursuant to the formulas set forth in such Confirmation, if any. Within ten (10) days after the end of each month during the Term, the quality adjustments, if any, shall be netted against each other and the net quality adjustment, as appropriate, for all Shipments of coal during such month shall be determined by Seller, and Buyer shall pay Seller the net positive adjustment, if any, or Seller shall credit Buyer the net negative adjustment, if any, on the next invoice (or pay such amount to Buyer in the event no further invoices are due) in accordance with the billing and payment terms of Section 7.

(B) If any Shipment of coal triggers any of the Rejection Limits specified in the Confirmation (a "Non-Conforming Shipment"), Buyer shall have the option, exercisable by notice to Seller of either (i) rejecting such Non-Conforming Shipment at the Delivery Point or en route, but prior to unloading from Transporter's equipment or (ii) accepting any Non-Conforming Shipment with a Contract Price adjustment agreed to between Seller and Buyer. Should Buyer exercise such right of rejection, it shall notify Seller by E-mail or verbally upon discovery of the nonconformance, such notification to be promptly confirmed in writing. If Buyer fails timely to exercise its rejection rights hereunder as to a Non-Conforming Shipment, Buyer shall be deemed to have waived such rights with respect to that Non-Conforming Shipment only. If Buyer timely rejects the Non-Conforming Shipment, Seller shall be responsible for promptly transporting the rejected coal to an alternative destination determined by Seller and, if applicable, promptly unloading such coal, and shall reimburse Buyer for all reasonable costs and expenses associated with the transportation, storage, handling and removal of the Non-Conforming Shipment. Seller shall, at Buyer's request, use commercially reasonable efforts to replace the rejected coal as soon as possible, provided that Buyer gives written notice to Seller of Buyer's desire for replacement coal within 48 hours after rejection of the Non-Conforming Shipment.

(C) If there are three (3) Non-Conforming Shipments, whether rejected or not, under this Contract in any three (3)-month period or if two (2) out of four (4) consecutive Shipments under this Contract [with respect to barged coal the preceding test shall be determined by one (1) or more rejectable barges being loaded in each of two (2) days of sequential Shipments under this Contract whether or not there are any intervening days without Shipments] are Non-Conforming Shipments, then Buyer may upon notice to Seller suspend the receipt of future Shipments (except Shipments already loaded or in transit to Buyer) under this Contract. A waiver by Buyer of the suspension right for any one (1) period shall not constitute a waiver for subsequent periods. If Seller, within ten (10) days of its receipt of such notice, provides reasonable assurances in writing to Buyer that future Shipments under this Contract will conform to the Specifications and Buyer has accepted such assurances (such acceptance not to be unreasonably withheld), Shipments shall resume and any tonnage deficiencies shall be made up within the Term at Buyer's option. If (i) Seller fails to provide such acceptable assurances within such ten (10) day period, or (ii) after such assurances are provided and for a period of three (3) months thereafter, any Shipments of coal trigger any of Buyer's rejection rights under this Section for the Rejection Limit parameter for which there was a prior suspension under this Contract, then such event shall constitute an Event of Default as provided in Section 12 hereof.

Notwithstanding any provision in this Section 6 to the contrary, Buyer shall not be entitled to reject any Shipment if it is accepted by the ultimate buyer of the coal.

7) **PAYMENT**

On or before the tenth (10th) calendar day following receipt by Buyer of Seller's invoice, Buyer will pay to Seller the invoice amount. Payment shall be made by wire transfer or electronic means in immediately available United States funds for all coal received for which title has transferred from Seller to Buyer. Seller shall provide Buyer all pertinent remittance instructions on each invoice (including the AEP order number referenced on the first page of this Contract). Overdue payments shall accrue interest at the prime rate of interest for United States dollars as published from time to time during such period under the section titled, "Money Rates" by *The Wall Street Journal* or any successor publication, plus two percent [2%] per annum, but not to exceed the maximum applicable lawful interest rate (the "Interest Rate") from the due date until paid.

If any party in good faith reasonably disputes an invoice, it shall provide a written explanation specifying in detail the basis for the dispute and pay any undisputed portion no later than the due date. Upon resolution of any dispute involving an invoice, any additional amount owing shall be paid with interest at the Interest Rate. If any party fails to pay any amount under this Contract when due, unless such amount is the subject of a dispute as provided above, or is excused by Force Majeure, in addition to the rights and remedies provided in this Contract, the aggrieved party shall have the right to suspend performance under this Contract until such amounts plus interest have been paid, and/or exercise any remedy available at law or in equity to enforce payment of such amount plus interest at the Interest Rate defined herein.

8) **ASSIGNMENT/DELEGATION**

This Contract shall inure to the benefit of and be binding upon the parties and their respective successors and permitted assigns. However, no party shall assign this Contract or any of its rights or obligations hereunder without the prior written consent of the other party. Notwithstanding the foregoing, any party may, without the need for consent from the other party (and without relieving itself from liability hereunder), (a) transfer, sell, pledge, encumber or assign this Contract or the accounts, revenues or proceeds hereof or thereof in connection with any financing or other financial arrangements or (b) transfer or assign this Contract to an Affiliate of such party; provided, however, that no such assignment shall in any way relieve the assignor from liability for full performance

under this Contract. Any such assignee shall assume and agree to be bound by the terms and conditions of this Contract.

Written consent to one (1) or more assignments shall not be construed as waiving the necessity of obtaining written consent to other and/or additional assignments.

9) **FORCE MAJEURE**

No party shall be subject to liability to the other party for the failure to perform in conformity with this Contract where such failure results from a Force Majeure. A party affected by Force Majeure shall advise the other in writing within ten (10) Business Days of any Force Majeure condition, its expected effect on deliveries and expected duration. The party affected by the Force Majeure shall (subject to the provisions of the last sentence of this Section 9) remedy the Force Majeure with all reasonable dispatch. In the event of a Force Majeure, delivery of the affected quantity of coal shall be made up in full or in part only at the discretion of the party not claiming Force Majeure. If an event of Force Majeure persists for a continuous period of at least 60 days, then the party not claiming Force Majeure shall have the option, upon three (3) days' prior written notice, to terminate this Contract, and the obligations of the parties hereunder shall terminate (other than obligations and liabilities for prior performance hereunder). If Seller claims Force Majeure and is unable to meet all of its sales obligations under this Contract and any other of its coal sales agreements involving coal of a similar type and quality as the coal sold hereunder, or if Buyer claims Force Majeure and is unable to meet all of its purchase obligations under this Contract and any other of its coal purchase agreements involving coal of a similar type and quality as the coal purchased hereunder, then any reductions in Seller's deliveries or Buyer's purchases (as applicable) shall be allocated by the party claiming Force Majeure on a pro rata basis among this Contract and such other coal purchase agreements involving coal of a similar type and quality as the coal to be sold and purchased hereunder to the extent contractually permitted by this Contract and such other agreements.

10) **WAIVER**

The failure of Buyer or Seller to insist in any one or more instances upon strict performance of any of the provisions of this Contract or to take advantage of any of its rights hereunder shall not be construed as a future waiver of any such provisions or the relinquishment of any such rights, but the same shall continue and remain in full force and effect for the term of this Contract.

11) **FINANCIAL RESPONSIBILITY**

Either party shall have the right, but not the obligation, to request from the other party audited annual financial statements and quarterly unaudited financial statements. At any time during which this Contract is in effect, should the performance, creditworthiness or financial responsibility of a party or its guarantor become unsatisfactory, in the reasonable judgement of the other party, Performance Assurance may be required before further deliveries/receipts are made under this Contract.

12) **EVENT OF DEFAULT AND DAMAGES**

An "Event of Default" with respect to any party shall mean any of the following: (i) the failure of either party or its guarantor to make when due, any payment required hereunder if such failure is not remedied within two (2) Business Days after notice of such failure is given to the Defaulting Party by the Non-Defaulting Party; (ii) failure to provide Performance Assurance when required under Section 11 within 48 hours, but within at least one (1) Business Day of a reasonable written request by the Non-Defaulting Party; (iii) either party (a) filing a petition in bankruptcy, (b) having such a petition filed against it, (c) becoming otherwise insolvent or unable to pay its debts as they become due; (iv) the failure of a party's guarantor, if any, to perform any covenant set forth in its guaranty, or such guaranty shall expire or be terminated or shall cease to guarantee the obligations of such party hereunder, or such guarantor shall become subject to any of the events specified in (iv) (a), (b) or (c); or (v) an event described in the last sentence of Section 6 (C) shall have occurred; or (vi) the failure of either party or its guarantor to comply with any or all of its other respective obligations in good faith as herein set forth and such noncompliance is not cured within five (5) Business Days after notice thereof to the Defaulting Party.

If an Event of Default occurs with respect to a party or its guarantor (the "Defaulting Party") at any time during the term of this Contract, the other party (the "Non-Defaulting Party") may, in its sole discretion, do any or all of the following: (i) establish a date (which date shall be no earlier than the date that such notice is given to the Defaulting Party and no later than 20 days from notice) ("Early Termination Date") on which this Contract shall terminate, (ii) withhold any payments due in respect of this Contract, (iii) suspend performance under this Contract and/or (iv) exercise such other remedies as may be provided in this Contract. If this Contract terminates on an Early Termination Date, the Non-Defaulting Party shall calculate, in a good faith commercially reasonable manner, the Settlement Amount as of the Early Termination Date as soon as is reasonably practicable and shall promptly notify the Defaulting Party of the amount thereof.

"Settlement Amount" shall mean the present value of the net aggregate amount for the remaining term of the Contract, including any exercised option period, of any Losses, Costs and Gains, expressed in United States dollars, which the Non-Defaulting Party incurs as a result of the early termination of this Contract in accordance with this Section 12, including, but not limited to, Losses or Gains based upon the then current replacement value of this Contract, the amounts of any unpaid invoices, and the amounts due for coal delivered but not yet billed. In calculating the Settlement Amount the Non-Defaulting Party may at its option and in its sole discretion set off against such Settlement Amount any amounts that are due and owing between the parties under any other agreements, instruments or undertakings between the parties. Any collateral being held by the Non-Defaulting Party may be set off against the amount(s) owed to the Non-Defaulting Party at the Non-Defaulting Party's option and in its sole discretion. If the Defaulting Party is holding collateral posted by the Non-Defaulting Party, then the Non-Defaulting Party, in its sole discretion, will have the right to set off that amount against any payment to be made to the Defaulting Party at the Non-Defaulting Party's option.

As soon as practicable after the Early Termination Date, the Non-Defaulting Party will notify the Defaulting Party of the net Settlement Amount and to whom it is due. The notice will include an explanation in reasonable detail of how the Non-Defaulting Party calculated the net Settlement Amount.

The party owing the net Settlement Amount shall pay that amount to the party to whom it is due within five (5) Business Days of the date the notice is effective. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the net Settlement Amount, the Defaulting Party shall provide to the Non-Defaulting Party a detailed written explanation of the dispute within two (2) Business Days of date the Non-Defaulting Party's notice is effective. The Defaulting Party shall nevertheless pay to the Non-Defaulting Party the undisputed portion of the Settlement Amount and provide Performance Assurance for the remaining amount.

Notwithstanding any provision to the contrary contained in this Contract, the Non-Defaulting Party shall not be required to pay the Defaulting Party any amount under this Section 12, until the Non-Defaulting Party receives confirmation satisfactory to it, in its reasonable discretion (which may include an opinion of its counsel), that all other obligations of any kind whatsoever of the Defaulting Party to the Non-Defaulting Party under this Contract (or otherwise) have been fully and finally performed.

13) **QUANTITY SHORTFALL DAMAGES**

(A) Unless excused by Force Majeure, by written agreement of Buyer and Seller, or Seller's failure to perform, if Buyer fails to accept all or any part of the quantity of coal to be delivered under this Contract, Buyer shall pay Seller for each ton of such deficiency an amount equal to the positive difference, if any, obtained by subtracting the Sales Price from the Contract Price plus (i) any additional transportation costs incurred by Seller due to such failure and (ii) reasonable legal costs incurred by Seller in enforcement and protection of its rights under this Contract. "Sales Price" means the price, determined by Seller in a commercially reasonable manner, at which Seller resells (if at all) the coal, or, absent such a sale, the market price for such quantity of coal FOB Delivery Point.

(B) Unless excused by Force Majeure, by written agreement of Buyer and Seller, or Buyer's failure to perform, if Seller fails to deliver all or any part of the quantity of coal to be delivered under this Contract, Seller shall pay Buyer for each ton of such deficiency an amount equal to the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price plus (i) any additional transportation costs incurred by Buyer due to such failure and (ii) reasonable legal costs incurred by Buyer in enforcement and protection of its rights under this Contract. "Replacement Price" means the price, determined by Buyer in a commercially reasonable manner, at which Buyer purchases (if at all) substitute coal for the deficiency or, absent such a purchase, the market price for such quantity of coal FOB Delivery Point.

(C) Each party hereby stipulates that the payment obligations set forth in (A) and (B) above are reasonable in light of the anticipated harm and each party hereby waives the right to contest such payments as an unreasonable penalty or otherwise. The remedy set forth in (A) or (B), as applicable, of this Section 13 shall be the sole and exclusive remedy of the aggrieved party for the failure of the other party to deliver or accept, as the case may be, the quantity of coal specified herein and all other damages and remedies are hereby waived as to such failure(s).

(D) Payment of amounts, if any, determined under this Section 13 shall be made in accordance with Section 7; provided, that payment of any such amounts shall be made on the 20th calendar day of the month following such failure to deliver or accept coal, as applicable. All such determinations shall be made in a commercially reasonable manner. The Non-Defaulting Party shall not be required to enter into any actual replacement transaction in order to determine the Replacement Price or Sales Price, as appropriate, provided, however, that the Non-Defaulting Party shall take all reasonable steps to mitigate its damages.

14) **GRANT OF SECURITY INTEREST**

To secure its obligations under this Contract and to the extent either or both parties deliver Performance Assurance hereunder, each party (a "Pledgor") hereby grants to the other party (the "Secured Party") a present and continuing first priority secured interest in, and lien on (and right of recoupment and set-off against), and assignment of, all cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, such Secured Party, and each party agrees to take such action as the other party reasonably requires in order to perfect the Secured Party's first-priority security interest in, and lien on (and right of recoupment and/or setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof.

15) **HOLDING AND USE OF PERFORMANCE ASSURANCE**

Each party will be entitled to hold Performance Assurance so long as the credit rating of the senior unsecured debt obligations of the entity or its guarantor is rated at least BBB- by S&P's and Baa3 by Moody's and further provided that an Event of Default has not occurred and is not continuing with respect to the party. If an Event of Default has occurred and is continuing with respect to a party or its guarantor, then, if it holds Performance Assurance, it shall be required to immediately place all such Performance Assurance in an escrow account with an independent third party financial institution mutually acceptable to the parties.

16) **LIMITATION ON LIABILITY**

NO WAIVER OF REMEDIES OR DAMAGES HEREIN SHALL APPLY TO CLAIMS OF ANTICIPATORY REPUDIATION OR REMEDIES THEREFOR PROVIDED BY LAW. NEITHER SELLER NOR BUYER SHALL BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS, OR BUSINESS INTERRUPTION DAMAGES, WHETHER BY STATUTE, IN TORT OR IN CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE.

17) **FORWARD CONTRACT**

Buyer and Seller each acknowledge that it is a "forward contract merchant" and that this Contract constitutes a "forward contract" within the meaning of the United States Bankruptcy Code.

18) **NETTING AND SETOFF**

If Buyer and Seller are required to pay any amount on the same day in the same month, then such amounts with respect to each party may be aggregated and the parties may discharge their obligations to pay through netting, in which case the party, if any, owing the greater aggregate amount shall pay to the party owed the difference between the amounts owed. Each party reserves to itself all rights, setoffs, counterclaims, combination of accounts, liens and other remedies and defenses which such party has or may be entitled to (whether by operation of law or otherwise). The obligations to make payments under this Contract and/or any other contract between the parties hereto may be offset against each other, set off or recouped therefrom.

19) **CONFIDENTIALITY**

Buyer and Seller and their respective Affiliates shall keep confidential any and all matters relating to this Contract, except those readily obtainable from public information, requested by a regulatory commission, or otherwise required by law to be disclosed.

20) **ENTIRE AGREEMENT; MODIFICATIONS**

This Contract, together with any attachments or exhibits specifically referenced herein, constitutes the entire contract between the Seller and the Buyer with respect to the subject matter hereof, supersedes all prior oral or written representations and contracts, and may be modified only by a written amendment signed by Buyer and Seller.

21) **COMPLIANCE WITH THE LAW**

Seller and Buyer shall make good faith efforts to comply with the provisions of all federal, state, and other governmental laws and any applicable order and/or regulations, or any amendments or supplements thereto, which have been, or may at any time be, issued by a governmental agency.

22) **GOVERNING LAW; WAIVER OF JURY TRIAL; UCC**

This Contract shall be construed, enforced, and performed in accordance with the laws of the State of New York, including New York General Obligations Law Sections 5-1401 and 5-1402. Each party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Contract. Except as otherwise provided for herein, the provisions of the Uniform Commercial Code ("UCC") of the State of New York shall govern this Contract and coal provided hereunder shall be deemed to be "goods" for purposes of the UCC.

23) **NOTICES**

Notices provided for or required under this Contract may be exercised verbally, but shall be confirmed in writing as soon as practicable. The parties shall be legally bound from the date the notification is exercised. Notices provided for or required in writing herein shall be delivered by hand or electronic means or transmitted by facsimile or sent by certified mail, postage prepaid, return receipt requested, or by overnight mail or courier.

Notices hand delivered or delivered by electronic means, shall be deemed delivered by the close of the Business Day on which it was hand delivered or delivered by electronic means (unless hand delivered or transmitted by electronic means after the close of the Business Day in which case it shall be deemed received by the close of the next Business Day). Notices provided by facsimile shall be deemed to have been received upon the sending party's receipt of its facsimile machine's confirmation of a successful transmission. If the day on which such facsimile is received is not a Business Day or is after close of the Business Day, then such facsimile shall be deemed to have been received on the following Business Day. Notices provided by certified mail, postage prepaid, return receipt requested, or by overnight mail or courier, shall be deemed delivered upon mailing.

24) **DEFINITIONS**

The following definitions and any terms defined internally in this Contract shall apply to this Contract and all notices and communications made pursuant to this Contract.

"AEP" means American Electric Power Service Corporation, as agent.

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

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

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

"Contract Price" means the price in United States dollars per ton (unless otherwise specified in the Confirmation) to be paid by Buyer to Seller for purchase of coal and any other proper charges pursuant to this Contract.

"Costs" means, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third party transaction costs and expenses reasonably incurred by such party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace a terminated transaction; and all reasonable attorneys' fees and expenses incurred by the Non-Defaulting Party in connection with the termination of a transaction.

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

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

"Force Majeure" means an event or circumstance which prevents one party from performing its obligations under this Contract, which is not within the reasonable control of, or the result of the negligence of, the party claiming Force Majeure, and which by the exercise of due diligence, the claiming party is unable to overcome or avoid or cause to be avoided or is unable in good faith to obtain a substitute therefore. Force Majeure shall not be based on: (1) the loss of the Buyer's markets; (2) Buyer's inability economically to use or resell the coal purchased hereunder; (3) the loss or failure of Seller's supply (including, without limitation, adverse mining conditions, or loss of feedstocks or raw materials); (4) the Seller's ability to sell the coal at a price greater than the Contract Price; or (5) Seller's inability to economically produce or obtain the coal.

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

"Letters of Credit" means one or more irrevocable, standby letters of credit issued by a United States commercial bank or a foreign bank with a United States branch (with such bank being both (1) acceptable to the party to whose benefit the Letter of Credit is issued and (2) having a credit rating of at least "A-" from S&P or "A3" from Moody's) in

a form acceptable to the party in whose favor the Letter of Credit is issued. Costs of a Letter of Credit shall be borne by the applicant for such Letter of Credit.

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

"Moody's" means Moody's Investors Service, Inc. or its successor.

"NIST" means the National Institute of Standards and Technology Handbook #44.

"Performance Assurance" means collateral in the form of either cash or Letters of Credit in an amount acceptable to the party requiring Performance Assurance or such other security of the type and amount acceptable to the party requiring Performance Assurance.

"Shipment" means, as applicable, one (1) unit trainload or one (1) barge load in accordance with the applicable transportation specifications.

"S&P" means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. or its successor.

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

AEP Purchase Order: 03-00-14-029**Effective Date:** September 26, 2014**Seller:** Koch Carbon, LLC
20 East Greenway Plaza, Suite 800
Houston, TX 77046-2002
Attn: Kenny Bailey
Phone: 606-739-6177
Fax: 606-739-6190
Email: baileyk@kochind.com**Buyer:** Kentucky Power Company
1 Riverside Plaza, 14th Floor
Columbus, OH 43215
Attn: Grant D. Circle
Phone: 614-716-6284
Cell Phone: 614-216-9195
Email: gdcircle@aep.com**Primary Plant:** Mitchell**Commodity:** Crushed, bituminous coal, partially washed, containing no synthetic fuels, substantially free from any extraneous material, with no intermediate sizes to be added or removed and otherwise meeting the specifications of this Contract.**Term:** January 1, 2015 through December 31, 2015**Quantity:** Approximately 186,000 tons delivered by barge at the rate of 15,500 tons per month during the Term (each barge shall constitute a "Shipment"). Buyer and Seller shall determine a mutually agreeable shipping schedule.**Price:** \$56.75 per short ton fixed FOB barge at the Delivery Point, except as set forth hereafter in Quality Adjustments.**Quality:** As-received basis in accordance with ASTM standards ("Standards") for each Shipment, as follows:

<u>Characteristic:</u>	<u>Contracted</u>	<u>Rejection Limit:</u>
	<u>Monthly:</u>	
Btu/lb:	12,000	11,750 minimum
Sulfur (%):	1.00	1.05 maximum
Moisture (%):	10.00	10.00 maximum
Ash (%):	13.50	13.50 maximum
Volatile Matter (%):	30.00	30.00 minimum
Hardgrove Grindability:	41	38 minimum

Sizing: 3 X 0 inches topsize, nominal, with maximum 55% passing one quarter inch square wire cloth sieve to be determined on the basis of the primary cutter of the mechanical sampling system.**Source:** Various mines located in Southern WV and Eastern KY.**Delivery Point:** FOB Buyer's barge at Lockwood Dock or any other dock located between mileposts 306 and 317 on the Ohio River or on the Big Sandy River.**Weighing Party:** Seller shall be the weighing party. The weighing party shall weigh the Coal in accordance with Section 4 of the AEP and KOCH TERMS AND CONDITIONS - 3/25/14 attached.**Sampling & Analysis Party:** Seller shall be the sampling party. The sampling party shall sample and analyze the Coal in accordance with Section 5 of the AEP and KOCH TERMS AND CONDITIONS - 3/25/14 attached..

AEP Purchase Order: 03-00-14-029

Effective Date: September 26, 2014

Quality BTU Price Adjustment:

Adjustments: Price Adjustment (\$/ton of coal) = Price x [(Actual Btu/lb – Contracted Btu/lb) / Contracted Btu/lb]

Price adjustments shall be made to the nearest \$0.001 and calculated on a monthly weighted average.

Other Terms: This Purchase Order shall be governed by the AEP and KOCH TERMS AND CONDITIONS - 3/25/14 attached hereto and incorporated herein by specific reference.

Accepted:

Seller:

Koch Carbon, LLC

Buyer:

Kentucky Power Company

Signature

Kenneth Bailey

Name (Print)

General Manager Coal Marketing

Title

Date: 10-7-14

Signature

Marguerite C. Mills

Vice President

Date: 10/6/14

Handwritten signatures and initials:
CSC
CSC
PB

AEP and KOCH TERMS AND CONDITIONS – 3/25/14**1) ACCEPTANCE/AGREEMENT**

Failure of Buyer or Seller, as the case may be, to execute and return the attached Confirmation (together with these Terms and Conditions, herein referred to as the "Contract") or to notify the other party of its disagreement with any of the terms thereof within three Business Days of receiving this Contract constitutes the other party's agreement to the terms set forth in this Contract.

2) WARRANTY

Seller represents and warrants that it will have title to all coal sold hereunder at the time of delivery and the same will be shipped free and clear of all liens, encumbrances, and claims of all third parties. NEITHER BUYER NOR SELLER SHALL BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES UNDER THIS CONTRACT, INCLUDING BUT NOT LIMITED TO LOSSES, DAMAGES OR EXPENSES, DIRECTLY OR INDIRECTLY ARISING FROM THE SALE, HANDLING OR USE OF THE COAL, OR FROM ANY OTHER CAUSE RELATING THERETO. SELLER MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE QUALITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE COAL TO BE DELIVERED BY SELLER OR AS TO THE RESULTS TO BE OBTAINED BY THE USE OF SUCH COAL.

3) SCHEDULING, DELIVERY & TITLE AND RISK OF LOSS

Buyer shall advise Seller on or before the 25th day of the month preceding scheduled Shipments of the loading dates and delivery schedule. Unless otherwise provided in the Confirmation, Seller shall advise Buyer on or before the 27th day of the month preceding scheduled Shipments of the source of the scheduled Shipments if more than one is specified in the Confirmation. Unless otherwise specified in the Confirmation, Buyer shall designate to Seller the scheduling, routing and method of Shipments of coal purchased under this Contract. Seller shall cause coal sold hereunder to be properly loaded into the transport vehicle (i.e. railcars, barges, vessels, trucks, etc.) for delivery to Buyer, provided that Buyer has provided Seller with applicable loading instructions (including minimum and maximum weights) no less than 24 hours prior to the arrival of Buyer's transport vehicle and said instructions comply with generally recognized industry standards. The delivery schedule specified in the Confirmation or as designated by Buyer in absence of such in the Confirmation is binding on both Buyer and Seller and may only be changed by mutual written agreement between the parties.

Seller warrants that it will have title to the coal at the time of shipment and delivery to Buyer and that such coal will be free and clear of all third-party liens, claims, and encumbrances arising prior to the transfer of title to Buyer. Seller and Buyer shall each indemnify, defend, and save harmless the other party and its affiliates, including their respective officers, directors, affiliates, agents, and employees from and against any liabilities, losses, claim, damages, penalties, causes of action, or suits arising out of or in connection with its failure to comply with its obligations under this Contract while title to and risk of loss of the coal is vested in the indemnifying party.

Title to and risk of loss of coal conforming to this Contract shall pass to Buyer as follows:

- a) For barge deliveries, as the loaded barges are pulled from the Delivery Point;
- b) For rail deliveries, upon completion of loading all railcars in each unit train and as such unit train is pulled from the Delivery Point;
- c) For truck deliveries, upon the coal being delivered and dumped at the Delivery Point; and
- d) For all Non-Conforming Shipments (as hereinafter defined) title to and risk of loss of coal shall revert back to Seller immediately upon any rejection or nonacceptance by Buyer as provided elsewhere in this Contract, except for loss or damage caused by the negligent acts or omissions of the Buyer, its employees, agents and contractors; provided, however, that notwithstanding anything to the contrary set forth above, it is understood and agreed that Seller shall have no liability under this Contract or otherwise for any loss or damage to coal as a result of being loaded into faulty or defective transportation equipment supplied by or through the Buyer, its employees, agents or contractors.

4) WEIGHING

Rail and Truck Deliveries: Unless otherwise specified in the Confirmation, weights of coal delivered by rail or truck shall be determined by Seller by use of a scale system located at the Delivery Point (as set forth in the Confirmation) and certified no less frequently than every six months by an appropriate testing agency in accordance with the guidelines established by the National Institute of Standards and Technology Handbook #44. Seller shall certify the scale system no less than semi-annually and provide evidence of same to Buyer upon Buyer's request. If there is no certified scale system at the Delivery Point, railway weights shall govern all settlements hereunder with respect to rail deliveries. As to all deliveries (i) by truck where there are no certified scales at the Delivery Point, (ii) by rail when no railway weights are available or (iii) where the Delivery Point is the ultimate destination, weights shall be taken at the destination by Buyer by use of a scale system which conforms to the foregoing or as otherwise agreed in writing between Seller and Buyer.

Barge or Vessel Deliveries: Unless otherwise specified in the Confirmation, weights of coal delivered by barge or vessel shall be determined by Seller by use of a belt scale system located at the Delivery Point (as set forth in the Confirmation) and certified no less frequently than every six months by an appropriate testing agency in accordance with the guidelines established by the National Institute of Standards and Technology Handbook #44. If there is no certified belt scale system at the Delivery Point, weights shall be made by draft survey taken at the Delivery Point prior to the departure of the barge(s) or vessel(s) from the Delivery Point. All such draft surveys at the Delivery Point shall be conducted by an independent surveyor (certified commercial marine surveyor for vessels) experienced in the conduct of draft surveys and selected by mutual agreement of the Parties, or failing agreement, by Seller unless otherwise stated in the relevant Confirmation. In cases where (i) there is no certified belt scale system at the Delivery Point or in absence of a certified belt scale system a draft survey is not taken at the Delivery Point or (ii) the Delivery Point is the ultimate destination, weights shall be taken at the destination by Buyer by use of a scale system which conforms to the foregoing or as otherwise agreed in writing between Seller and Buyer.

Weights taken in accordance with this Section 4 shall be deemed accepted as correct (absent manifest error) and shall govern all invoicing and payments hereunder. Unless otherwise specified, the costs of weighing shall be for Seller's account, except where the weights are taken at the destination by Buyer in which case the costs of weighing shall be for Buyer's account.

5) SAMPLING AND ANALYSIS

Unless otherwise specified, all sampling and analysis performed hereunder shall be performed by Seller at its expense and shall comply with governing ASTM procedures and specifications in effect at the time of such sampling and analysis. Buyer may observe any loading where Seller performs the sampling or sample preparation. Each coal sample collected by Seller shall be divided into two parts. One part shall be immediately analyzed at the direction of the Seller for the governing contractual analysis. The results of the analysis shall be sent to Buyer within 48 hours after a Shipment is loaded unless such loading takes place on a Friday, Saturday, Sunday or federal holiday in which case it shall be sent to Buyer by the later of (i) 72 hours of loading the Shipment and (ii) the next Business Day. The remaining sample is to be sealed in an airtight container and sent to Buyer, at Buyer's request, provided such request is made in writing within 30 days after the date of such sampling. In the event that Buyer does not so request, the sample shall be retained by Seller for no less than such thirty-day period. In case of disagreement as to the results of the analysis reported by the Seller, Buyer may request analysis of Buyer's sample in accordance with ASTM procedures by an independent referee laboratory selected by Buyer and approved by Seller, which approval shall not be unreasonably withheld or delayed, and the final governing analysis shall be the average of the Seller's analysis and Buyer's analysis. The cost of analyzing Buyer's sample shall be borne by Buyer.

6) QUALITY ADJUSTMENTS; REJECTION AND SUSPENSION RIGHTS

(A) If coal delivered under this Confirmation varies from the Quality Specifications in the Confirmation (the "Specifications"), but Buyer does not exercise its rejection rights under Paragraph (B) below, quality adjustments shall be calculated pursuant to the formulas set forth in such Confirmation, if any. Within 10 days after the end of each month during the Term for each Transaction, the quality adjustments, if any, shall be netted against each other and the net quality adjustment, as appropriate, for all Shipments of coal during such month shall be determined by Seller, and Buyer shall pay Seller the net positive adjustment, if any, or Seller shall credit Buyer the net negative adjustment, if any, on the next invoice (or pay such amount to Buyer in the event no further invoices are due) in accordance with the billing and payment terms of Section 7.

(B) If any Shipment of coal triggers any of the Rejection Limits specified in the Confirmation (a "Non-Conforming Shipment"), Buyer shall have the option, exercisable by notice to Seller within 24 hours of Buyer's receipt of Seller's analysis of the coal provided pursuant to Section 5, which shall be promptly followed by written notice to Seller of either (i) rejecting such Non-Conforming Shipment at the Delivery Point or in route, but prior to unloading from Transporter's equipment or (ii) accepting any Non-Conforming Shipment with a Contract Price adjustment agreed to in writing between Seller and Buyer. If Buyer fails timely to exercise its rejection rights hereunder as to a Non-Conforming Shipment, Buyer shall be deemed to have waived such rights with respect to that Non-Conforming Shipment only. If Buyer timely rejects the Non-Conforming Shipment, Seller shall be responsible for promptly transporting the rejected coal to an alternative destination determined by Seller and, if applicable, promptly unloading such coal, and shall reimburse Buyer for all reasonable costs and expenses associated with the transportation, storage, handling and removal of the Non-Conforming Shipment. Seller shall, at Buyer's request, use commercially reasonable efforts to replace the rejected coal as soon as possible, provided that Buyer gives written notice to Seller of Buyer's desire for replacement coal within 48 hours after rejection of the Non-Conforming Shipment.

(C) If there are three Non-Conforming Shipments, whether rejected or not, under this Contract in any three-month period or if two out of four consecutive Shipments under this Contract (with respect to barged coal the preceding test shall be determined by one or more rejectable barges being loaded in each of two days of sequential Shipments under this Contract whether or not there are any intervening days without Shipments) are Non-Conforming Shipments, then Buyer may upon written notice to Seller suspend the receipt of future Shipments (except Shipments already loaded or in transit to Buyer) under this Contract. A waiver by Buyer of the suspension right for any one period shall not constitute a waiver for subsequent periods. If Seller, within ten (10) days of its receipt of such notice, provides reasonable assurances in writing to Buyer that future Shipments under this Contract will conform to the Specifications and Buyer has accepted such assurances (such acceptance not to be unreasonably withheld or delayed), Shipments shall resume and any tonnage deficiencies shall be made up within the Term at Buyer's option. If (i) Seller fails to provide such acceptable assurances within such ten (10) day period, or (ii) after such assurances are provided and for a period of three months thereafter, any Shipments of coal trigger any of Buyer's rejection rights under this Section in

connection with the Rejection Limit parameter for which there was a prior suspension under this Contract, then such event shall constitute an Event of Default as provided in Section 12 hereof.

Notwithstanding any provision in this Section 6 to the contrary, Buyer shall not be entitled to reject any Shipment if it is accepted by the ultimate consumer of the coal.

7) PAYMENT

Net cash via wire transfer to Seller's designated account on or before the 10th Business Day following receipt of the Shipment invoice(s), determined by the Seller's dated fax confirmation. Overdue payments shall accrue interest from the due date at the rate of two percent over the prime lending rate as published from time to time during such period in the Wall Street Journal, but in no event to exceed the maximum lawful rate ("Interest Rate"). Seller reserves the right to suspend all further Shipments in the event Buyer is delinquent on invoice payments.

8) ASSIGNMENT/DELEGATION

Neither Buyer nor Seller shall assign this Contract nor delegate any of its duties hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, it is understood and agreed that either party may assign this Contract to an affiliated entity without the prior written consent of the other party, except that the assigning party shall not be released from any of its duties and obligations under this Contract.

9) FORCE MAJEURE

No party shall be subject to liability to the other party for the failure to perform in conformity with this Contract where such failure results from a Force Majeure event or conditions beyond the reasonable control of the affected party. A party affected by force majeure shall advise the other in writing within 10 Business Days of any force majeure condition, its expected effect on deliveries and expected duration. The party affected by the Force Majeure shall (subject to the provisions of the last sentence of this Section 9) remedy the Force Majeure with all reasonable dispatch and to the extent commercially reasonable. In the event of a Force Majeure, delivery of the affected quantity of coal shall be made up in full or in part only upon mutual written agreement of the parties and upon such delivery schedule as the parties shall mutually agree in writing. If an event of Force Majeure persists for a continuous period of at least 60 days, then the party not claiming Force Majeure shall have the option, upon three days' prior written notice, to terminate this Contract and the obligations of the parties thereunder shall terminate (other than obligations and liabilities which may have accrued under this Contract).

10) WAIVER

The failure of Buyer or Seller to insist in any one or more instances upon strict performance of any of the provisions of this Contract or to take advantage of any of its rights or remedies hereunder shall not be construed as a future waiver of any such provisions or the relinquishment of any such rights or remedies, but the same shall continue and remain in full force and effect for the term of this Contract.

11) FINANCIAL ASSURANCE

Prior to commencement of performance, or at any other time during the term of this Contract, either party may require the other to provide financial information reasonably needed to ascertain the other party's ability to pay for coal to be received under this Contract or to meet any other obligation which may accrue, including without limitation the obligation to pay damages in the event of failure to perform. If either party's creditworthiness becomes unsatisfactory in this regard, as determined in the sole judgment of the dissatisfied party, then the dissatisfied party (the "Unsecured Party") may require assurance of the other party's ability to pay or may require different terms of payment. The Unsecured Party may suspend deliveries or receipts hereunder or terminate this Contract if, in the sole opinion of the Unsecured Party, the other party fails to deliver the requested credit information or assurance of its ability to pay within two (2) Business Days of such request. Such assurance may, at the option of the Unsecured Party, include, without limitation, (i) the required posting of a letter of credit as security for payment and performance (in a format and issued by a commercial bank acceptable to the requesting party); (ii) cash prepayments or (iii) other security acceptable to the Unsecured Party. The amount of financial assurance due will be equal to the difference between actual contract price and the mark-to-market price at the time of request for financial assurance plus the difference between mark-to-market price at the time of request for financial assurance and future mark-to-market volatility as calculated by the requesting party in accordance with applicable industry standards. In addition to the future mark-to-market amount, a prepayment or acceptable letter of credit for the full amount of any coal shipment should be received by the requesting party no later than four (4) days prior to such shipment.

12) EVENT OF DEFAULT AND DAMAGES

A) If an Event of Default (as hereafter defined) occurs with respect to a party (the "Defaulting Party") at any time during the term and any extension of this Contract, the other party (the "Non-Defaulting Party") may, in its sole discretion, do any or all of the following: (i) establish a date (which date shall be no earlier than the date that such notice is given to the Defaulting Party) ("Early Termination Date") on which this Contract shall terminate, (ii) withhold any payments due in respect of this Contract, (iii) suspend performance under this Contract and/or (iv) exercise such other rights or remedies as may be provided at law or in equity or as otherwise provided in this Contract. An event of default with respect to any party ("Event of Default") shall mean any of the following: (i) the failure of either party to make when due, any payment required hereunder if such failure is not remedied within five Business Days after written notice of such failure is given to the Defaulting Party by the Non-defaulting Party; (ii) the failure of either party to comply with any or all of its other respective duties and obligations in good faith as herein set forth and such

noncompliance is not cured within 10 Business Days after written notice thereof to Defaulting Party; or (iii) failure to provide adequate security for or assurance of its ability to perform its duties and obligations under this Contract within 48 hours, but at least within one Business Day of a reasonable written request by the Non-Defaulting Party; (iv) either party (a) filing a petition in bankruptcy, (b) having such a petition filed against it, (c) becoming otherwise insolvent or unable to pay its debts as they become due; (v) the failure of a party's guarantor, if any, to perform any covenant set forth in its guaranty, or such guaranty shall expire or be terminated or shall cease to guarantee the obligations of such party hereunder, or such guarantor shall become subject to any of the events specified in (iv) (a), (b) or (c), or (vi) an event described in the last sentence of Section 6(C) shall have occurred. If an Early Termination Date is established, the Non-Defaulting Party shall calculate, using the formula described in (B) or (C) below, as applicable, and otherwise in a commercially reasonable manner, its damages, including any associated costs, resulting from the early termination of this Contract. Such damages and costs, if any, shall be paid by the Defaulting Party to the Non-Defaulting Party within five Business Days of the Defaulting Party's receipt of written notice of the damages amount. If such payment is not timely made, it shall bear interest at the Interest Rate until paid.

B) Unless excused by an event or condition of force majeure or Seller's failure to perform, if Buyer fails to accept all or any part of the quantity of coal to be delivered under this Contract, Buyer shall pay Seller for each ton of such deficiency an amount equal to the positive difference, if any, obtained by subtracting the Sales Price from the Contract Price plus (i) any additional transportation costs incurred by Seller due to such failure, and (ii) reasonable legal costs incurred by Seller in enforcement and protection of its rights under this Contract. "Sales Price" means the price, determined by Seller in a commercially reasonable manner, at which Seller resells (if at all) the coal, or, absent such a sale, the market price for such quantity of coal FOB Delivery Point.

C) Unless excused by an event or condition of force majeure or Buyer's failure to perform, if Seller fails to deliver all or any part of the quantity of coal to be delivered under this Contract, Seller shall pay Buyer for each ton of such deficiency an amount equal to the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price plus (i) any additional transportation costs incurred by Buyer due to such failure, and (ii) reasonable legal costs incurred by Buyer in enforcement and protection of its rights under this Contract. "Replacement Price" means the price, determined by Buyer in a commercially reasonable manner, at which Buyer purchases (if at all) substitute coal for the deficiency or, absent such a purchase, the market price for such quantity of coal FOB Delivery Point.

D) Each party hereby stipulates that the payment obligations set forth in (B) and (C) above are reasonable in light of the anticipated harm and each party hereby waives the right to contest such payments as an unreasonable penalty or otherwise. The remedy set forth in (B) and (C) of this Paragraph 12 shall be the sole and exclusive remedy of the aggrieved party for the failure of the other to deliver or accept, as the case may be, the quantity of coal specified herein and all other damages and remedies are hereby waived as to such failure(s), except as set forth in Paragraph 13 below.

13) LIMITATION ON LIABILITY

No waiver of remedies or damages herein shall apply to claims of anticipatory repudiation or remedies therefor provided by law. Neither Seller nor Buyer shall be liable to the other for consequential, incidental, punitive, exemplary or indirect damages, lost profits, or business interruption damages, whether by statute, in tort or in contract, under any indemnity provision, based upon the failure of essential purpose, or otherwise.

14) FORWARD CONTRACT

Buyer and Seller each acknowledge that it is a "forward contract merchant" and that all transactions pursuant to this Contract constitute "forward contracts" within the meaning of the United States Bankruptcy Code.

15) NETTING AND SETOFF

If Buyer and Seller are required to pay any amount on the same day or in the same month, then such amounts with respect to each party shall be aggregated and the parties may discharge their obligations to pay through netting, in which case the party, if any, owing the greater aggregate amount shall pay to the party owed the difference between the amounts owed. Each party reserves to itself all rights, setoffs, counterclaims, combination of accounts, liens and other remedies and defenses which such party has or may be entitled to (whether by operation of law or otherwise). The obligations to make payments under this Contract and/or any other contract may be offset against each other, set off or recouped therefrom.

16) CONFIDENTIALITY

The parties and their respective affiliates shall keep confidential any and all matters relating to this Contract, except those readily obtainable from public information, requested by a regulatory commission, or otherwise required by law to be disclosed.

17) ENTIRE AGREEMENT

This Contract, together with any attachments or exhibits specifically referenced herein, constitutes the entire contract between the Seller and the Buyer with respect to the subject matter hereof, supersedes all prior oral or written representations and contracts, and may be modified only by a written amendment signed by Buyer and Seller.

18) **COMPLIANCE WITH THE LAW**

Seller and Buyer shall comply with the provisions of all applicable federal, state, and other governmental laws and any applicable order and/or regulations, or any amendments or supplements thereto, which have been, or may at any time be, issued by a governmental agency.

19) **GOVERNING LAW**

This Contract shall be construed, enforced, and performed in accordance with the substantive laws of the State of New York, without reference to its conflicts of laws rules. Except as otherwise provided for herein, the provisions of the Uniform Commercial Code ("UCC") as presently adopted by the State of New York shall govern this Contract and coal provided hereunder shall be deemed to be "goods" for purposes of the UCC.

20) **NOTICES**

Notices provided for or required under this Contract may be exercised verbally, but shall be confirmed in writing as soon as practicable. The parties shall be legally bound from the date the notification is exercised. Notices provided for or required in writing herein shall be delivered by hand or electronic means or transmitted by facsimile or sent by certified mail, postage prepaid, return receipt requested, or by overnight mail or courier.

Notices hand delivered or delivered by electronic means, shall be deemed delivered by the close of the business day on which it was hand delivered or delivered by electronic means (unless hand delivered or transmitted by electronic means after the close of the business day in which case it shall be deemed received by the close of the next business day). Notices provided by facsimile shall be deemed to have been received upon the sending party's receipt of its facsimile machine's confirmation of a successful transmission. If the day on which such facsimile is received is not a business day or is after five p.m. Eastern Prevailing Time on a business day, then such facsimile shall be deemed to have been received on the following business day. Notices provided by certified mail, postage prepaid, return receipt requested, or by overnight mail or courier, shall be deemed delivered upon mailing.



1 Riverside Plaza
Columbus, OH 43215

AEP: America's Energy Partner®

AEP Purchase Order: 03-00-14-033

RWE Deal Nr _____

Effective Date: 12/22/14

Seller: RWE Supply & Trading GmbH
Acting through its agent RWE Trading Americas Inc
Windmill Hill Business Park
Whitehill Way
Swindon SN5 6PB
United Kingdom
Attn: Vince McDonald
Phone: 212-852-4663
Email: vince.mcdonald@rwe.com

Buyer: Kentucky Power Company
1 Riverside Plaza, 14th Floor
Columbus, OH 43215
Attn: Grant D. Circle
Phone: 614-716-6284
Cell Phone: 614-216-9195
Email: gdcircle@aep.com

Primary Plant: Mitchell

Commodity: Crushed bituminous coal, partially washed, containing no synthetic fuels, substantially free from any extraneous material, with no intermediate sizes to be added or removed and otherwise meeting the specifications of this Contract ("Coal")

Term: February 1, 2015 through February 28, 2015

Quantity: 10 barges weighing approximately 15,500 total tons of Coal to be delivered during the Term (each barge shall constitute a "Shipment")

Price: \$49.00 per ton fixed FOB barge at the Delivery Point, except as set forth hereafter in Quality Adjustments

Quality: As-received basis in accordance with ASTM standards ("Standards") for each Shipment as follows

<u>Characteristic</u>	<u>Contracted</u>	<u>Rejection Limit</u>
Btu/lb	12,000	11,750 minimum
Sulfur (%)	1.00	1.05 maximum
Moisture (%)	10.00	10.00 maximum
Ash (%)	13.50	13.50 maximum
Volatile Matter (%)	30.00	30.00 minimum
Hardgrove Grindability	41 HGI	38 HGI minimum

Sizing: 3 X 0 inches topsize, nominal, with maximum 55% passing one quarter inch square wire cloth sieve to be determined on the basis of the primary cutter of the mechanical sampling system

Delivery Point: FOB Buyer's barge at any dock located between milepost 300 and 316 on the Ohio River or any dock on the Big Sandy River

Weighing Party: Seller shall be the weighing party. The weighing party shall weigh the Coal in accordance with Section 4 of the AEP and RWE Terms and Conditions - 10/31/2013 attached

Sampling & Analysis Party: Seller shall be the sampling party. The sampling party shall sample and analyze the Coal in accordance with Section 5 of the AEP and RWE Terms and Conditions - 10/31/2013 attached

1 Riverside Plaza
Columbus, OH 43215

AEP Purchase Order: 03-00-14-033

RWE Deal Nr _____

Effective Date: 12/22/14

Quality BTU Price Adjustment
Adjustments: Price Adjustment (\$/Ton of Coal) = Price x [(Actual Btu/lb - Contracted Btu/lb) / Contracted Btu/lb]

Other Terms: The following are changes to the attached AEP and RWE Terms and Conditions - 10/31/2013

Section 5 SAMPLING AND ANALYSIS, third paragraph is deleted in its entirety and the following is inserted in place thereof.

Each coal sample collected by the Seller shall be properly divided into at least three (3) subsamples. One (1) subsample shall be analyzed for the governing contractual analysis. The second subsample is to be sealed in an airtight container and sent to Buyer. Seller shall retain the third subsample sealed in an airtight container for no less than 30 days (hereinafter the "Referee Sample"). In case of disagreement as to the results of the analysis reported by Seller, either Party may request analysis of the Referee Sample by an independent laboratory selected by mutual agreement of the Parties within ten (10) Business Days of receipt of the analyses reported by Seller. If the results of the independent analysis for the disputed Specification are within ASTM (interlaboratory) reproducibility limits, the original governing contractual analysis shall control and the costs of the independent analysis shall be borne by the party requesting the Referee Sample analysis. If such results for any disputed specification are not within such reproducibility limits, the results of the independent analysis for the disputed specification shall control and the costs of the independent analysis shall be borne by the non-requesting party.

Except as set forth above, this Purchase Order/Confirmation shall be governed by the AEP and RWE Terms and Conditions - 10/31/2013 attached hereto and incorporated herein by specific reference. If there are any inconsistencies between the provisions of this Purchase Order/Confirmation and those in the attached Terms and Conditions, those in this Purchase Order/Confirmation shall govern.

Accepted: **Seller:** RWE Supply & Trading GmbH acting through its agent RWE Trading Americas Inc. **Buyer:** Kentucky Power Company

Julianne Weiss
Signature

Julianne Weiss
Name (~~Senior~~ Credit Analyst)

Title

Date 1/15/15

Marguerite C. Mills
Signature

Marguerite C. Mills

Vice President

Date January 14, 2015

GOC
1/15/15
QC

Brett Suoci
Brett Suoci
Head of Risk
1/15/15



AEP and RWE TERMS AND CONDITIONS – 10/31/2013

1) ACCEPTANCE/AGREEMENT

The attached Confirmation together with these Terms and Conditions shall constitute a Contract. Failure of Buyer or Seller, as the case may be, to execute and return this Contract or to notify AEP of its disagreement with any of the terms thereof within three (3) Business Days of receiving this Contract constitutes the other party's agreement to the terms set forth in this Contract. AEP hereby objects to any additions to or modifications of this Contract.

2) WARRANTY

Seller represents and warrants that it has title to all coal sold hereunder and the same is shipped free and clear of all liens, encumbrances, and claims of all third parties OTHER THAN THOSE EXPRESSLY PROVIDED HEREIN. SELLER MAKES NO OTHER REPRESENTATION OR WARRANTY, WRITTEN OR VERBAL, EXPRESS OR IMPLIED, IN CONNECTION WITH THE SALE AND PURCHASE OF COAL HEREUNDER. ALL WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE ARE SPECIFICALLY EXCLUDED. SELLER MAKES NO WARRANTY CONCERNING THE SUITABILITY OF COAL DELIVERED HEREUNDER FOR USE IN ANY FACILITIES.

3) SCHEDULING, DELIVERY & TITLE AND RISK OF LOSS

Unless otherwise provided in the Confirmation, Buyer shall advise Seller on or before the 23rd day of the month preceding scheduled Shipments of the loading dates and delivery schedule, and Seller shall advise Buyer on or before the 25th day of the month preceding scheduled Shipments of the source of the scheduled Shipments if more than one (1) or none is specified in the Confirmation. Unless otherwise specified in the Confirmation, Buyer shall designate to Seller the scheduling, routing and method of Shipments of coal purchased under this Contract. Seller shall cause coal sold hereunder to be properly loaded into the transport vehicle (i.e., railcars or barges) for delivery to Buyer, provided that Buyer has provided Seller with applicable loading instructions (including minimum and maximum weights) no less than 24 hours prior to the arrival of Buyer's transport vehicle and said instructions comply with industry standards. The delivery schedule specified in the Confirmation or as designated by Buyer in absence of such in the Confirmation is binding on both Buyer and Seller and may only be changed by mutual agreement confirmed in writing.

Title to and risk of loss of coal conforming to this Contract shall pass to Buyer as follows:

- a) For barge deliveries, as the barges are loaded and trimmed.
- b) For rail deliveries, upon completion of loading all railcars in each unit train and as such unit train is pulled from the Delivery Point.
- c) For all Non-Conforming Shipments (as hereinafter defined) title to and risk of loss of coal shall revert back to Seller immediately upon any rejection by Buyer as provided elsewhere in this Contract.

Seller and Buyer shall each indemnify, defend, and save harmless the other party and its Affiliates and their respective officers, directors, agents, and employees from and against any liabilities, losses, claims, damages, penalties, causes of action, or suits arising out of or in connection with its failure to comply with its obligations under this Contract while title to and risk of loss of the coal is vested in the indemnifying party.

Seller shall indemnify, save harmless, and defend Buyer and its Affiliates and their officers, directors, agents, and employees (all referred to in this sentence as "Buyer") from and against any liabilities, expenses, losses, claims, damages, penalties, causes of action, or suits and all other obligations whatsoever, including without limitation, all judgments rendered against and all fines and penalties imposed upon Buyer (whether severally or in combination with others) and any reasonable attorneys' fees and any other costs of litigation (all of which are referred to as "Liabilities") arising out of injuries or death to any person(s), or damage to any property, caused by or related to, in whole or in part the railcars (or barges, if applicable) furnished hereunder, between the time that such railcars (or barges, if applicable) are delivered to Seller or Seller's agent and the time that custody thereof is properly returned to Buyer (or to Buyer's carrier, if applicable). Any injury or death to person(s) or damage to property as described above shall be reported to Buyer by Seller immediately upon the occurrence thereof, and confirmed in writing as soon as possible.

4) WEIGHING

Rail Deliveries: Unless otherwise specified in the Confirmation, weights of coal delivered by rail shall be determined by Seller by use of a certified scale system located at the Delivery Point (as set forth in the Confirmation). If there is no certified scale system at the Delivery Point, railway weights shall govern all settlements hereunder with respect to rail deliveries. As to deliveries by rail when no railway weights are available, or where the Delivery Point is the ultimate destination, weights shall be taken at the destination by Buyer.

Barge Deliveries: Unless otherwise specified in the Confirmation, weights of coal delivered by barge shall be determined by Seller by use of a certified belt scale system located at the Delivery Point (as set forth in the Confirmation). If there is no certified belt scale system at the Delivery Point, weights shall be made by draft survey taken at the Delivery Point prior to the departure of the barge(s) from the Delivery Point. All such draft surveys at the Delivery Point shall be conducted by an independent surveyor experienced in the conduct of draft surveys selected by mutual agreement of the parties, or failing agreement, by Seller unless otherwise stated in the relevant Confirmation. In cases where (i) there is no certified belt scale system at the Delivery Point or in absence of a certified belt scale system and a draft survey is not taken at the Delivery Point or (ii) the Delivery Point is the ultimate destination, weights shall be taken at the destination by Buyer.

General: Weights taken in accordance with this Section 4 shall be governed by the NIST guidelines in effect at the time of such weighing and shall be deemed accepted as correct (absent manifest error) and shall govern all invoicing and payments hereunder. Unless otherwise specified in the Confirmation, the costs of weighing shall be for Seller's account. Seller shall weigh each shipment hereunder and report such weights to Buyer within 24 hours after the coal has been loaded for shipment. Seller's weights shall be reported to the recipients designated by and in the manner specified by Buyer.

The Seller's rail scale systems shall be calibrated at least once every six (6) months in accordance with the guidelines established by NIST by a qualified third party (e.g., the rail carrier), using such equipment as deemed appropriate by such third party. Seller's belt scale systems shall be tested and calibrated at least once each month in accordance with the guidelines outlined by NIST or other procedures which shall be mutually acceptable to Seller and Buyer. The accuracy of Seller's belt scales shall be maintained to within plus or minus one half of one percent ($\pm 0.50\%$) accuracy and to within plus or minus two tenths of one percent ($\pm 0.2\%$) for its rail scales. At the Buyer's request, which may be made from time to time, Seller shall inform the Buyer of the results of such testing and calibration. If the scales are discovered to be outside of acceptable tolerance ranges ($\pm 0.2\%$ for rail scales, and $\pm 0.5\%$ for belt scales), then an appropriate adjustment will be made to the Seller's tonnage and invoiced retroactively to the date of the most recent calibration or 30 calendar days prior to the calibration which was found in error, whichever is later.

5) **SAMPLING AND ANALYSIS**

Unless otherwise specified in the Confirmation, Seller shall perform all sampling and analysis at its expense and shall comply with the governing ASTM procedures and specifications in effect at the time of such sampling and analysis. Buyer may observe the loading, sampling, sample preparation and analysis hereunder. All sampling shall be performed using a mechanical sample system that has been certified within the previous 24 calendar months by an independent commercial laboratory to be free of bias and that is properly operated and maintained by Seller.

Seller's analysis shall be sent to the recipients designated by Buyer within 24 hours after a Shipment is loaded, unless such loading takes place on a Friday, Saturday, Sunday or federal holiday in which case it shall be sent to Buyer by the later of (i) 48 hours after loading of the Shipment or (ii) the next Business Day. Such analysis shall be provided in a format specified by Buyer.

Each coal sample collected by the Seller shall be properly divided into at least two (2) subsamples. One (1) subsample shall be analyzed for the governing contractual analysis. The second subsample is to be sealed in an airtight container and sent to Buyer at the Buyer's request provided such request is made in writing within 30 days after the date of such sampling. In the event that Buyer does not so request, Seller shall retain the second subsample for no less than 30 days. In case of disagreement as to the results of the analysis reported by the Seller, Buyer may request analysis of the second subsample by an independent referee laboratory selected by mutual agreement of the Parties. If the results of the independent analysis for the disputed Specification are within ASTM (interlaboratory) reproducibility limits, the original short proximate analysis shall control and the costs of the independent analysis shall be paid by the Buyer. If such results for any disputed specification are not within such reproducibility limits, the results of the independent analysis for the disputed specification shall control and the costs of the independent analysis shall be borne by the Seller.

6) **QUALITY ADJUSTMENTS; REJECTION AND SUSPENSION RIGHTS**

(A) If coal delivered under this Confirmation varies from the coal Characteristics reflected under Quality in the Confirmation (the "Specifications"), but Buyer does not exercise its rejection rights under Paragraph (B) below, quality adjustments shall be calculated pursuant to the formulas set forth in such Confirmation, if any. Within ten (10) days after the end of each month during the Term, the quality adjustments, if any, shall be netted against each other and the net quality adjustment, as appropriate, for all Shipments of coal during such month shall be determined by Seller, and Buyer shall pay Seller the net positive adjustment, if any, or Seller shall credit Buyer the

net negative adjustment, if any, on the next invoice (or pay such amount to Buyer in the event no further invoices are due) in accordance with the billing and payment terms of Section 7.

(B) If any Shipment of coal triggers any of the Rejection Limits specified in the Confirmation (a 'Non-Conforming Shipment') Buyer shall have the option, exercisable by notice to Seller of either (i) rejecting such Non-Conforming Shipment at the Delivery Point or en route but prior to unloading from Transporter's equipment or (ii) accepting any Non-Conforming Shipment with a Contract Price adjustment agreed to between Seller and Buyer. Should Buyer exercise such right of rejection, it shall notify Seller by E-mail or verbally upon discovery of the nonconformance, such notification to be promptly confirmed in writing. If Buyer fails timely to exercise its rejection rights hereunder as to a Non-Conforming Shipment Buyer shall be deemed to have waived such rights with respect to that Non-Conforming Shipment only. If Buyer timely rejects the Non-Conforming Shipment, Seller shall be responsible for promptly transporting the rejected coal to an alternative destination determined by Seller and, if applicable, promptly unloading such coal, and shall reimburse Buyer for all reasonable costs and expenses associated with the transportation, storage, handling and removal of the Non-Conforming Shipment. Seller shall, at Buyer's request, use commercially reasonable efforts to replace the rejected coal as soon as possible, provided that Buyer gives written notice to Seller of Buyer's desire for replacement coal within 48 hours after rejection of the Non-Conforming Shipment.

(C) If there are three (3) Non-Conforming Shipments, whether rejected or not, under this Contract in any three (3)-month period or if two (2) out of four (4) consecutive Shipments under this Contract [with respect to barged coal the preceding test shall be determined by one (1) or more rejectable barges being loaded in each of two (2) days of sequential Shipments under this Contract whether or not there are any intervening days without Shipments] are Non-Conforming Shipments, then Buyer may upon notice to Seller suspend the receipt of future Shipments (except Shipments already loaded or in transit to Buyer) under this Contract. A waiver by Buyer of the suspension right for any one (1) period shall not constitute a waiver for subsequent periods. If Seller, within ten (10) days of its receipt of such notice, provides reasonable assurances in writing to Buyer that future Shipments under this Contract will conform to the Specifications and Buyer has accepted such assurances (such acceptance not to be unreasonably withheld), Shipments shall resume and any tonnage deficiencies shall be made up within the Term at Buyer's option. If (i) Seller fails to provide such acceptable assurances within such ten (10) day period, or (ii) after such assurances are provided and for a period of three (3) months thereafter, any Shipments of coal trigger any of Buyer's rejection rights under this Section for the Rejection Limit parameter for which there was a prior suspension under this Contract, then such event shall constitute an Event of Default as provided in Section 12 hereof.

Notwithstanding any provision in this Section 6 to the contrary, Buyer shall not be entitled to reject any Shipment if it is accepted by the ultimate buyer of the coal.

7) **PAYMENT**

On or before the later of the twentieth (20th) day of the month following Shipment or tenth (10th) calendar day following receipt by Buyer of Seller's invoice, if such day is not a Business Day, then on the next following Business Day, Buyer will pay to Seller the invoice amount. Payment shall be made by wire transfer or electronic means in immediately available United States funds for all coal received for which title has transferred from Seller to Buyer. Seller shall provide Buyer all pertinent remittance instructions on each invoice (including the AEP order number referenced on the first page of this Contract). Overdue payments shall accrue interest at the prime rate of interest for United States dollars as published from time to time during such period under the section titled, "Money Rates" by *The Wall Street Journal* or any successor publication, plus two percent [2%] per annum, but not to exceed the maximum applicable lawful interest rate (the "Interest Rate") from the due date until paid.

If any party in good faith reasonably disputes an invoice, it shall provide a written explanation specifying in detail the basis for the dispute and pay any undisputed portion no later than the due date. Upon resolution of any dispute involving an invoice, any additional amount owing shall be paid with interest at the Interest Rate. If any party fails to any pay amount under this Contract when due, unless such amount is the subject of a dispute as provided above, or is excused by Force Majeure, in addition to the rights and remedies provided in this Contract, the aggrieved party shall have the right to suspend performance under this Contract until such amounts plus interest have been paid, and/or exercise any remedy available at law or in equity to enforce payment of such amount plus interest at the Interest Rate defined herein.

8) **ASSIGNMENT/DELEGATION**

This Contract shall inure to the benefit of and be binding upon the parties and their respective successors and permitted assigns. However, no party shall assign this Contract or any of its rights or obligations hereunder without the prior written consent of the other party. Notwithstanding the foregoing, any party may, without the need for consent from the other party (and without relieving itself from liability hereunder), (a) transfer, sell, pledge, encumber

or assign this Contract or the accounts, revenues or proceeds hereof or thereof in connection with any financing or other financial arrangements or (b) transfer or assign this Contract to an Affiliate of such party, provided, however that no such assignment shall in any way relieve the assignor from liability for full performance under this Contract. Any such assignee shall assume and agree to be bound by the terms and conditions of this Contract.

Written consent to one (1) or more assignments shall not be construed as waiving the necessity of obtaining written consent to other and/or additional assignments.

9) **FORCE MAJEURE**

No party shall be subject to liability to the other party for the failure to perform in conformity with this Contract where such failure results from a Force Majeure. A party affected by Force Majeure shall advise the other in writing within ten (10) Business Days of any Force Majeure condition, its expected effect on deliveries and expected duration. The party affected by the Force Majeure shall (subject to the provisions of the last sentence of this Section 9) remedy the Force Majeure with all reasonable dispatch. In the event of a Force Majeure, delivery of the affected quantity of coal shall be made up in full or in part only at the discretion of the party not claiming Force Majeure. If an event of Force Majeure persists for a continuous period of at least 60 days, then the party not claiming Force Majeure shall have the option, upon three (3) days' prior written notice, to terminate this Contract, and the obligations of the parties hereunder shall terminate (other than obligations and liabilities for prior performance hereunder). If Seller claims Force Majeure and is unable to meet all of its sales obligations under this Contract and any other of its coal sales agreements involving coal of a similar type and quality as the coal sold hereunder, or if Buyer claims Force Majeure and is unable to meet all of its purchase obligations under this Contract and any other of its coal purchase agreements involving coal of a similar type and quality as the coal purchased hereunder, then any reductions in Seller's deliveries or Buyer's purchases (as applicable) shall be allocated by the party claiming Force Majeure on a pro rata basis among this Contract and such other coal purchase agreements involving coal of a similar type and quality as the coal to be sold and purchased hereunder to the extent contractually permitted by this Contract and such other agreements.

10) **WAIVER**

The failure of Buyer or Seller to insist in any one or more instances upon strict performance of any of the provisions of this Contract or to take advantage of any of its rights hereunder shall not be construed as a future waiver of any such provisions or the relinquishment of any such rights, but the same shall continue and remain in full force and effect for the term of this Contract.

11) **FINANCIAL RESPONSIBILITY**

Either party shall have the right, but not the obligation, to request from the other party audited annual financial statements and quarterly unaudited financial statements. At any time during which this Contract is in effect, should the performance, creditworthiness or financial responsibility of a party or its guarantor become unsatisfactory, in the reasonable judgement of the other party, Performance Assurance may be required before further deliveries/receipts are made under this Contract.

12) **EVENT OF DEFAULT AND DAMAGES**

An "Event of Default" with respect to any party shall mean any of the following: (i) the failure of either party or its guarantor to make when due, any payment required hereunder if such failure is not remedied within two (2) Business Days after notice of such failure is given to the Defaulting Party by the Non-Defaulting Party, (ii) failure to provide Performance Assurance when required under Section 11 within three (3) Business Day of a reasonable written request by the Non-Defaulting Party, (iii) either party (a) filing a petition in bankruptcy, (b) having such a petition filed against it, (c) becoming otherwise insolvent or unable to pay its debts as they become due, (iv) the failure of a party's guarantor, if any, to perform any covenant set forth in its guaranty, or such guaranty shall expire or be terminated or shall cease to guarantee the obligations of such party hereunder, or such guarantor shall become subject to any of the events specified in (iv) (a), (b) or (c) or (v) an event described in the last sentence of Section 6 (C) shall have occurred, or (vii) the failure of either party or its guarantor to comply with any or all of its other respective obligations in good faith as herein set forth and such noncompliance is not cured within five (5) Business Days after notice thereof to the Defaulting Party.

If an Event of Default occurs with respect to a party or its guarantor (the "Defaulting Party") at any time during the term of this Contract, the other party (the "Non-Defaulting Party") may in its sole discretion, do any or all of the following: (i) establish a date (which date shall be no earlier than the date that such notice is given to the Defaulting Party and no later than 20 days from notice) ("Early Termination Date") on which this Contract shall terminate, (ii) withhold any payments due in respect of this Contract, (iii) suspend performance under this Contract and/or (iv) exercise such other remedies as may be provided in this Contract. If this Contract terminates on an Early Termination Date, the Non-Defaulting Party shall calculate, in a good faith commercially reasonable manner, the

Settlement Amount as of the Early Termination Date as soon as is reasonably practicable and shall promptly notify the Defaulting Party of the amount thereof

'Settlement Amount' shall mean the present value of the net aggregate amount for the remaining term of the Contract including any exercised option period, of any Losses, Costs and Gains, expressed in United States dollars which the Non-Defaulting Party incurs as a result of the early termination of this Contract in accordance with this Section 12 including, but not limited to, Losses or Gains based upon the then current replacement value of this Contract the amounts of any unpaid invoices, and the amounts due for coal delivered but not yet billed. In calculating the Settlement Amount the Non-Defaulting Party may at its option and in its sole discretion set off against such Settlement Amount any amounts that are due and owing between the parties under any other agreements, instruments or undertakings between the parties. Any collateral being held by the Non-Defaulting Party may be set off against the amount(s) owed to the Non-Defaulting Party at the Non-Defaulting Party's option and in its sole discretion. If the Defaulting Party is holding collateral posted by the Non-Defaulting Party, then the Non-Defaulting Party, in its sole discretion will have the right to set off that amount against any payment to be made to the Defaulting Party at the Non-Defaulting Party's option

As soon as practicable after the Early Termination Date, the Non-Defaulting Party will notify the Defaulting Party of the net Settlement Amount and to whom it is due. The notice will include an explanation in reasonable detail of how the Non-Defaulting Party calculated the net Settlement Amount

The party owing the net Settlement Amount shall pay that amount to the party to whom it is due within five (5) Business Days of the date the notice is effective. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the net Settlement Amount, the Defaulting Party shall provide to the Non-Defaulting Party a detailed written explanation of the dispute within two (2) Business Days of date the Non-Defaulting Party's notice is effective. The Defaulting Party shall nevertheless pay to the Non-Defaulting Party the undisputed portion of the Settlement Amount and provide Performance Assurance for the remaining amount

Notwithstanding any provision to the contrary contained in this Contract, the Non-Defaulting Party shall not be required to pay the Defaulting Party any amount under this Section 12 until the Non-Defaulting Party receives confirmation satisfactory to it, in its reasonable discretion (which may include an opinion of its counsel), that all other obligations of any kind whatsoever of the Defaulting Party to the Non-Defaulting Party under this Contract (or otherwise) have been fully and finally performed

13) **QUANTITY SHORTFALL DAMAGES**

(A) Unless excused by Force Majeure, by written agreement of Buyer and Seller, or Seller's failure to perform, if Buyer fails to accept all or any part of the quantity of coal to be delivered under this Contract Buyer shall pay Seller for each ton of such deficiency an amount equal to the positive difference, if any, obtained by subtracting the Sales Price from the Contract Price plus (i) any additional transportation costs incurred by Seller due to such failure and (ii) reasonable legal costs incurred by Seller in enforcement and protection of its rights under this Contract. "Sales Price" means the price determined by Seller in a commercially reasonable manner at which Seller resells (if at all) the coal, or, absent such a sale, the market price for such quantity of coal FOB Delivery Point

(B) Unless excused by Force Majeure, by written agreement of Buyer and Seller, or Buyer's failure to perform, if Seller fails to deliver all or any part of the quantity of coal to be delivered under this Contract, Seller shall pay Buyer for each ton of such deficiency an amount equal to the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price plus (i) any additional transportation costs incurred by Buyer due to such failure and (ii) reasonable legal costs incurred by Buyer in enforcement and protection of its rights under this Contract. "Replacement Price" means the price, determined by Buyer in a commercially reasonable manner at which Buyer purchases (if at all) substitute coal for the deficiency or, absent such a purchase, the market price for such quantity of coal FOB Delivery Point

(C) Each party hereby stipulates that the payment obligations set forth in (A) and (B) above are reasonable in light of the anticipated harm and each party hereby waives the right to contest such payments as an unreasonable penalty or otherwise. The remedy set forth in (A) or (B), as applicable, of this Section 13 shall be the sole and exclusive remedy of the aggrieved party for the failure of the other party to deliver or accept, as the case may be, the quantity of coal specified herein and all other damages and remedies are hereby waived as to such failure(s)

(D) Payment of amounts, if any, determined under this Section 13 shall be made in accordance with Section 7, provided that payment of any such amounts shall be made on the 20th calendar day of the month following such failure to deliver or accept coal, as applicable. All such determinations shall be made in a commercially reasonable manner. The Non-Defaulting Party shall not be required to enter into any actual replacement transaction in order to

determine the Replacement Price or Sales Price, as appropriate, provided, however, that the Non-Defaulting Party shall take all reasonable steps to mitigate its damages.

14) **GRANT OF SECURITY INTEREST**

To secure its obligations under this Contract and to the extent either or both parties deliver Performance Assurance hereunder, each party (a "Pledgor") hereby grants to the other party (the "Secured Party") a present and continuing first priority secured interest in, and lien on (and right of recoupment and set-off against), and assignment of, all cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of or for the benefit of such Secured Party and each party agrees to take such action as the other party reasonably requires in order to perfect the Secured Party's first-priority security interest in, and lien on (and right of recoupment and/or setoff against) such collateral and any and all proceeds resulting therefrom or from the liquidation thereof.

15) **HOLDING AND USE OF PERFORMANCE ASSURANCE**

Each party will be entitled to hold Performance Assurance so long as the credit rating of the senior unsecured debt obligations of the entity or its guarantor is rated at least BBB- by S&P's and Baa3 by Moody's and further provided that an Event of Default has not occurred and is not continuing with respect to the party. If an Event of Default has occurred and is continuing with respect to a party or its guarantor then, if it holds Performance Assurance, it shall be required to immediately place all such Performance Assurance in an escrow account with an independent third party financial institution mutually acceptable to the parties.

16) **LIMITATION ON LIABILITY**

NO WAIVER OF REMEDIES OR DAMAGES HEREIN SHALL APPLY TO CLAIMS OF ANTICIPATORY REPUDIATION OR REMEDIES THEREFOR PROVIDED BY LAW. NEITHER SELLER NOR BUYER SHALL BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS, OR BUSINESS INTERRUPTION DAMAGES, WHETHER BY STATUTE, IN TORT OR IN CONTRACT UNDER ANY INDEMNITY PROVISION OR OTHERWISE.

17) **FORWARD CONTRACT**

Buyer and Seller each acknowledge that it is a "forward contract merchant" and that this Contract constitutes a "forward contract" within the meaning of the United States Bankruptcy Code.

18) **NETTING AND SETOFF**

If Buyer and Seller are required to pay any amount on the same day in the same month, then such amounts with respect to each party may be aggregated and the parties may discharge their obligations to pay through netting in which case the party, if any, owing the greater aggregate amount shall pay to the party owed the difference between the amounts owed. Each party reserves to itself all rights, setoffs, counterclaims, combination of accounts, liens and other remedies and defenses which such party has or may be entitled to (whether by operation of law or otherwise). The obligations to make payments under this Contract and/or any other contract between the parties hereto may be offset against each other, set off or recouped therefrom.

19) **CONFIDENTIALITY**

Buyer and Seller and their respective Affiliates shall keep confidential any and all matters relating to this Contract, except those readily obtainable from public information, requested by a regulatory commission, or otherwise required by law to be disclosed.

20) **ENTIRE AGREEMENT; MODIFICATIONS**

This Contract, together with any attachments or exhibits specifically referenced herein, constitutes the entire contract between the Seller and the Buyer with respect to the subject matter hereof, supersedes all prior oral or written representations and contracts, and may be modified only by a written amendment signed by Buyer and Seller.

21) **COMPLIANCE WITH THE LAW**

Seller and Buyer shall make good faith efforts to comply with the provisions of all federal, state, and other governmental laws and any applicable order and/or regulations, or any amendments or supplements thereto, which have been, or may at any time be, issued by a governmental agency.

22) **GOVERNING LAW; WAIVER OF JURY TRIAL; UCC**

This Contract shall be construed, enforced, and performed in accordance with the laws of the State of New York, including New York General Obligations Law Sections 5-1401 and 5-1402. Each party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Contract. Except as otherwise

provided for herein, the provisions of the Uniform Commercial Code ("UCC") of the State of New York shall govern this Contract and coal provided hereunder shall be deemed to be "goods" for purposes of the UCC

23) **NOTICES**

Notices provided for or required under this Contract may be exercised verbally, but shall be confirmed in writing as soon as practicable. The parties shall be legally bound from the date the notification is exercised. Notices provided for or required in writing herein shall be delivered by hand or electronic means or transmitted by facsimile or sent by certified mail, postage prepaid, return receipt requested, or by overnight mail or courier.

Notices hand delivered or delivered by electronic means, shall be deemed delivered by the close of the Business Day on which it was hand delivered or delivered by electronic means (unless hand delivered or transmitted by electronic means after the close of the Business Day in which case it shall be deemed received by the close of the next Business Day). Notices provided by facsimile shall be deemed to have been received upon the sending party's receipt of its facsimile machine's confirmation of a successful transmission. If the day on which such facsimile is received is not a Business Day or is after close of the Business Day, then such facsimile shall be deemed to have been received on the following Business Day. Notices provided by certified mail, postage prepaid, return receipt requested, or by overnight mail or courier, shall be deemed delivered upon mailing.

24) **DEFINITIONS**

The following definitions and any terms defined internally in this Contract shall apply to this Contract and all notices and communications made pursuant to this Contract.

"AEP" means American Electric Power Service Corporation, as agent.

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

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

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

"Contract Price" means the price in United States dollars per ton (unless otherwise specified in the Confirmation) to be paid by Buyer to Seller for purchase of coal and any other proper charges pursuant to this Contract.

"Costs" means, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third party transaction costs and expenses reasonably incurred by such party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace a terminated transaction, and all reasonable attorneys' fees and expenses incurred by the Non-Defaulting Party in connection with the termination of a transaction.

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

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

"Force Majeure" means an event or circumstance which prevents one party from performing its obligations under this Contract, which is not within the reasonable control of, or the result of the negligence of, the party claiming Force Majeure, and which by the exercise of due diligence, the claiming party is unable to overcome or avoid or cause to be avoided or is unable in good faith to obtain a substitute therefore. Force Majeure shall not be based on: (1) the loss of the Buyer's markets; (2) Buyer's inability economically to use or resell the coal purchased hereunder; (3) the loss or failure of Seller's supply (including, without limitation, adverse mining conditions, or loss of feedstocks or raw materials); (4) the Seller's ability to sell the coal at a price greater than the Contract Price; or (5) Seller's inability to economically produce or obtain the coal.

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

"Letters of Credit" means one or more irrevocable, standby letters of credit issued by a United States commercial bank or a foreign bank with a United States branch (with such bank being both (1) acceptable to the party to whose

benefit the Letter of Credit is issued and (2) having a credit rating of at least "A-" from S&P and "A3" from Moody's) in a form acceptable to the party in whose favor the Letter of Credit is issued. Costs of a Letter of Credit shall be borne by the applicant for such Letter of Credit.

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

"Moody's" means Moody's Investors Service, Inc. or its successor.

"NIST" means the National Institute of Standards and Technology Handbook #44.

"Performance Assurance" means collateral in the form of either cash or Letters of Credit in an amount acceptable to the party requiring Performance Assurance or such other security of the type and amount acceptable to the party requiring Performance Assurance.

"Shipment" means, as applicable, one (1) unit trainload or one (1) barge load in accordance with the applicable transportation specifications.

"S&P" means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. or its successor.

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