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April 1, 2010

RECEIVED

APR 02 2010

**PUBLIC SERVICE
COMMISSION**

Ms. Chris Whelan
Public Service Commission
211 Sower Boulevard, P.O. Box 615
Frankfort, Kentucky 40602-0615

Re: An Examination of the Application of the Fuel Adjustment Clause of
Big Rivers Electric Corporation from July 17, 2009, through October
31, 2009, P.S.C. Case No. 2009-00510

Dear Ms. Whelan:

Enclosed on behalf of Big Rivers Electric Corporation are copies of five additional contracts relating to the review of Big Rivers' Fuel Adjustment Clause in the above-referenced matter. Big Rivers previously filed these contracts, but it appears you did not receive them.

Please call with any questions.

Sincerely yours,



Tyson Kamuf
Counsel for Big Rivers Electric Corporation

Enclosures

Telephone (270) 926-4000
Telecopier (270) 683-6694

100 St. Ann Building
PO Box 727
Owensboro, Kentucky
42302-0727

COAL SUPPLY AGREEMENT

This Coal Supply Agreement (the "Agreement") dated as of May 1, 2008, by and between WESTERN KENTUCKY ENERGY CORP. a Kentucky corporation, 220 West Main Street, Louisville, Kentucky 40202 ("Buyer") and COALSALES LLC, a Delaware limited liability company, 701 Market Street, Suite 900, St. Louis, Missouri 63101-1826 ("Seller").

WITNESSETH:

WHEREAS, Buyer is an electric utility company which desires to purchase steam coal; and

WHEREAS, Buyer and Seller desire to enter into a coal supply agreement pursuant to which the Seller will supply coal to Buyer and Buyer will accept delivery of coal under the terms as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1. GENERAL.

(a) The above recitals are true and correct and comprise a part of this Agreement.

(b) Seller will sell to Buyer, and Buyer will buy from Seller steam coal under all the terms and conditions of this Agreement.

(c) Seller hereby represents and warrants that it has obtained or will obtain the agreement of Arclar Company, LLC. (the "Producer"), as indicated by the Producer's signature on the Producer's Certificate attached hereto as Exhibit "A" and made a part hereof, and Seller has delivered or will

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deliver such original Producer's Certificate to Buyer. This obligation of Seller is a material inducement for Buyer to enter into this Agreement. If Seller fails to deliver an unrevised Producers' Certificate to Buyer within ninety (90) days after execution of this Agreement, then Buyer shall provide Notice to Seller to deliver such Producer's Certificate to Buyer. If after thirty (30) days following Notice Seller has not provided an unrevised Producer's Certificate to Buyer, Buyer may declare this Agreement null and void, and neither party shall have any further obligations hereunder, except to the extent of deliveries already made or then in route. If this Agreement is extended beyond the Price and Contract Review Period set forth in Section 8, any changes in the Producer shall be reflected in an amendment hereto, and Seller shall deliver a revised Producer's Certificate to Buyer prior to the effective date of the amendment. Seller acknowledges and agrees that Buyer is the third-party beneficiary of any agreement between Producer and Seller whereby Seller obtains the right to sell coal produced by Producer (the "Coal Purchase Contract"), and as such Buyer shall be entitled to enforce its rights thereunder, in addition to exercising its rights and remedies hereunder.

(d) Each covenant, representation and warranty given by each party herein is a material inducement for the other party to enter into this Agreement.

(e) The term "Buyer" as used herein shall refer to Western Kentucky Energy Corp.

SECTION 2. TERM. The term of this Agreement shall commence January 1, 2009 (hereafter referred to as the "Effective Date"), and shall continue through December 31, 2010, except as otherwise provided herein.

SECTION 3. QUANTITY.

§ 3.1 Base Quantity. Seller shall sell and deliver, and Buyer shall purchase and accept delivery of the following annual base quantity of coal ("Base Quantity"):

<u>Year</u>	<u>Base Quantity (tons)</u>
2009	500,000
2010	500,000

As used herein, the term "ton" shall mean 2,000 pounds.

§ 3.2 Delivery Schedule. Seller shall deliver and Buyer shall take delivery of the Base Quantity in approximately equal monthly installments during the term hereof unless otherwise mutually agreed. Chronic failure by Seller to deliver or chronic failure by Buyer to accept shipments in accordance with the foregoing schedule, as mutually agreed, other than a failure resulting from a force majeure event, as defined in § 10 hereof, shall constitute a material breach within the meaning of § 14 of this Agreement.

SECTION 4. SOURCE.

§ 4.1 Source. The coal sold hereunder shall be mined and supplied from the Illinois #5, #6 & #7 geological seams at the Arclar Mining Complex located in Illinois (the "Coal Property").

§ 4.2 Sufficient Reserves. Seller represents and warrants that the Coal Property contains sufficient recoverable coal of a quality and in quantities to satisfy all the requirements of this Agreement.

§ 4.3 Relationship of the Parties. Seller agrees that it is not and will not hold itself out as a partner, joint venturer, employee, agent or representative of Buyer. Nothing herein contained shall be construed as creating a single enterprise, joint venture, agency, partnership, joint employer, owner-contractor, or lessor-lessee relationship between Buyer and Seller or between Buyer and Producer.

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Seller and Producer shall each have sole and exclusive authority to direct and control its respective activities and operations, and those of any subcontractors, undertaken in the performance of Seller's obligations under this Agreement. Seller and Producer shall each exercise full and complete control over its respective work force and labor relations policies. Buyer shall have no authority or control over either Seller's or Producer's operations or work force.

§ 4.4 Substitute Coal Seller shall have the right, but not the obligation, upon Buyer's written consent, which shall not be unreasonably withheld, to supply coal to Buyer not produced on the Coal Property ("Substitute Coal"). Any such supply of Substitute Coal shall be subject to all the terms and conditions of this Agreement as if applicable to coal from the Coal Property, including, without limitation the price provisions of § 8, the quality specifications of § 6, and the provisions of § 5 concerning reimbursement to Buyer for increased transportation costs.

SECTION 5. DELIVERY.

§ 5.1 Delivery Point. The coal shall be delivered to Buyer F.O.B. barge at the Power Dock, mile post 858.3 on the Ohio River (the "Delivery Point"). With Buyer's prior oral, followed by written consent, which it may not unreasonably withhold, Seller may deliver the coal or Substitute Coal at a location different from the Delivery Point, provided, however, Seller shall reimburse Buyer for any resulting increases in the cost of transporting the coal to Buyer's generating stations.

§ 5.2 Title/Risk of Loss. Title to and risk of loss of coal sold hereunder will pass to Buyer and the coal will be considered to be delivered when Buyer's barges are loaded to barge specifications with coal at Delivery Point.

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§ 5.3 Barge Delivery. Buyer or its contractor shall furnish suitable barges in accordance with a delivery schedule provided by Buyer to Seller or Producer. Seller or its Producer shall ensure that rake barges are loaded to a minimum of 1,500 tons per barge and box barges are loaded to a minimum tonnage of 1,600 tons per barge unless river conditions are such that less amounts must be loaded or barges arrive at loading point containing excess residual coal material. It shall be the responsibility of Buyer or its contractor to ensure barges supplied are clean and suitable for loading. In the event lesser amounts are loaded, notice of light loading and river condition requirement for such light loading shall accompany Seller's and/or Producer's shipment notice. Seller shall arrange and pay for all costs of transporting the coal to the staging areas for loading of barges and for loading and trimming the coal into barges to the proper weight and the proper distribution within the barges. Buyer shall arrange for transporting the coal from the Delivery Point to Buyer's generating station(s) and shall pay for the cost of such transportation. Seller shall be responsible for any delay costs or other penalties assessed by Buyer's barging contractor and actually paid by Buyer for actual charges or costs incurred by Buyer which accrue at the Delivery Point which are deemed to have been caused by Seller, and not otherwise excused by an event of force majeure. If, in the reasonable opinion of the Seller or its representative, the supplied barges contain an excess of residual material which makes them unsuitable for loading, it will be the responsibility of Buyer or its contractor to remove any residual material from the supplied barges at Buyer's expense. Seller shall require of the Producer and loading operator that the barges provided by Buyer or Buyer's contractor be provided convenient and safe ingress, transit, berth, loading, and egress while the barges are at the Seller and/or Producer's dock. Notwithstanding the above, Buyer shall be responsible for all fleeting, switching and other mooring fees.

SECTION 6. QUALITY.

§ 6.1 Specifications.

(a) The coal delivered hereunder shall conform to the following specifications on an "as received" basis of quality:

<u>Quality Specifications</u>	<u>Guaranteed Monthly Weighted Average</u>	<u>Rejection Limits (per Shipment)</u>
BTU/LB.	Min. 12,100	< 11,700
Ash	Max. 8.26 lbs./MMBTU	> 10.74 lbs./MMBTU
Moisture	Max. 8.26 lbs./MMBTU	> 10.74 lbs./MMBTU
Sulfur	Max. 2.50 lbs./MMBTU	> 2.70 lbs./MMBTU
Sulfur	Min. 1.80lbs./MMBTU	
Chlorine (dry)	Max. 0.22%	

SIZE (3" x 0"):

Top size (inches)*	max. 4"x 0"	> 4"x 0"
Fines (% by wgt)		
passing 1/4" screen	max. 50%	> 55 %

% BY WEIGHT:

VOLATILE	34 As Received
FIXED CARBON	44 As Received
GRINDABILITY (HGI)	52
BASE ACID RATIO (B/A)	0.50

ASH FUSION TEMPERATURE (°F) (ASTM D1857)

REDUCING ATMOSPHERE

Initial Deformation	2000
Softening (H=W)	2050
Softening (H=1/2W)	2100
Fluid	2250

OXIDIZING ATMOSPHERE

Initial Deformation	2300
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Softening (H=W)	2350
Softening (H=1/2W)	2400
Fluid	2520

* All the coal will be of such size that it will pass through a screen having circular perforations four (4) inches in diameter, but shall not contain more than fifty-five percent (55%) by weight of coal that will pass through a screen having circular perforations one-quarter (1/4) of an inch in diameter.

The Base Acid Ratio (B/A) is herein defined as:

$$\text{BASE ACID RATIO (B/A)} = \frac{(\text{Fe}_2\text{O}_3 + \text{CaO} + \text{MgO} + \text{Na}_2\text{O} + \text{K}_2\text{O})}{(\text{SiO}_2 + \text{Al}_2\text{O}_3 + \text{TlO}_2)}$$

Note: As used herein: > means greater than;
 < means less than.

§ 6.2 Definition of "Shipment". As used herein, a "Shipment" shall mean one loaded barge.

§ 6.3 Rejection. Buyer has the right, but not the obligation, to reject any Shipment(s) which are above or below, as applicable, any one or more of the Rejection Limits set forth in Section 6.1 hereof. Buyer must reject such coal within one (1) business day of receipt of the coal analysis provided for in § 7.2 or such right to reject is waived. Buyer has the further right, but not the obligation, to reject at any time, any Shipment which contains unreasonable amounts of extraneous materials, which include, but are not limited to, slate, rock, wood, mining materials, metal, steel, etc. ("Debris") as determined by Buyer. Rejected Shipment(s) shall be returned to Seller or Seller's designee at Seller's expense.

If the non-conforming Shipment has been unloaded at Buyer's generating station prior to the receipt of the coal analysis provided for in § 7.2, Buyer and Seller shall confer for the purpose of reaching agreement on an adjustment to the Base Price to be paid for such coal; provided, however, such adjustment shall not exceed \$0.025/MMBtu. Non-conforming Shipments that have been unloaded

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before rejection shall be considered “rejectable” for the purposes of Section 6.4 below. In the event that the parties cannot agree upon an adjustment to price, Buyer shall have the right to require Seller to collect the rejected coal, at its expense, and remove such from Buyer’s property. Further, Seller acknowledges its part in reasonable and workmanlike quality control and as such, Seller shall not take advantage of Buyer’s good faith in accepting delivering of coal that is substantially above or below, as applicable the Rejection Limits.

§ 6.4 Suspension. If the ton-weighted monthly average of coal fails to meet any two of the individual Guaranteed Monthly-Weighted Average specifications set forth in § 6.1 for any quarter, during the term of this Agreement, or if six (6) Shipments are rejectable in any thirty (30) consecutive day period, Buyer may, upon written notice, suspend future Shipments, except those Shipments which have already been loaded into barges at the time notice is received. Seller shall within thirty (30) days provide Buyer with reasonable assurances that subsequent deliveries of coal shall meet or exceed the specifications set forth herein. If Seller fails to provide such assurances within that thirty (30) day period, Buyer shall have the right to terminate the Agreement pursuant to § 14 of this Agreement. If Seller provides such assurances to Buyer’s reasonable satisfaction, deliveries hereunder shall resume, and any tonnage deficiencies resulting from suspension may be made up at Buyer’s sole option, subject to a mutually agreeable schedule. Buyer shall not unreasonably withhold its acceptance of Seller’s assurances, or delay resumption of Shipments. If Seller, after such assurances, fails to meet any two or more of the individual Guaranteed Monthly-Weighted Average specifications for the next two months or if six (6) Shipments are rejectable within any thirty (30) consecutive day period during next six (6)

month period, then Buyer may terminate this Agreement and exercise all its other rights and remedies under applicable law.

SECTION 7. WEIGHTS, SAMPLING AND ANALYSIS.

§ 7.1 Weights. The weight of the coal delivered hereunder shall be determined on a per barge basis to constitute a Shipment by Seller on the basis of draft weights at the loading point, unless another method is mutually agreed upon by the parties. Such draft shall be duly performed by an appropriate independent testing agency and performed in a workmanlike manner pursuant to methodology for obtaining such that the weights are deemed accurate and reliable so as to be used for payment purposes in accordance with the terms and conditions of this Agreement. In the event that Buyer and Seller agree to utilize scales, to ensure such accuracy and reliability, such scales shall be tested and shall comply with appropriate standards for weighing as set out in the National Institute of Standards and Technology Handbook 44 for such scales. Buyer or Seller, as the case may be, shall have the right, at their own expense and upon reasonable notice one to the other, to have the draft process or scales checked for process and accuracy at any reasonable time or frequency. In the event scales are utilized, if such scales are found to be over or under the tolerance range allowable for the scale based on the National Institute of Standards and Technology Handbook 44, either party shall pay to the other any amounts owed due to such inaccuracy for a period not to exceed 30 days or the time between tests, whichever is shorter.

§ 7.2 Sampling and Analysis. The sampling and analysis of the coal delivered hereunder shall be performed by Seller and the results thereof shall be accepted and used for the quality and characteristics of the coal delivered under this Agreement unless another method is mutually agreed upon by the parties. All analyses shall be made in the laboratory of Seller or Seller's contractor at

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Seller's expense in accordance with industry-accepted standards. Samples for analyses: (i) shall be taken by the most current industry-accepted standard for the mechanical sampling system in place; (ii) shall be mutually acceptable to both parties; (iii) may be composited; and (iv) shall be taken with a frequency and regularity sufficient to provide reasonably accurate representative samples of the deliveries made hereunder. Buyer acknowledges that it is familiar with the sampling and analysis practices to be utilized hereunder, and finds them to be acceptable. Seller shall notify Buyer in writing of any significant changes in Seller's sampling and analysis practices. Any such changes in Seller's or Seller's contractor's sampling and analysis practices shall, except for industry accepted changes in practices, provide for no less accuracy than the sampling and analysis practices existing at the time of the execution of this Agreement, unless the parties otherwise mutually agree.

Each sample taken by Seller shall be divided into four (4) parts and put into airtight containers, properly labeled and sealed. One part shall be used for analysis by Seller; one part shall be used by Seller as a check sample, if Seller in its sole judgment determines it is necessary; one part shall be retained by Seller until the twenty-fifth (25th) of the month following the month of unloading (the "Disposal Date") and shall be delivered to Buyer for analysis if Buyer so requests before the Disposal Date; and one part ("Referee Sample") shall be retained by Seller until the Disposal Date. Buyer shall be given copies of all analyses made by Seller within 3 business days after loading and Seller shall provide a composite of all the analyses for presentation to Buyer by the third (3rd) business day of the month following the month of loading. Buyer, on reasonable notice to Seller shall have the right to have a representative present to observe the sampling and analyses performed by Seller or Seller's contractor. Unless Buyer requests a Referee Sample analysis before the Disposal Date, Seller's analysis shall be

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used to determine the quality of the coal delivered hereunder. The Monthly Weighted Averages shall be determined by utilizing the individual Shipment analyses and the weight of each Shipment.

If any dispute arises before the Disposal Date, the Referee Sample retained by Seller shall be submitted for analysis to an independent commercial testing laboratory ("Independent Lab") mutually chosen by Buyer and Seller. For each coal quality specification in question, a dispute shall be deemed not to exist and Seller's analysis shall prevail and the analysis of the Independent Lab shall be disregarded if the analysis of the Independent Lab differs from the analysis of Seller by an amount equal to or less than:

- (i) 0.50% moisture
- (ii) 0.50% ash on a dry basis
- (iii) 100 Btu/lb. on a dry basis
- (iv) 0.10% sulfur on a dry basis.

For any coal quality specification in question, if the analysis of the Independent Lab differs from the analysis of Seller by an amount greater than the amounts listed above, then the analysis of the Independent Lab shall prevail and Seller's analysis shall be disregarded. The cost of the analysis made by the Independent Lab shall be borne by Buyer to the extent that Seller's analysis prevails and by Seller to the extent that the analysis of the Independent Lab prevails.

In the event Buyer installs a sampling system at the generating station that is equivalent or better than that utilized by Seller, at Seller's reasonable sole option, Seller may agree to utilize Buyer's collected samples and analyses of such samples as the basis for payments hereunder. Such sampling processes shall include all those listed above as responsibility of Seller in terms of frequency and regularity sufficient to provide an accurate representative sample of the deliveries, and will include the same number of sample divisions taken and retained. All analyses of samples collected by Buyer shall

be made at Buyer's expense in accordance with then current industry-accepted standards. Seller shall have the right, upon reasonable notice, to inspect or have inspected Buyer's mechanical sampler, collection, and the sample analysis process.

SECTION 8. PRICE.

§ 8.1 Base Price. The base price ("Base Price") of the coal to be sold and delivered hereunder shall be determined according to the following schedule as set out by year on the basis of \$/MMBTU F.O.B. barge. A portion of the Base Price shall be increased or decreased for each percentage point of change, or proportionately for fractional parts of a percentage point of change, to reflect changes in the indices in Section 8.2, Section 8.3 and Section 8.4 (hereinafter the "Adjusted Base Price"). The adjustment to the Base Price will be based on an allocation of index weights as more particularly detailed in this Section 8.2, Section 8.3 and Section 8.4 below. Changes shall become effective January 1, 2009 and continue quarterly through the term of this Agreement. The index values shall be adjusted based upon the preliminary index values for the three-month period ending November 30 (for adjustment effective January 1st), February 28 or 29 (for adjustment effective April 1st), May 31 (for adjustment effective July 1st) and August 31 (for adjustment effective October 1st) (hereinafter the "Calculation Period").

However, in no event shall the Adjusted Base Price at any time be lower than the Base Price, by calendar year, as listed below.

Calendar Year	Base Price \$/MMBTU
2009	\$2.273 (\$55.00/ton at 12,100 BTU per pound)
2010	\$2.341 (\$56.65/ton at 12,100 BTU per pound)

§ 8.2 Diesel Fuel Adjustment. In addition to the Base Price §8.1 above, there shall be an adjustment to such price for changes in diesel fuel. The adjustment shall change in proportion to changes in the first published PPI-Commodities #2 Diesel Fuel Index #WPU057303 (not seasonally adjusted) found in Table 6 of the Producer Price Indexes, published monthly by the U.S. Department of Labor, Bureau of Labor Statistics (hereinafter the “PPI Fuel”). The change in this component shall be calculated by multiplying a fraction, the denominator of which shall be 355.4 (hereinafter the “Base Fuel Index”) which is the Preliminary PPI Fuel for March 2008 and the numerator of which shall be the difference between the average PPI Fuel for the Calculation Period and 355.4, times 8.0% of the current calendar year \$/MMBTU price (the “Diesel Fuel Component”). The adjustment shall be rounded to three decimal places and reset to zero prior to each calculation.

Example Diesel Fuel Adjustment:

Average PPI Fuel for Calculation Period	= 400.0
Base Fuel Index	= 355.4
Diesel Fuel Adjustment	= [(400.0-355.4)/355.4]*\$0.1818/MMBTU
Diesel Fuel Component	= +\$.0230 per MMBTU

§ 8.3 Steel Adjustment. In addition to the Base Price §8.1 above, there shall be an adjustment to such price for changes in the price of steel. The adjustment shall change in proportion to changes in the first published PPI-Commodities #2 Iron and Steel Scrap Index #WPU1012 found in the Producer Price Indexes, published monthly by the U.S. Department of Labor, Bureau of Labor Statistics (hereinafter the

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“PPI Steel”). The change in this component shall be calculated by multiplying a fraction, the denominator of which shall be 537.0 (hereinafter the “Base Steel Index”) which is the Preliminary PPI Steel for March 2008 and the numerator of which shall be the difference between the average PPI Steel for the relevant Calculation Period and 537.0, times 7.0% of the current calendar year \$/MMBTU price (the “Steel Component”). The adjustment shall be rounded to three decimal places and reset to zero prior to each calculation.

Example Steel Adjustment:

Average PPI Steel for Calculation Period	= 500.0
Base Steel Index	= 537.0
Steel Adjustment	= [(500.0-537.0)/537.0]*\$0.1591/MMBTU
Steel Component	= -\$0.011 per MMBTU

§ 8.4 Explosive Adjustment. In addition to the Base Price §8.1 above, there shall be an adjustment to such price for changes in the price of explosives. The adjustment shall change in proportion to changes in the first published PPI-Commodities Fertilizer Materials Index #WPU0652 found in the Producer Price Indexes, published monthly by the U.S. Department of Labor, Bureau of Labor Statistics (hereinafter the “PPI Explosives”). The change in this component shall be calculated by multiplying a fraction, the denominator of which shall be 287.6 (hereinafter the “Base Explosives Index”) which is the Preliminary PPI Explosives for March 2008 and the numerator of which shall be the difference between the average PPI Explosives for the relevant Calculation Period and 287.6, times 2.5% of the current calendar year \$/MMBTU price (the “Explosives Component”). The adjustment shall be rounded to three decimal places and reset to zero prior to each calculation.

Example Explosive Adjustment:

Average PPI Explosives for Calculation Period	= 300.0
Base Explosives Index	= 287.6
Explosives Adjustment	= [(300.0-287.6)/287.6]*\$0.0568/MMBTU
Explosives Component	= +\$0.002 per MMBTU

A Sample calculation of this procedure is attached hereto Exhibit “C” and shall serve as a guide for administration of the Diesel Fuel, Steel and Explosive Adjustments.

§ 8.5 Payment Calculation. Payment shall be based solely upon the tonnage and BTU/LB received pursuant to the terms of Section 6. **QUALITY**, Section 7. **WEIGHTS, SAMPLING AND ANALYSIS**, and this Section 8. If there are any adjustments pursuant to Section 6. **QUALITY**, such adjustments shall apply as a credit to amounts owed Seller by Buyer for the month the coal was unloaded.

SECTION 9. INVOICES, BILLING AND PAYMENT.

§ 9.1 Invoicing Address. Invoices will be sent to Buyer at the following address:

Western Kentucky Energy Corp.
220 West Main Street (physical zip code 40202)
P.O. Box 32030
Louisville, Kentucky 40232
Attn.: Manager, Fuels Accounting

With a copy to:

Western Kentucky Energy Corp.
220 West Main Street (physical zip code 40202)
P.O. Box 32030
Louisville, Kentucky 40232
Attn.: Manager, Fuels Strategy and Procurement

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§ 9.2 Invoice and Bi-Monthly Payment Procedures. For all coal delivered pursuant hereto, and unloaded at the generating station between the first (1st) and fifteenth (15th) days of any calendar month, Buyer shall make preliminary payment for of the amount owed for the coal (based on the assumption that the coal will meet all guaranteed monthly quality parameters) by the twenty-fifth (25th) day of such month of delivery. For all coal delivered pursuant hereto and unloaded at the generation station between the sixteenth (16th) and the last day of any calendar month, Buyer shall make preliminary payment of the delivered coal by the tenth (10th) day of the month following the month of delivery.

Preliminary payment shall be in the amount of the then-current Adjusted Base Price on a dollar per ton basis calculated based on the guaranteed monthly weighted average BTU/lb. of product delivered.

A reconciliation of amounts paid and amounts owed shall occur on the twenty-fifth (25th) day of the month following the month of delivery. (For example, Buyer will make one preliminary payment on January 25th for coal delivered January 1st through 15th, and another preliminary payment on February 10th for coal delivered January 16th through 30th. Payment reconciliation will occur on February 25th for all deliveries made in January.) The reconciliation shall be made as follows: Seller shall invoice Buyer on or before the 20th day of the month following the month of delivery. The amount due (based on the Adjusted Base Price plus or minus any quality price adjustments) for all coal delivered and unloaded and accepted by Buyer during any calendar month shall be calculated and compared to the sum of the preliminary payments made for coal delivered and unloaded and accepted during such month. The difference shall be paid by or paid to Seller, as applicable, by the twenty-fifth (25th) day of the month following the month of delivery.

Buyer shall electronically transfer funds as requested by Seller to Seller's account at:

COALSALES, LLC

PNC Bank, N.A.

ABA# 043000096

Bank Account# 1019275295

In the event of repeated late payments, Seller may provide Notice to Buyer that any future late and/or overdue payments shall accrue interest (at the prime rate of interest for United States Dollar as published from time to time during such period under the section titled, "Money Rates" by the Wall Street Journal, plus two percent, but not to exceed the maximum applicable lawful interest rate (hereinafter "Interest Rate") from the due date until paid.

§ 9.3 Withholding. Either party shall have the right to withhold from payment to the other party (i) any sums which it is not able in good faith to verify or which it otherwise in good faith disputes, and (ii) any amounts owed to the other party under this Agreement. Buyer shall notify Seller promptly in writing of any such issue, stating the basis of its claim and the amount it intends to withhold.

Payment by Buyer, whether knowing or inadvertent, of any amount in dispute shall not be deemed a waiver of any claims or rights by Buyer with respect to any disputed amounts or payments made.

Upon resolution of any dispute involving any withholding of payment, any additional amount found owing shall be paid with interest at the Interest Rate.

§9.4 Buyer's Credit. Whenever Buyer's, or Buyer's Guarantor's, senior unsecured or corporate credit rating is below investment grade (BBB- as defined by Standard & Poor's or the equivalent as

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defined by other public ratings agencies), Buyer shall provide Seller with a mutually agreed upon form of credit enhancement (such as a letter of credit or guaranty from an investment grade entity, etc.) Until the mutually acceptable assurances of good credit are received, the Seller has the right to require payment in cash at least three business days in advance of loading. If payment is not received as stated, then the Seller may withhold or suspend deliveries hereunder.

SECTION 10. FORCE MAJEURE.

§ 10.1 General Force Majeure. Except as otherwise provided herein, if either party hereto is delayed in or prevented from performing any of its obligations or from utilizing the coal sold under this Agreement due to acts of God, war, riots, civil insurrection, threats of violence, acts of the public enemy, terrorism, nuclear disasters, strikes, lockouts, labor shortages and disputes, disturbances or unrest, damage to mines or plants, inability to procure supplies or equipment, breakdown of equipment or facilities, fires, explosions, floods, river freeze-up, earthquakes, inability to obtain permits or authorizations from any governmental authority after prudent and timely submission and application for same, or unforeseen geologic conditions in coal seams not discernable by prudent engineering, which are beyond the reasonable control of the party affected thereby, or changes in governmental regulations, or interpretations of existing regulations (other than an environmental force majeure as provided for in Section 10.2 Environmental Law Force Majeure) that prevent Buyer from burning coal produced from Coal Property then the obligations of both parties hereto shall be suspended or terminated to the extent made necessary by such event; provided that the affected party gives prompt oral notice to the other party after such commencement or occurrence of event becomes known to the affected party, followed by prompt written notification thereafter. The written notification for force majeure events shall also

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describe the nature and probable duration of the force majeure event. The party declaring a force majeure event shall exercise reasonable due diligence to avoid the force majeure event or shorten its duration and will keep the other party advised as to the continuance of the force majeure event. 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, in the exercise of their good faith reasonable judgment considers unacceptable. Events of force majeure as defined above affecting a supplier or contractor of a party that delays or prevents a party's ability to perform under this Agreement hereto will be treated as the affected party's force majeure.

During any period in which Seller's ability to perform hereunder is affected by a force majeure event, Seller shall not deliver any coal to any other buyers to whom Seller's ability to supply is similarly affected by such force majeure event unless contractually committed to do so under another coal supply agreement that was entered into prior to the force majeure event; and further Seller shall deliver to Buyer under this Agreement at least a pro rata portion (on a per ton basis) of its total contractual commitments in place at the beginning of the force majeure event for all its buyers to whom Seller's ability to supply is similarly affected by such force majeure event.

During any period in which Buyer's ability to perform hereunder is affected by a force majeure event, Buyer shall not accept any coal from any other sellers to whom Buyer's ability to accept coal is similarly affected by such force majeure event unless contractually committed to do so under another purchase agreement that was entered into prior to the date of the force majeure event; and further Buyer shall accept coal from Seller under this Agreement at least a pro rata portion (on a per ton basis) of its

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total contractual commitments in place at the beginning of the force majeure event for all its sellers to whom Buyer's ability to accept coal is similarly affected by such force majeure event.

An event which affects the ability of Seller or Producer to obtain or produce Substitute Coal will not be considered a force majeure event hereunder.

Buyer reserves the right to purchase replacement coal from other sources during the occurrence of a force majeure event affecting Seller. Seller reserves the right to sell coal to other buyers during the occurrence of a force majeure event affecting Buyer. Tonnage deficiencies resulting from a force majeure event will not be made up, except by mutual agreement of Buyer and Seller on a reasonable schedule mutually agreed to by Buyer and Seller.

In the event that a situation of force majeure continues for a period exceeding sixty (60) days, then either party not claiming force majeure may elect to terminate this Agreement by giving written notice to the other party. In the event of such termination, neither party shall have any further liability to the other except for those obligations or liabilities which may have accrued with respect to performance or defaults prior to said termination.

§10.2 Environmental Law Force Majeure. As of the date of this Agreement, the coal to be supplied hereunder, can be utilized by Buyer in material compliance with all air pollution control and environmental laws, regulations, and requirements, as currently enacted and/or promulgated. The parties recognize that, during the continuance of this Agreement, legislative or regulatory bodies or the courts may adopt or reinterpret environmental laws, regulations, policies and/or restrictions which become effective during the term of this Agreement, that would not have been reasonably known as of the date of this Agreement, which will make it impossible or commercially impracticable for Buyer to utilize this or

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like kind and quality coal which thereafter would be delivered hereunder. If as a result of the adoption or reinterpretation of such laws, regulations, policies, or restrictions, or change in the interpretation or enforcement thereof, Buyer decides that it will be impossible or commercially impracticable (uneconomical) for Buyer to utilize such coal, Buyer shall so notify Seller, and thereupon Buyer and Seller shall promptly consider whether corrective actions can be taken in the preparation of the coal and/or in the handling and utilization of the coal at Buyer's generating station; and if in Buyer's sole judgment such actions will not, without unreasonable expense to Buyer, make it possible and commercially practicable for Buyer to so utilize coal which thereafter would be delivered hereunder without violating any applicable law, regulation, policy or order, Buyer may reduce coal shipments hereunder.

If as a result, Seller's contract tonnage is reduced hereunder, then Buyer shall promptly notify Seller, in writing, of the new required coal quality specifications for any replacement tonnage. Seller shall determine and communicate to Buyer if meeting the new quality specifications is possible and the increased costs, if any. Based upon Seller's evaluation, the parties will have the following sequential options:

1. Buyer shall have the option to pay to Seller said total increased costs and shipments will continue under the current Agreement, as modified for the new coal quality specifications, or
2. If Buyer does not agree to pay Seller's increased costs, then Seller has the option to provide substitute coal meeting the revised coal quality specifications under said Agreement at the current equivalent delivered price; or

3. If Seller does not exercise the option to provide substitute coal as provided hereunder then Buyer may terminate this agreement, but Seller will have the right to match the product selected by Buyer to replace the remaining coal requirements for the term of the Agreement.

To the extent not resulting from a new environmental law or regulation, changes in market conditions, commercial frustration, commercial impracticability or the occurrence of unforeseen events rendering performance of this Agreement uneconomical for Buyer, shall not constitute a new environmental law or regulation.

SECTION 11. ADJUSTMENT TO BASE PRICE FOR CHANGES IN LAWS.

The Base Price includes all costs of compliance by Seller with all Laws (defined herein) in effect as of the date of this Agreement (“Applicable Law Date”), including all applicable taxes and fees. No price adjustments shall be made under this section for costs occasioned by any such tax or fee, presently in being and as currently interpreted. Notwithstanding the foregoing, Buyer and Seller state that it is their intent that the Base Price per ton shall be increased by an amount equal to any change, after the Applicable Law Date, in Seller’s cost of compliance with Laws (defined herein) relative to its performance of this Agreement. As used herein, the term “Laws” shall mean any and all statutes, ordinances, regulations, rules and other governmental mandates (including, but not limited to all taxes, fees and tax mandates) promulgated, enacted, imposed or enforced by any federal, state or local governmental authority which affects Seller’s selling, mining, processing, and reclamation cost associated with the coal delivered under this Agreement. Therefore, if, after the Applicable Law Date, any federal, state or local governmental authority enacts, promulgates or otherwise makes effective any

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new Laws, or amends, modifies or changes in any way the text, interpretation, enforcement or application of any existing Laws, which affects Seller's direct cost of selling, mining, processing and reclamation of the coal delivered under this Agreement including, but not limited to, reclamation; conservation, environmental protection; mine safety; mine working conditions and practices; ventilation; health; occupational hazards; reclamation of mined areas; (herein referred to as a "Changes in Laws"), and if such Changes in Laws directly or indirectly increases Seller's direct cost of selling, mining, processing, and reclamation of the coal delivered under this Agreement, then the Base Price of coal sold by Seller pursuant to this Agreement shall be adjusted upward by an amount equal to such Seller's increased costs per ton to the extent directly resulting from such Changes in Laws. Included within the meaning of the term Changes in Laws, by way of example and not as a limitation, are changes in federal, state and local tax rates that increase Seller's direct cost of selling, mining, processing and reclamation of the coal delivered under this Agreement; provided however, in no event shall there ever be an adjustment made in the Base Price hereunder for changed costs related to real or personal property taxes, corporate net income and franchise taxes. Seller shall provide prompt written notice to Buyer of any such increased cost incurred by reason of a Change in Laws of which it is aware as soon as reasonably practicable, and any such increase shall be included as an adjustment to the Base Price commencing as of the date that such change in cost occurs by reason of such Change in Laws.

Seller will submit detailed documentation to Buyer to allow determination of any such adjustment. The actual amount of the increase in Seller's cost of selling, mining, processing, and reclamation of the coal delivered under this Agreement arising from the Changes in Laws will be the basis for any adjustment in the Base Price or the Adjusted Base Price, provided, however, that if the

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actual amount of any adjustment to the Base Price or Adjusted Base Price for Changes in Laws cannot be determined at the time that the Changes in Laws occurs, Seller shall have the right to make a good faith estimate of the amount of the adjustment and the Base Price or Adjusted Base Price shall be adjusted in accordance with such estimate. The estimated adjustment shall be adjusted retroactively, as necessary, to reflect the actual amount of the adjustment once the actual increase in Seller's costs can be determined.

If Seller and Buyer are unable to agree within ninety (90) days of receipt by Buyer of Seller's documentation as to the amount the price per ton should be adjusted or as to whether the event is applicable, then the matter shall be submitted to a firm of mining engineers and/or independent certified public accountants mutually agreeable to the parties for final determination, which shall be binding upon the parties. The costs associated with any such mining engineers' and/or certified public accountants' review shall be shared equally by the Parties.

If upon agreement or final determination, an adjustment in the cost per ton is found to be appropriate, appropriate credit for such amount on all tons shipped and accepted on and after the effective date of any such change resulting in such price adjustment, shall be made to Seller. Interest will not be due on true-up payments made under subsection above.

SECTION 12. NOTICES.

§ 12.1 Form and Place of Notice. Any official notice, request for approval or other document required or permitted to be given under this Agreement shall be in writing, unless otherwise provided herein, and shall be deemed to have been sufficiently given when delivered in person, transmitted by facsimile or other electronic media, delivered to an established mail service for same day or overnight

delivery, or dispatched in the United States mail, postage prepaid, for mailing by first class, certified, or registered mail, return receipt requested, and addressed as follows:

If to Buyer: Western Kentucky Energy Corp.
220 West Main Street (physical zip code 40202)
P.O. Box 32030
Louisville, Kentucky 40232
Attn.: Director, Corporate Fuels and By-Products

With a copy to: Western Kentucky Energy Corp.
220 West Main Street (physical zip code 40202)
P.O. Box 32030
Louisville, Kentucky 40232
Attn.: Manager, Fuels Strategy and Procurement

If to Seller: COALSALES, LLC
701 Market Street, Suite 900
St. Louis, Missouri 63101-1826
Attn: Vice President Sales & Marketing

§ 12.2 Change of Person or Address. Any party may change the person or address specified above upon giving written notice to the other party of such change.

§ 12.3 Electronic Data Transmittal. Seller hereby agrees to electronically transmit shipping notices and/or other data to Buyer in a format acceptable to and established by Buyer upon Buyer's request. Buyer shall provide Seller with the reasonable appropriate format and will inform Seller as to the electronic data transmission requirements at the appropriate time.

SECTION 13. INDEMNITY AND INSURANCE.

§ 13.1 Indemnity. Seller agrees to indemnify and save harmless Buyer, its officers, directors, employees and representatives from any responsibility and liability for any and all claims, demands, losses, legal actions for personal injuries, including death, property damage and pollution (including

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reasonable inside and outside attorney's fees) accruing prior to delivery at the Delivery Point: (i) due to any failure of Seller, Producer, their respective employees, agents, representatives, contractors or subcontractors, to comply with any laws, regulations or ordinances, relative to Seller's performance of this Agreement, or (ii) due to the acts or omissions of Seller, Producer, their respective employees, agents, representatives, contractors or subcontractors.

Buyer agrees to indemnify and save harmless Seller, its officers, directors, employees and representatives from any responsibility and liability for any and all claims, demands, losses, legal actions for personal injuries, including death, property damage and pollution (including reasonable inside and outside attorney's fees) accruing subsequent to delivery at the Delivery Point: (i) due to any failure of Buyer, their respective employees, agents, representatives, contractors or subcontractors, to comply with any laws, regulations or ordinances, relative to Buyer's performance of this Agreement, or (ii) due to the acts or omissions of Buyer, their respective employees, agents, representatives, contractors or subcontractors.

§ 13.2 Insurance. Seller agrees to carry insurance coverage with minimum limits as follows. Further, Seller shall require that Producer procure and maintain insurance coverage of the type set forth below with coverage limits not less than the limits set forth below.

(a) Commercial General Liability, including Completed Operations and Contractual Liability, \$1,000,000 single limit liability.

(b) Automobile General Liability, \$1,000,000 single limit liability.

(c) In addition, Seller shall carry excess liability insurance covering the foregoing perils in the amount of \$4,000,000 for any one occurrence.

(d) Workers' Compensation and Employer's Liability with statutory limits.

If any of the above policies are written on a claims made basis, then the retroactive date of the policy or policies will be no later than the effective date of this Agreement. Within fifteen days after the execution of this Agreement, Certificates of Insurance satisfactory in form to the Buyer and signed by the Seller's insurer shall be supplied by the Seller to the Buyer evidencing that the above insurance is in force and that not less than thirty (30) calendar days written notice will be given to the Buyer prior to any cancellation or material reduction in coverage under the policies. The Seller shall cause its insurer to waive all subrogation rights against the Buyer respecting all losses or claims arising from performance hereunder. Evidence of such waiver satisfactory in form and substance to the Buyer shall be exhibited in the Certificate of Insurance mentioned above. Seller's liability shall not be limited to its insurance coverage.

SECTION 14. TERMINATION FOR DEFAULT; RIGHT TO TERMINATION.

If either party hereto commits a material breach of any of its obligations under this Agreement at any time hereunder, including but not limited to a breach of a representation or warranty, then the other party has the right to give written notice describing such breach and stating its intention to terminate this Agreement no sooner than thirty (30) days after the date of the notice (the "Notice Period"). If such material breach is curable and the breaching party cures such material breach within the Notice Period, then the Agreement shall not be terminated due to such material breach. If such material breach is not curable or the breaching party fails to cure such material breach within the Notice Period, then this Agreement shall terminate at the end of the Notice Period in addition to all the other rights and remedies available to the aggrieved party under this Agreement and at law and in equity.

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Buyer (and one of Buyer's affiliates) and Big Rivers Electric Corporation have entered into that certain Transaction Termination Agreement dated as of March 26, 2007 pursuant to which, in the event of a closing, Buyer's rights to lease, operate, or manage Big Rivers Electric Corporation's generating assets and/or the generating assets of the City of Henderson, Kentucky would be terminated. Such Transaction Termination Agreement also contemplates that Buyer would assign to Big Rivers Electric Corporation certain agreements, including coal supply agreements, that Big Rivers Electric Corporation desires to assume. It is anticipated that, in the event of a closing, Big Rivers Electric Corporation will desire to receive an assignment of this Agreement (subject to certain restrictions on Buyer's right to assign this Agreement to Big Rivers Electric Corporation without the consent of Seller as set forth in Section 19.7 below). In the event the transactions contemplated under the Transaction Termination Agreement, as amended, are consummated (i.e. a closing occurs) and Seller does not give required consent to an assignment of this Agreement to Big Rivers Electric Corporation pursuant to Section 19.7 below, Buyer shall have the right, but not the obligation, to terminate this Agreement without further obligation to Seller (except for obligations that have been incurred prior to the date of termination) upon providing sixty (60) days prior written notice of such termination to Seller.

In the event the Transaction Termination Agreement as described above does not close and Big River's subsequently suspends or terminates Buyer's right to lease, operate or manage the electric generating facilities owned by Big Rivers Electric Corp. or the City of Henderson subsequently suspends or terminates Buyer's right to operate or manage the electric generating facilities owned by the City of Henderson (an agreement with Big Rivers Electric Corp. or with the City of Henderson shall not

constitute a terminating event), then Buyer shall have the right to terminate this Agreement with sixty (60) days prior written notice of such termination to Seller.

SECTION 15. TAXES, DUTIES AND FEES.

Seller shall pay when due, and the price set forth in § 8 as subject to adjustment pursuant to § 11 of this Agreement, shall be inclusive of, all taxes, duties, fees and other assessments of whatever nature imposed by governmental authorities with respect to the transactions contemplated under this Agreement.

SECTION 16. DOCUMENTATION AND RIGHT OF AUDIT.

Seller shall maintain all records and accounts pertaining to payments, quantities, quality analyses, and source for all coal supplied under this Agreement for a period lasting through the term of this Agreement and for two (2) years thereafter. Buyer and/or its designated representatives (including, but not limited to its agents, auditors, consultants, and engineers), upon reasonable advance notice to Seller and during Seller's normal working hours, shall be granted by Seller access to and shall be permitted to inspect (i) the mine or mines producing coal for delivery under this Agreement, (ii) all support facilities (including, but not limited to coal washing facilities, preparation plants, and load-out facilities), and (iii) records directly related to the production, weighing, or delivery of coal under this Agreement. Such audit shall be at no additional expense to Buyer for reasonable requests to audit, copy and inspect such records and accounts during the term of this Agreement and for two (2) years thereafter. Buyer shall be responsible for all costs associated with Buyer or Buyer's auditors.

SECTION 17. EQUAL EMPLOYMENT OPPORTUNITY.

To the extent applicable, Seller shall comply with all of the following provisions which are incorporated herein by reference: Equal Employment Opportunity regulations set forth in 41 CFR § 60-1.4(a) and (c) prohibiting discrimination against any employee or applicant for employment because of race, color, religion, sex, or national origin; Vietnam Era Veterans Readjustment Assistance Act regulations set forth in 41 CFR § 50-250.4 relating to the employment and advancement of disabled veterans and veterans of the Vietnam Era; Rehabilitation Act regulations set forth in 41 CFR § 60-741.4 relating to the employment and advancement of qualified disabled employees and applicants for employment; the clause known as "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals" set forth in 15 USC § 637(d)(3); and subcontracting plan requirements set forth in 15 USC § 637(d). Any alleged breach of this section by any agency shall in no event be deemed a material breach of this Agreement.

SECTION 18. COAL PROPERTY AND DELIVERY POINT INSPECTIONS. Buyer and Seller, its representatives and others as may be required by applicable laws, ordinances and regulations shall have the right upon reasonable advance notice, but not the obligation, at all reasonable times and at their own expense to inspect the Coal Property, Delivery Point and generation station including the loading and unloading facilities, scales, sampling system(s), wash plant facilities, and mining equipment related with this Agreement. Seller and Buyer shall undertake reasonable care and precautions to prevent personal injuries to any representatives, agents or employees of either party (collectively, "Visitors") who inspect the Coal Property or Delivery Point. Any such Visitors shall make every reasonable effort to comply with Seller's or Buyer's regulations and rules regarding conduct on the

work site, made known to Visitors prior to entry, as well as safety measures mandated by state or federal rules, regulations and laws.

SECTION 19. MISCELLANEOUS.

§ 19.1 Applicable Law. This Agreement shall be construed in accordance with the laws of the State of Illinois, and all questions of performance of obligations hereunder shall be determined in accordance with such laws, without regard to choice of law principles.

§ 19.2 Headings. The paragraph headings appearing in this Agreement are for convenience only and shall not affect the meaning or interpretation of this Agreement.

§ 19.3 Waiver. The failure of either party to insist on strict performance of any provision of this Agreement, or to take advantage of any rights hereunder, shall not be construed as a waiver of such provision or right.

§ 19.4 Remedies Cumulative. Remedies provided under this Agreement shall be cumulative and in addition to other remedies provided under this Agreement or by law or in equity. Neither party shall be liable for any punitive, special, incidental or consequential damages (including without limitation, loss of profits or overhead), based upon breach of warranty or of contract, negligence or any other theory of legal liability arising out of this Agreement.

§ 19.5 Severability. If any provision of this Agreement is found contrary to law or unenforceable by any court of law, the remaining provisions shall be severable and enforceable in accordance with their terms, unless such unlawful or unenforceable provision is material to the transactions contemplated hereby, in which case the parties shall negotiate in good faith a substitute provision.

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§ 19.6 Binding Effect. This Agreement shall bind and inure to the benefit of the parties and their successors and assigns.

§ 19.7 Assignment. Neither Party shall assign this Agreement without the prior written consent of the other Party, which consent may not be unreasonably withheld or delayed. Notwithstanding the foregoing, either Party may, without the need to consent from the other Party, (a) transfer, sell, pledge, encumber, or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements; (b) transfer or assign this Agreement to an Affiliate of such Party if such Affiliate, or its credit support provider, has a credit rating equal to or greater than the assigning Party; or (c) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets of such party by way of merger, reorganization, to Big Rivers Electric Corporation or to an entity acquiring all or substantially all of the assets of that party; provided however, that in each such case any such assignee provides: (i) evidence satisfactory to Seller that, immediately following the assignment, the debt obligations of assignee secured by a first lien and security interest in assignee's assets shall be rated at least BBB- (as defined by Standard & Poor's or the equivalent as defined by other public ratings agencies); or (ii) a letter of credit in favor of Seller in an amount equal to \$2.5 million which would permit Seller to draw upon such letter of credit in the event of a material breach by assignee of this Agreement after the effective date of such assignment for failure to make payment when such payment is due and owing as provided in this Agreement; or (iii) evidence reasonably satisfactory to the Seller that assignee otherwise has the financial capability to meet its obligations hereunder. "Affiliate" means, with respect to any person, any other person (other than an individual) that directly or indirectly, through one or more intermediaries, controls or is controlled by, or

is under common control with, such person. For this purpose, “control” means the direct or indirect ownership of 50% or more of the outstanding capital stock

§ 19.8 Entire Agreement. This Agreement contains the entire agreement between the parties as to the subject matter hereof, and there are no representations, understandings or agreements, oral or written, which are not included herein.

§ 19.9 Amendments. Except as otherwise provided herein, this Agreement may not be amended, supplemented or otherwise modified except by written instrument signed by both parties hereto.

SECTION 20. CONFIDENTIALITY

Seller and Buyer agree to maintain in strict confidence the terms and conditions of this Agreement and any information or data relating hereto exchanged or obtained by the parties during negotiation and performance of this Agreement. Neither Buyer nor Seller shall disclose any of the terms and conditions hereof to any third party without the prior written consent of the other party, except Seller or Buyer may disclose without prior written consent (i) to Affiliates (as such term is defined in Section 19.7 above) of Seller or Buyer; or (ii) to Big Rivers Electric Corporation and to any representatives, consultants, financial institutions, or other parties associated with or related to the transactions contemplated in connection with the WKE unwind (as more particularly described in Section 14 above) or to such aforementioned parties to the extent necessary or prudent for the consummation of the unwind transaction; or (iii) to any company or entity who owns a power plant or plants operated by Buyer; or (iv) where such disclosure may be required by law including without limitation any filings required by any regulatory agency or in connection with a judicial or administrative proceeding involving a party hereto, in which event under this clause (iv) the party intending to make such disclosure shall advise the other in

advance and cooperate to minimize the disclosure to the extent possible; provided, however, this Confidentiality shall not prohibit or restrict Seller from disclosing such terms and conditions of this certain Agreement to third parties as may reasonably be necessary in order to secure financing to enable Seller to carry out the terms of this Agreement. Seller shall obtain commensurate or superior assurances from their financing institutions of confidentiality of all the terms and conditions of this Agreement to coincide with the period specified in this Section 20.

The obligations of Buyer and Seller arising under this § 20, shall continue for a period of three (3) years following termination or expiration of this Agreement.

SECTION 21. WARRANTIES

THE WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT ARE THE SOLE WARRANTIES GIVEN BY EITHER PARTY TO THE OTHER IN CONNECTION WITH THE SALE, DELIVERY, AND THE QUALITY OF THE COAL TO BE PROVIDED HEREUNDER. THE PARTIES EXPRESSLY WAIVE AND DISCLAIM ANY STATUTORY OR IMPLIED WARRANTIES THAT MAY BE APPLICABLE TO THE SUBJECT MATTER OF THIS AGREEMENT INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

SECTION 22. ETHICAL DEALING

Each party represents and warrants that it has not given or received and shall not give or receive any commission, payment, kickback, secret rebate or other thing of value to or from any employee or agent of the other party or to any supplier of services in connection with this Agreement. Each party acknowledges that the giving or receiving of any such commission, payment, kickback, secret rebate or

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other thing of value constitutes a breach of ethical standards, is potentially violative of applicable law and may result in immediate termination of this and other outstanding agreements between the parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

WESTERN KENTUCKY ENERGY CORP.

By: Ralph Bowling ^{etl}
Title: VP
Date: 12/10/08

COALSALES, LLC

By: [Signature]
Title: Sr. VP Sales + Marketing
Date: 11/20/08

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EXHIBIT A
PRODUCER'S CERTIFICATE

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EXHIBIT "B" TO PRODUCER'S CERTIFICATE

Quality Requirement

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EXHIBIT "B" TO COAL SUPPLY AGREEMENT

EXHIBIT "C" TO COAL SUPPLY AGREEMENT

2009 Base Price **\$2.273 / MMBTU**

Diesel Fuel Adjustment

Where: Base Fuel Index = 355.4
Avg. PPI Fuel for Calculation Period = 400.0

Diesel Fuel Component: $[(400.0 - 355.4) / 355.4] \times \$0.1818/\text{MMBTU}$ **\$0.023 / MMBTU**

Steel Adjustment

Where: Base Steel Index = 537.0
Avg. PPI Steel for Calculation Period = 500.0

Steel Component: $[(500.0 - 537.0) / 537.0] \times \$0.1591/\text{MMBTU}$ **(\$0.011) / MMBTU**

Explosive Adjustment:

Where: Base Explosive Index = 287.6
Avg. PPI Explosives for Calculation Period = 300.0

Explosives Component: $[(300.0 - 287.6) / 287.6] \times \$0.0568/\text{MMBTU}$ **\$0.002 / MMBTU**

ADJUSTED BASE PRICE: **\$2.287 / MMBTU**

EXHIBIT A

PRODUCER'S CERTIFICATE

The undersigned, COALSALES LLC(the "Seller"), and ARCLAR COMPANY, LLC.(the "Producer"), both Delaware limited liability companies, by and through their duly authorized officers, as an inducement to **WESTERN KENTUCKY ENERGY CORP.** a Kentucky corporations (herein the "Buyer") to enter into a Coal Supply Agreement with Seller and as a further inducement to COALSALES LLC to enter into a Coal Marketing and Sales Agreement with Producer ("Coal Marketing and Sales Agreement"), hereby certifies, warrants and represents to Buyer and Seller as follows:

1. Producer is a duly organized, validly existing corporation, in good standing under the laws of the State of Illinois, and fully qualified to do business under the laws of the State of Illinois. Producer has all requisite power and authority to execute this instrument and to enter into all documents required in connection with and including the proposed Coal Marketing and Sales Agreement between Producer and Seller.

2. By the execution hereof, the undersigned certify that, as the officers of Producer, they have all the necessary power and authority to execute and deliver this Producer's Certificate, for and on behalf of Producer.

3. This Certificate is given by Producer to (a) induce Buyer and Seller to each execute and deliver between themselves that certain proposed Coal Supply Agreement, with the knowledge that Buyer and Seller will each rely upon the truth of the statements made herein.

4. Producer represents and warrants that the "Coal Property" described in Exhibit

"A" (the "Coal Property") contains economically recoverable coal of a quality and in quantities which will be sufficient to satisfy all the quantity and quality requirements of the Coal Marketing and Sales Agreement which requirements are set forth on Exhibit "B" attached hereto. Producer further agrees and warrants that it will have at the Coal Property adequate machinery, equipment and other facilities to produce, prepare and deliver coal in the quantity and at the quality specified in Exhibit "B". Producer further represents and warrants and agrees to operate and maintain such machinery, equipment, and facilities in accordance with good mining practices so as to efficiently and economically produce, prepare, and deliver such coal. Producer agrees that it shall operate and maintain the machinery, equipment and/or facilities at its sole expense, including all required permits and licenses.

5. Producer agrees and warrants that it will not, without obtaining the express prior written consent of both Buyer and of Seller, use or sell coal from the Coal Property in a way that will reduce the economically recoverable balance of coal in the Coal Property to an amount less than that required to be supplied by Producer as specified in Exhibit "B".

6. Producer agrees and warrants that it shall require of the loading dock operator that the barges and towboats provided by Buyer or Buyer's barging contractor be provided convenient and safe berth; that while the barges are in the care, custody and control of the loading dock, all U.S. Coast Guard regulations and other applicable laws, ordinances, rulings and regulations shall be complied with, including adequate mooring and display of warning lights; and any water in the cargo boxes of the barges be pumped out by the loading dock operator prior to loading; that the loading operations be performed in a workmanlike manner and in accordance with the reasonable loading requirements of Buyer and Buyer's barging contractor; that the loading dock

operator carry landing owner's or wharfinger's insurance with basic coverage of not less than \$300,000 and total of basic coverage and excess liability coverage of not less than \$1,000,000 and provide evidence thereof to Buyer and Seller in the form of a certificate of insurance from the insurance carrier or an acceptable certificate of self-insurance with requirement for notification of Buyer and Seller in the event of termination of the insurance.

7. Producer agrees that it will replace rejected coal as soon as reasonably possible with coal conforming to the rejection limits set forth in the proposed Coal Marketing and Sales Agreement between Producer and Seller which rejection limits Producer understands and acknowledges are the same rejection limits as provided in the proposed Coal Supply Agreement between Buyer and Seller, and that should Producer either fail to replace the rejected coal or the replacement coal is rightfully rejected (where such rejection is not based upon the BTU/LB minimum or the percentage of moisture maximum being exceeded as a result of weather conditions), and another source has replaced such rejected coal, Producer agrees to and shall reimburse Seller for any amount that the total delivered cost to Buyer of such coal purchased from another source exceeds the then current delivered cost of coal sold by Producer under the proposed Coal Marketing and Sales Agreement between Producer and Seller. Further, Producer agrees to be responsible to pay or reimburse Seller (or Buyer if entrusted by Seller) for any and all freight or transportation expenses that have been incurred for rightfully rejected coal.

8. Producer agrees that if it shall receive a notice in writing that the coal sold fails to meet one or more of the monthly average guarantees as set forth in the proposed Coal Marketing and Sales Agreement between Seller and Producer, then Producer shall within ten (10) days provide Buyer with reasonable assurances that subsequent monthly deliveries of coal shall meet

or exceed such monthly average guarantees.

9. Producer agrees to and shall indemnify and save harmless Buyer, and Seller, and their respective officers, directors, employees, and representatives from any responsibility and liability for any and all claims, demands, losses, legal actions for personal injuries, property damage and pollution (including reasonable attorney's fees) relating to the barges provided by Buyer or Buyer's contractor while such barges are in the care and custody of the loading dock, or for any failure of Producer to comply with laws, regulations or ordinances, or for any matter which arises out of the acts or omissions of Producer in the performance of the proposed Coal Marketing and Sales Agreement between Producer and Seller including, but not limited to, the proper delivery of coal thereunder by Producer to Buyer.

10. Producer agrees and warrants to and shall carry insurance coverage with minimum limits as follows:

A. Commercial general liability, \$1,000,000, single limit liability.

B. Automobile general liability, \$1,000,000 single limit liability.

C. In addition, Producer shall carry excess liability insurance covering the foregoing perils in the amount of \$4,000,000 for any one occurrence.

D. Worker's Compensation and Employer's Liability with statutory limits.

E. If any of the above policies are written on a claims made basis, then the retroactive date of the policy or policies will be no later than the effective date of Producer's proposed Coal Marketing and Sales Agreement with Seller.

11. Producer agrees that it shall not assign the proposed Coal Marketing and Sales Agreement between it and Seller or any rights or obligations thereunder without the prior written

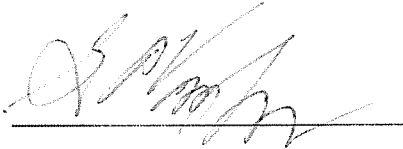
consent of Seller and Buyer which consent shall not be unreasonably withheld.

IN TESTIMONY WHEREOF, the undersigned officers of Producer have executed and delivered the foregoing Producer's Certificate on behalf of Producer.

ATTEST:

COALSALES, LLC

ARCLAR COMPANY, LLC.

By: 
Its: Si. VP Sales & Marketing
Date: Gregory P. Vardis
11/24/08

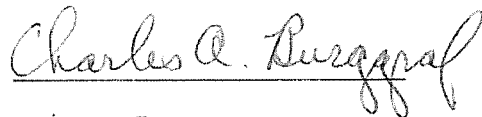
By: 
Its: Vice President
Date: 11/24/08

EXHIBIT A TO PRODUCER'S CERTIFICATE

"Coal Property" means the following seams and mines owned by Producer:

During the term of this Agreement (through December 31, 2010), the coal sold hereunder shall be mined and supplied from Illinois #5, #6 & #7 geological seams at the Producer's Arclar Mining Complex located in Illinois.

EXHIBIT B TO PRODUCER'S CERTIFICATE

Quality Requirement

The quality required by the Coal Marketing and Sales Agreement is as follows:

<u>Quality Specifications</u>	<u>Guaranteed Monthly Weighted Average</u>	<u>Rejection Limits (per shipment)</u>
BTU/LB.	Min. 12,100	< 11,700
Ash	Max. 8.26 lbs./MMBTU	> 10.740 lbs./MMBTU
Moisture	Max. 8.26 lbs./MMBTU	> 10.74 lbs./MMBTU
Sulfur	Max. 2.50 lbs./MMBTU	> 2.70 lbs./MMBTU
Chlorine	Max. 0.22%	

SIZE (3" x 0"):

Top size (inches)*	max. 4"x 0"	> 4"x 0"
Fines (% by wgt) passing 1/4" screen	max. 50%	> 55 %

% BY WEIGHT:

VOLATILE	34
FIXED CARBON	44
GRINDABILITY (HGI)	52
BASE ACID RATIO (B/A)	0.50

ASH FUSION TEMPERATURE (°F) (ASTM D1857)

REDUCING ATMOSPHERE

Initial Deformation	2000
Softening (H=W)	2050
Softening (H=1/2W)	2100
Fluid	2250

OXIDIZING ATMOSPHERE

Initial Deformation	2300
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Softening (H=W)	2350
Softening (H=1/2W)	2400
Fluid	2520

* All the coal will be of such size that it will pass through a screen having circular perforations four (4) inches in diameter, but shall not contain more than fifty-five percent (55%) by weight of coal that will pass through a screen having circular perforations one-quarter (1/4) of an inch in diameter.

The Base Acid Ratio (B/A) is herein defined as:

$$\text{BASE ACID RATIO (B/A)} = \frac{(\text{Fe}_2\text{O}_3 + \text{CaO} + \text{MgO} + \text{Na}_2\text{O} + \text{K}_2\text{O})}{(\text{SiO}_2 + \text{Al}_2\text{O}_3 + \text{TlO}_2)}$$

Note: As used herein: > means greater than;
< means less than.

Quantity Requirement

The quantity required to be supplied by Producer pursuant to the Coal Marketing and Sales Agreement is as follows:

QUANTITY

<u>Year</u>	<u>Tonnage</u>
2009	500,000
2010	500,000

AMENDMENT NO. 1 TO MAY 1, 2008 COAL SUPPLY AGREEMENT

This Amendment to Coal Supply Agreement is entered into effective as of the 4th day of January, 2010, by and between **BIG RIVERS ELECTRIC CORPORATION**, successor by assignment to Western Kentucky Energy Corp., 201 Third Street, Henderson, Kentucky 42420 (“Buyer”) and **COALSALES LLC**, a Delaware limited liability company, 701 Market Street, Suite 900, St. Louis, Missouri 63101-1826 (“Seller”).

WITNESSETH

WHEREAS, Buyer is an electric utility company which has acquired by assignment the May 1, 2008 Coal Supply Agreement between Western Kentucky Energy Corp. and Seller (the “Agreement”); and

WHEREAS, Buyer and Seller desire to enter into an amendment to the Agreement pursuant to which the Buyer and Seller agree that Gateway Mine shall be included as a source coal mine under the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, and in consideration of the mutual covenants set forth in the Agreement, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

AMENDMENTS TO AGREEMENT

The Agreement is amended as follows:

1.1 §1(c) of the Agreement is amended by the addition of the following language:

Seller further represents and warrants that it has obtained or will obtain the agreement of Coulterville Coal Company, LLC, as indicated by the Producer’s signature on the Producer’s Certificate attached hereto as Exhibit “1” and made a part hereof, and Seller has delivered or will deliver such original Producer’s Certificate to Buyer. This obligation of Seller is a material inducement for Buyer

to enter into this Amendment. If Seller fails to deliver an unrevised Producer's Certificate to Buyer within sixty (60) days after execution of this Amendment, then Buyer shall provide Notice to Seller to deliver such Producer's Certificate to Buyer. If after thirty (30) days following notice Seller has not provided an unrevised Producer's Certificate to Buyer, Buyer may declare this Amendment null and void, and neither party shall have any further obligation with respect to this Amendment, except to the extent of deliveries already made or then in route. Seller acknowledges and agrees that Buyer is the third party beneficiary of any agreement between the Producer identified in Exhibit "1" and Seller whereby Seller obtains the right to sell coal produced by the aforementioned Producer, and as such, Buyer shall be entitled to enforce its rights thereunder, in addition to exercising its rights and remedies hereunder.

1.2. §4.1 Source is amended to provide as follows:

Notwithstanding anything else in this section, during the calendar year 2010 up to 500,000 tons of the coal sold hereunder of the 2010 Base Quantity of 500,000 tons shall be mined and supplied from the Gateway Mine in Coulterville, Illinois for loading into barges at Cora Dock, mile post 98.5, on the Mississippi River or any other loading facility mutually agreeable to the parties. Any remaining 2009 carry-over tons shall be mined and supplied from the Arclar Mining Complex in Illinois.

1.3 §4.2 Sufficient Reserves is amended to read as follows:

Seller represents and warrants that the Gateway Mine and the Arclar Mining Complex contain sufficient recoverable coal of a quality and in quantities to satisfy the requirements of the Agreement, as amended by Amendment No.1.

1.4 §5.1 Delivery Point is amended to read as follows:

The coal mined and supplied from the Arclar Mining Complex shall be delivered to Buyer F.O.B. Barge at the Power Dock, mile post 858.3, on the Ohio River and the coal mined and supplied from the Gateway Mine shall be delivered to Buyer F.O.B. Barge at the Cora Dock, mile post 98.5 on the Mississippi River. With Buyer's prior oral, followed by written consent, which it may not unreasonably withhold, Seller may deliver the coal or Substitute

Coal at a location different from the aforementioned Delivery Points, provided, however, Seller shall reimburse Buyer for any resulting increases in the cost of transporting the coal to Buyer's generating stations.

1.5 §6 Quality is amended by the addition of the following paragraphs:

§6.5 Specifications for coal from the Gateway Mine.

(a) The coal delivered from the Arclar Mining Complex shall conform to the specifications contained in § 6.1(a) of the Agreement. The coal delivered hereunder from the Gateway Mine shall conform to the following specifications:

			<u>GMWA</u>	<u>Per Shipment Rejection Limit</u>
BTU	Min.	BTU/lb.	11,000	< 10,700
Ash	Max.	#/mmBTU	8.50	> 9.50
Moisture	Max.	#/mmBTU	13.30	> 14.00
Sulfur	Max.	#/mmBTU	3.00	> 3.30
Sulfur	Min.	#/mmBTU	2.00	< 2.00
Chlorine (dry)	Max.		0.11%	> 0.12%
Size				
passing 1/4"	Max.		55%	> 60%
Volatile			36.80	
Fixed Carbon			39.50	
HGI			52	< 48
Base Acid ratio			0.36	
AFT				
Reducing				
ID			2000	
H = W			2050	
H = 1/2W			2100	
Fluid			2250	
Oxidizing				
ID			2300	

H = W	2350
H = 1/2W	2400
Fluid	2520

All the coal will be of such size so that it will pass through a screen having circular perforations four inches in diameter, but shall contain no more than 55% by weight of coal that will pass through a screen having circular perforations of 1/4 of an inch in diameter.

§6.5 The terms and conditions contained in §6.2, §6.3, and §6.4 of the Agreement also shall apply to coal mined and sold from the Gateway Mine.

1.6 §7 Weights, Sampling and Analysis is amended by the addition of the following section:

§7.3 Weights for Gateway Coal. The Gateway Coal shall be weighed by certified belt scales at Cora Dock. Sampling and analysis of the Gateway Coal shall be in accordance with §7.2 of the Agreement and the aforementioned scales shall be tested and shall comply with appropriate standards for weighing as set out in the National Institute of Standards and Technology Handbook 44 for such scales. If the scales at the Cora Dock are found to be over or under the tolerance range allowable for the scales based upon the National Institute of Standards and Technology Handbook 44, either party shall pay to the other party any amounts owed due to such inaccuracy for a period not to exceed thirty (30) days or the time between tests, whichever is shorter.

1.7 §8 Price is amended by the addition of the following section:

§8.6 The Base Price for the Gateway coal shall be \$2.1236/mmBtu F.O.B. Cora Dock (\$46.72/ton at 11,000 Btu), and is subject to quarterly adjustments as per the Agreement. The Gateway coal shall be shipped on a ratable schedule or by mutual agreement of the parties.

1.8 All other terms and conditions of the Agreement shall remain in full force and effect and shall apply to the Gateway coal as well as the Arclar Mining Complex coal.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed as of the date first written above.

BIG RIVERS ELECTRIC CORPORATION

By: Mark A. Bailey
Title: President & CEO
Date: 1/8/10

COALSALES, LLC

By: [Signature]
Title: SR, VP
Date: 1/4/10

p:\frank\BREC\CoalSupply\Coalsale\Amendment

EXHIBIT Q

ACKNOWLEDGMENT OF ASSIGNMENT AND RELEASE OF CONTRACTS

THIS ACKNOWLEDGMENT OF ASSIGNMENT AND RELEASE OF CONTRACTS (this "*Acknowledgment*"), dated as of August 1, 2008 is made by and among Phoenix Coal Corporation and Charolais Coal Sales, LLC, (the "*Contract Counterparty*"), WESTERN KENTUCKY ENERGY CORP., a Kentucky corporation (the "*Assignor*"), and BIG RIVERS ELECTRIC CORPORATION, a Kentucky rural electric generation and transmission cooperative ("*Big Rivers*").

RECITALS

A. The Assignor and the Contract Counterparty are parties to that certain Coal Supply Agreement dated December 31, 2007 (WKE-07-025) (the "*Coal Supply Contract*");

B. As part of the termination of certain property interest and contractual relationships previously created between Big Rivers, on the one hand, and Assignor and certain of its affiliates, on the other hand (the "Termination Transaction"), Big Rivers will re-assume operating responsibilities with respect to the generating plants owned by Big Rivers in Western Kentucky, as well as the Station Two generating plant owned by the City of Henderson. In connection therewith, the Assignor intends to assign to Big Rivers all of its right, title and interest in and to the Coal Supply Contract (other than Assignor's rights of collection with respect to any accrued payment obligations of Contract Counterparty as of the "Effective Time" (as hereinafter defined)), and Big Rivers intends to assume all of the Assignor's obligations under the Coal Supply Contract, in each case subject to Contract Counterparty's willingness to execute and deliver this Acknowledgment for the benefit of Assignor and Big Rivers.

C. The Contract Counterparty is willing to acknowledge and consent to such assignment, and to release the Assignor from further liability under the Coal Supply Contract, in each case upon the terms and subject to the conditions set forth in this Acknowledgement.

NOW THEREFORE, in consideration of good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, it is hereby agreed as follows:

Section 1. Acknowledgment of, and Consent to, Assignment. Contract Counterparty hereby acknowledges the assignment of the Coal Supply Contract, in whole or in part, by Assignor to Big Rivers, and to the assumption and performance by Big Rivers of the Coal Supply Contract, in each case at such time as Assignor and Big Rivers shall have consummated the Termination Transaction in accordance with the Transaction

Termination Agreement among Big Rivers, Assignor and an affiliate of Assignor dated March 26, 2007, as the same may have been or may hereafter be amended by those parties (the "Effective Time"), and Contract Counterparty further waives any and all provisions, if any, in the Coal Supply Contract which might prohibit or require any further consents or approvals of the Contract Counterparty to such assignment or assumption. Contract Counterparty acknowledges and agrees that, from and after the Effective Time, it will accept performance from Big Rivers of all the obligations, duties and responsibilities formerly owed by Assignor under the Coal Supply Contract.

Section 2. Big Rivers Assumption of Coal Supply Contract. In consideration of the consent of the Contract Counterparty provided in Section 1, from and after the Effective Time, Big Rivers agrees that it will perform all obligations, duties and responsibilities of Assignor under the Coal Supply Contract.

Section 3. Release of Assignor. In consideration of the agreement of Big Rivers to assume all of the obligations, duties and responsibilities of the Assignor as provided in Section 2, effective as of the Effective Time, the Contract Counterparty hereby remises, releases and discharges the Assignor and its shareholders, directors, officers, employees, agents, successors and permitted assigns (other than Big Rivers) of and from any and all debts, obligations, duties, liabilities and responsibilities of any nature whatsoever arising under or pursuant to the Coal Supply Contract and attributable to the period commencing with the Effective Time, or requiring performance following the Effective Time. The release effected by this Section 3 shall not affect the liability of the Assignor for performance of all obligations, duties and responsibilities under or pursuant to the Coal Supply Contract (including, without limitation, payment of any amounts attributable to, or emanating from) the period up to and including the Effective Time, including without limitation, from any breach or default on the part of Assignor under the Coal Supply Contract occurring prior to the Effective Time.

Section 4. Miscellaneous

(a) This Acknowledgment shall be binding upon and inure to the benefit of the Contract Counterparty, Big Rivers and the Assignor and each of their respective successors, transferees and assigns. The Contract Counterparty agrees to confirm such continuing obligation in writing upon the reasonable request of Big Rivers or any of its respective successors, transferees or assigns. No termination, amendment, variation or waiver of any provisions of this Acknowledgment shall be effective unless in writing and signed by Contract Counterparty, Big Rivers and the Assignor. This Acknowledgment constitutes the entire agreement and understanding of Contract Counterparty, on the one hand, and Assignor and Big Rivers, on the other hand, with respect to the subject matter hereof.


(b) THIS ACKNOWLEDGMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF KENTUCKY.

(c) Any term or provision of this Acknowledgment which is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Acknowledgment or affecting the validity or enforceability of any of the terms or provisions of this Acknowledgment in any other jurisdiction

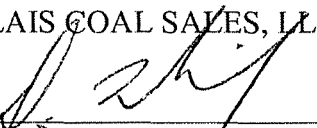
(d) This Acknowledgment may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument. This Acknowledgment may not be revoked or terminated by Contract Counterparty.

IN WITNESS WHEREOF, the Contract Counterparty, Big Rivers and the Assignor have caused this Acknowledgment to be duly executed and delivered by each of its respective officers thereunto duly authorized as of the date first above written.

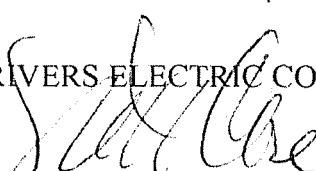
PHOENIX COAL CORPORATION

By: 
Name: DAVID WILEY
Title: PRESIDENT & CEO

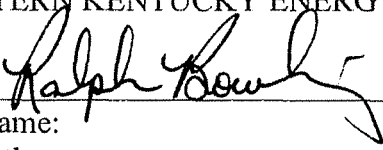
CHAROLAIS COAL SALES, LLC

By: 
Name: DAVID WILEY
Title: MANAGING MEMBER

BIG RIVERS ELECTRIC CORPORATION

By: 
Name: Michael H. Core
Title: President/CEO

WESTERN KENTUCKY ENERGY CORP.

By: 
Name:
Title:

ORIGINAL

Contract: WKE-07-025

COAL SUPPLY AGREEMENT

This Coal Supply Agreement (the "Agreement") dated as of December 31, 2007, by and between; (i) WESTERN KENTUCKY ENERGY CORP., a Kentucky corporation, 220 West Main Street, Louisville, Kentucky 40202 ("Buyer"); and (ii) Phoenix Coal Corporation, having an address of 1215 Nebo Road, Suite A, Madisonville, Kentucky 42431 and Charolais Coal Sales, LLC, having an address of 1215 Nebo Road, Suite A, Madisonville, Kentucky 42431 (collectively "Seller") establishes the terms and conditions pursuant to which the Buyer shall purchase and the Seller shall sell coal of the qualities and quantities described herein. The following terms constitute all of the terms and conditions of the binding agreement between the parties regarding this transaction. Seller agrees to sell and deliver, and Buyer agrees to buy and accept, bituminous coal of quality, quantity, price, and on the terms and conditions stated in this Agreement.

WITNESSETH:

WHEREAS, Buyer desires to purchase steam coal; and

WHEREAS, Buyer and Seller desire to enter into a coal supply agreement pursuant to which the Seller will supply coal to Buyer under the terms as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1. GENERAL.

(a) The above recitals are true and correct and comprise a part of this Agreement.

(b) Seller will sell to Buyer, and Buyer will buy from Seller steam coal under all the terms and conditions of this Agreement.

(c) Each covenant, representation and warranty given by Seller herein is a material inducement for Buyer to enter into this Agreement.

SECTION 2. TERM. The term of this Agreement shall commence on January 1, 2008 and shall continue through December 31, 2011, unless earlier terminated as specifically provided herein.

SECTION 3. QUANTITY.

§ 3.1 Base Quantity. Seller shall sell and deliver and Buyer shall purchase and accept delivery of the following annual base quantity of coal ("Base Quantity").

<u>Year</u>	<u>Quality A Base Quantity (tons)</u>	<u>Quality B Base Quantity (tons)</u>
2008	432,000	275,000
2009	200,000	300,000
2010	450,000	300,000
2011	450,000	300,000

§ 3.2 Delivery Schedule. Seller shall deliver the Base Quantity in approximately equal monthly installments (plus or minus 15% in any given month, at Buyer's sole option and discretion) during each calendar year, unless otherwise mutually agreed, provided that for each six month period of January through June and July through December, Buyer shall purchase and

Seller shall deliver in the aggregate one half of the applicable annual Base Quantity during each such six month period.

Time is of the essence with respect to such deliveries. A failure by Seller to deliver coal or by Buyer to accept coal in accordance with the provisions of this § 3.2, other than a failure resulting from a force majeure event, as defined in § 10 hereof, shall constitute a material breach within the meaning of § 14 of this Agreement.

SECTION 4. SOURCE.

§ 4.1 Source. During the term of this Agreement (through December 31, 2011), Seller shall mine and supply the coal sold hereunder from any one or more of the mines currently owned or controlled by Seller (such mines being more particularly described in Exhibit A attached hereto and made a part hereof, and being collectively called the "Coal Properties"); provided that all coal sold by Seller hereunder shall comply with all of the terms and conditions hereof, including without limitation, the quality specifications provided in Section 6. If combinations of sources or pond lines are used to meet the quality specifications provided in Section 6, the delivered product shall be as homogeneous as operationally possible. The decision regarding which one or more of the Coal Properties will source the coal sold hereunder at any given time shall be at Seller's sole discretion. In event Seller, or any of its affiliates, acquire or come into the control of a new mine after the date hereof, such new mine shall be added as an additional source under this Section 4.1, upon the prior written notice by Seller to Buyer of the addition of such new source and upon the approval of Buyer. In the event a new mine is added as a source pursuant to the preceding sentence, Exhibit A shall be amended to include such new

mine, from and after the date of the later of: (i) the notice by Seller, and (ii) the date the new mine is acquired by Seller. Once added to Exhibit A, such new mine would be included in the definition of "Coal Properties".

§ 4.2 Assurance of Operation and Reserves. Seller represents and warrants that the Coal Property contains economically recoverable coal of a quality and in quantities which will be sufficient to satisfy all the requirements of this Agreement. Seller agrees and warrants that it or its producer will have adequate machinery, equipment and other facilities to produce, prepare and deliver coal in the quantity and of the quality required by this Agreement. Seller hereby dedicates to this Agreement sufficient reserves of coal meeting the quality specifications hereof so as to fulfill the quantity requirements hereof. Seller's dedication of reserves shall in no way be construed to limit or restrict either Seller's ability to claim a valid force majeure event under provisions of Section 10 herein.

§ 4.3 Non-Diversion of Coal. Seller agrees and warrants that it will not, without Buyer's express prior written consent, use or sell coal, from the Coal Property in a way that will reduce the economically recoverable balance of coal in the Coal Property to an amount of coal less than that required to be supplied to Buyer

§ 4.4 Mining Overview. On or before January 1, of each contract year, Seller and Buyer shall meet and Seller shall have prepared a general overview of Seller's mining plan for the Coal Property with reasonable information to demonstrate Seller's capability to have coal produced from the Coal Property which meets the quantity and quality specifications of this Agreement. Seller shall not be obligated to provide Buyer with any written detail, however, Seller shall

provide reasonable, timely, and adequate information to Buyer in regard to any foreseen mining conditions which might hinder, delay, or otherwise cause supply disruptions during the term of this agreement. Buyer's receipt of any such mining information or data furnished voluntarily by Seller (the "Mining Information") shall not in any manner relieve Seller of any of Seller's obligations or responsibilities under this Agreement. Buyer's receipt and review, if any, of any Mining Information shall not be construed as constituting an approval of Seller's proposed mining overview or mining practices. Any such mining information furnished to Buyer by Seller shall be held in strict confidence and shall not be disclosed to third parties during the term of this Agreement and for a period of two (2) years thereafter. The parties acknowledge that Buyer has no right to approve, disapprove or require modification of Seller's mining plan. Buyer and Seller understand and acknowledge that a review, if any, by Buyer of the Mining Information shall be limited solely to a determination, for Buyer's purposes only, of Seller's capability to supply coal to fulfill Buyer's requirements of a dependable coal supply. In the event, Buyer does not reasonably believe that Seller has sufficiently demonstrated Seller's capability to have coal produced from the Coal Property which meets the quantity and quality specifications of this Agreement, then the Buyer may terminate this Agreement upon 30 days written notice to the Seller, and Buyer shall not have any further obligations to Seller hereunder.

§ 4.5 Relationship of the Parties. Seller agrees that it is not and will not hold itself out as a partner, joint venturer, employee, agent or representative of Buyer. Nothing herein contained shall be construed as creating a single enterprise, joint venture, agency, partnership, joint employer, owner-contractor, or lessor-lessee relationship between Buyer and Seller.

Seller shall have sole and exclusive authority to direct and control its respective activities and operations, and those of any subcontractors, undertaken in the performance of Seller's obligations under this Agreement. Seller shall exercise full and complete control over its respective work force and labor relations policies. Buyer shall have no authority or control over Seller's operations or work force.

§ 4.6 Substitute Coal. Notwithstanding the above representations and warranties, Seller shall promptly advise Buyer at least thirty (30) days prior to any scheduled delivery date in the event that Seller anticipates that it will be unable to produce or obtain coal from the Coal Property in the quantity and of the quality required by this Agreement, and such inability is not caused by a force majeure event as defined in § 10. Buyer may request, within five (5) business days after such notification, that Seller supply coal to Buyer not produced from the Coal Property ("Substitute Coal"). Seller will then have the right, with the express written consent of Buyer, which shall not be unreasonably withheld, to supply Substitute Coal. Alternatively, Seller may request Buyer's written consent, which shall not be unreasonably withheld, to supply Substitute Coal. Any such supply of Substitute Coal shall be subject to all the terms and conditions of this Agreement including, but not limited to, the price provisions of § 8, the quality specifications of § 6.1, and the provisions of § 5 concerning reimbursement to Buyer for increased transportation costs. Buyer's failure to request that Seller provide substitute coal shall not limit or affect any rights and remedies Buyer may have for Seller's breach of its obligations to supply coal pursuant to this Agreement. Seller's delivery of Substitute Coal without having received the express written consent of Buyer shall constitute a material breach of this Agreement.

SECTION 5. DELIVERY.

§ 5.1 Delivery Point. Quality A coal shall be delivered to Buyer F.O.B. coal pile at Buyer's Sebree Generating Complex located at 9000 Highway 2096, Robards, Kentucky and Quality B coal shall be delivered to Buyer F.O.B. coal pile at Buyer's D.B. Wilson Generating Station located at 5660 State Route 85 West, Centertown, Kentucky (the "Delivery Point"). Buyer may also elect another delivery point; however, any additional expense or savings as a result of the election of an alternate delivery point shall be for Buyer's account.

§ 5.2 Title/Risk of Loss. Title to and risk of loss of coal sold hereunder will pass to Buyer and the coal will be considered to be delivered when trucks containing the coal are fully unloaded by Seller's trucking contractor at the Delivery Point.

SECTION 6. QUALITY.

§ 6.1 Specifications. (a) The coal delivered hereunder shall conform to the following specifications on an "as received" basis pursuant to Buyer's election of quality:

<u>Quality A Specifications</u> BTU/l.B.	<u>Guaranteed Monthly Weighted Average</u> min. 11,300	<u>Rejection Limits (per shipment)</u> < 11,000
Ash	Max. 11.00 lbs./MMBTU	> 12.50 lbs./MMBTU
Moisture	Max. 11.00 lbs./MMBTU	> 12.50 lbs./MMBTU
Sulfur	Max. 3.50 lbs./MMBTU	> 3.65 lbs./MMBTU

Quality B Specifications BTU/LB.	Guaranteed Monthly Weighted Average min. 10,500	Rejection Limits (per shipment) < 10,300
Ash	Max. 14.00 lbs./MMBTU	> 15.00 lbs./MMBTU
Moisture	Max. 11.50 lbs./MMBTU	> 12.50 lbs./MMBTU
Sulfur	Max. 3.25 lbs./MMBTU	> 3.35 lbs./MMBTU

All Qualities (lbs./MMBTU)

Sulfur	min. 1.80	< 1.80
Chlorine	max. 0.18	> 0.20
Fluorine	max. 0.02	> 0.03
Nitrogen	max. 1.50	> 1.65
Arsenic (ug/g)	max. 15	> 18
Vanadium (ug/g)	max. 75	> 130
SIZE (3" x 0"):		
Top size (inches)*	max. 3"	> 4"
Fines (% by wgt) passing 1/4" screen	max. 45%	> 50 %

% BY WEIGHT:

VOLATILE	min. 32	< 30
FIXED CARBON	min. 40	< 38
GRINDABILITY (HGI)	min. 50	< 50

ASH FUSION TEMPERATURE (°F) (ASTM D1857)

REDUCING ATMOSPHERE

Initial Deformation	min. 2000	min. 1950
Softening (H=W)	min. 2200	min. 2100
Softening (H=1/2W)	min. 2300	min. 2200
Fluid	min. 2450	min. 2300

OXIDIZING ATMOSPHERE

Initial Deformation	min. 2300	min. 2150
Softening (H=W)	min. 2400	min. 2300
Softening (H=1/2W)	min. 2500	min. 2400
Fluid	min. 2600	min. 2500

* All the coal will be of such size that it will pass through a screen having circular perforations three (3) inches in diameter, but shall not contain more than forty-five percent (45%) by weight of coal that will pass through a screen having circular perforations one-quarter (1/4) of an inch in diameter.

Note: As used herein: > means greater than;
< means less than.

§ 6.2 Definition of "Shipment". As used herein, a "shipment" shall mean: one (1) day's delivery of loaded coal trucks in accordance with Buyer's sampling and analyzing practices. Buyer shall not be responsible for improperly loaded trucks in the event Seller controls or contracts the truck delivery and/or truck loading process. Furthermore, Buyer has the right to refuse delivery of over-weight or improperly loaded trucks.

§ 6.3 Rejection. Buyer has the right, but not the obligation, to reject any shipment which fail(s) to conform to the Rejection Limits set forth in § 6.1. Buyer must reject such coal within seventy-two (72) hours of receipt of the coal analysis provided for in § 7.2 or such right to reject is waived. Buyer has the further right, but not the obligation, to reject at any time, any shipment which (i) contains extraneous materials, which include, but are not limited to, slate, rock, wood, corn husks, mining materials, metal, steel, etc. ("Debris") or (ii) can not be transported through the plant coal handling system as determined by Buyer.

In the event Buyer rejects such non-conforming coal, title to and risk of loss of the coal shall be considered to have never passed to Buyer and Buyer may, at its sole option, stop the non-conforming shipment in route, prevent the unloading of the non-conforming shipment, return the coal to Seller or mutually agree with Seller upon a disposition for such coal shipment, all at Seller's cost and risk.

Seller shall replace the rejected coal within five (5) working days from notice of rejection with coal exceeding the Rejection Limits set forth in § 6.1. If Seller fails to replace the rejected coal within such five (5) working day period or the replacement coal is rightfully rejected, Buyer may purchase coal from another source in order to replace the rejected coal. Seller shall reimburse Buyer for (i) any amount by which the actual price plus transportation costs to Buyer of such coal purchased from another source exceeds the price of such coal under this Agreement plus transportation costs to Buyer from the Delivery Point; and (ii) any and all transportation, storage, handling, or other directly related expenses that have been incurred by Buyer for rightfully rejected coal.

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If the non-conforming shipment has been unloaded at Buyer's generating station prior to the receipt of the coal analysis provided for in § 7.2, Buyer and Seller shall, at Buyer's option, confer for the purpose of reaching agreement on an adjustment to the Base Price to be paid for such coal. In addition, Seller shall reimburse Buyer for any penalties, costs or charges, including reasonable inside and outside attorney's fees, associated with or resulting from the use of the non-conforming shipment. Buyer shall provide Seller with a written calculation of any such penalties, costs or charges within thirty (30) days after receipt of the coal analysis, or as soon as practicable thereafter. Seller shall make payment to Buyer within fifteen (30) days of receipt of the written calculation.

In the event Buyer and Seller are unable to reach an agreement concerning an adjustment to the Base Price, Buyer may, at its sole option, and upon written notice to Seller, require Seller to remove all coal constituting the non-conforming shipment from Buyer's property, or such other location as desired by Buyer, all at Seller's cost and risk. Seller shall remove such coal within five (5) days after receipt of Buyer's written notice relating thereto.

The remedies set forth herein are in addition to all of Buyer's other remedies under this Agreement and under applicable law and in equity for Seller's breach.

If Buyer fails to reject a shipment of non-conforming coal which it had the right to reject for failure to meet any or all of the Rejection Limits set forth in § 6.1 or because such shipment contained Debris, then such non-conforming coal shall be deemed accepted by Buyer; however, the quantity Seller is obligated to sell to Buyer under the Agreement shall be reduced by the amount of each such non-conforming shipment which is not rejected. Further, for shipments

containing Debris, the estimated weight of such materials shall be deducted from the weight of that shipment.

§ 6.4 Suspension and Termination. If the coal sold hereunder fails to meet two consecutive months or more of the Guaranteed Monthly Weighted Averages as nominated and as set forth in § 6.1 for any two (2) months in a four (4) month period, or if four (4) shipments are rejectable in any thirty (30) day period, Buyer may upon written notice delivered in accordance with § 12. Notices, suspend future shipments except shipments already loaded into trucks. Seller shall, within ten (10) days after receipt of Buyer's notice, provide Buyer with reasonable assurances that subsequent monthly deliveries of coal shall meet or exceed the Guaranteed Monthly Weighted Averages set forth in § 6.1 and that the source will exceed the Rejection Limits set forth in § 6.1. If Seller fails to provide such assurances within said ten (10) day period, Buyer may terminate this Agreement by giving written notice of such termination at the end of the ten (10) day period. Buyer's failure to terminate after the end of such ten (10) day period shall not constitute a waiver for a continuing default or for any subsequent defaults. If Seller provides such assurances to Buyer's reasonable satisfaction, shipments hereunder shall resume and any tonnage deficiencies resulting from suspension may be made up at Buyer's sole option. Buyer shall not unreasonably withhold its acceptance of Seller's assurances, or delay the resumption of shipment. If Seller, after such assurances, fails to meet any of the Guaranteed Monthly Weighted Averages for any one (1) month within the next six (6) months or if two (2) shipments are rejectable within any one (1) month during such six (6) month period, then Buyer may terminate this Agreement and exercise all its other rights and remedies under applicable law

and in equity for Seller's breach. All costs, expenses or damages incurred by Buyer in obtaining Seller's assurance that subsequent deliveries will conform to the quality specifications shall be paid to Buyer by Seller.

SECTION 7. WEIGHTS, SAMPLING AND ANALYSIS.

§ 7.1 Weights for Deliveries. The weight of the coal delivered hereunder by truck shall be determined on a per shipment basis by Buyer on the basis of scale weights at the Delivery Point unless another method is mutually agreed upon by the parties. Such scales shall be duly reviewed by an appropriate independent testing agency and maintained in a condition such that the weights are deemed accurate and reliable so as to be used for payment purposes in accordance with the terms and conditions of this Agreement. To ensure such accuracy and reliability, such scales shall be tested and shall comply with appropriate conditions for weighing pursuant to the National Institute of Standards and Technology Handbook 44 for such scales. Seller shall have the right, at Seller's expense and upon reasonable notice, to have the scales checked for accuracy at any reasonable time or frequency. If the scales are found to be over or under the tolerance range allowable for the scale based on the National Institute of Standards and Technology Handbook 44, either party shall pay to the other any amounts owed due to such inaccuracy for a period not to exceed the mid-point of time in days between the last test and the point in time at which the scale is found to be inaccurate, provided however, the number of days shall not exceed one-half the number of days between scale tests.

§ 7.2 Sampling and Analysis for Deliveries. The sampling and analysis of the coal delivered hereunder shall be performed by Buyer at the Delivery Point and the results thereof

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shall be accepted and used for the quality and characteristics of the coal delivered under this Agreement. Buyer shall send to Seller by facsimile or via email a copy of Buyer's analysis within five (5) business days after sampling the applicable shipment. All analyses shall be made in Buyer's or Buyer's contractor's laboratory at Buyer's expense in accordance with American Society of Testing and Measurement (hereinafter referred to as "A.S.T.M.") practices and procedures. Samples for analyses: (i) shall be taken by the most current industry-accepted standard for the mechanical sampling system in place; (ii) shall be mutually acceptable to both parties; and (iii) shall be taken with a frequency and regularity sufficient to provide reasonably accurate representative samples of the deliveries made hereunder. Seller represents that it is familiar with the sampling and analysis practices to be utilized hereunder, and finds them to be acceptable. Buyer shall notify Seller in writing of any significant changes in Buyer's sampling and analysis practices. Any such changes in Buyer's or Buyer's contractor's sampling and analysis practices shall, except for A.S.T.M. accepted changes in practices, provide for no less accuracy than the sampling and analysis practices existing at the time of the execution of this Agreement, unless the parties otherwise mutually agree. Seller shall have the right, at Seller's expense and upon reasonable notice, to visit Buyer's or Buyer's sample collection area, sampler and Buyer's and/or Buyer's contractor's laboratory to review coal quality analysis processes and shall further have the right to suggest processes for improvement in accuracy at any reasonable time or frequency.

Each sample taken by Buyer shall be divided into four (4) parts and put into airtight containers, properly labeled and sealed. One part shall be used for analysis by Buyer; one part

shall be used by Buyer as a check sample, if Buyer in its sole judgment determines it is necessary; one part shall be retained by Buyer until the twenty-fifth (25th) of the month following the month of unloading (the "Disposal Date") and shall be delivered to Seller for analysis if Seller so requests before the Disposal Date; and one part ("Referee Sample") shall be retained by Buyer until the Disposal Date. Buyer shall provide a composite of all the analysis for presentation to Buyer by the fifteenth (15th) day of the month following the month of unloading. Seller, on reasonable notice to Buyer shall have the right to have a representative present to observe the sampling and analyses performed by Buyer or Buyer's contractor. Unless Buyer requests a Referee Sample analysis before the Disposal Date, Buyer's analysis shall be used to determine the quality of the coal delivered hereunder. The Monthly Weighted Averages shall be determined by utilizing the individual Shipment analyses and the weight of each Shipment.

If any dispute arises before the Disposal Date, the Referee Sample retained by Buyer shall be submitted for analysis to an independent commercial testing laboratory ("Independent Lab") mutually chosen by Buyer and Seller. For each coal quality specification in question, a dispute shall be deemed not to exist and Buyer's analysis shall prevail and the analysis of the Independent Lab shall be disregarded if the analysis of the Independent Lab differs from the analysis of Seller by an amount equal to or less than:

- (i) 0.50% moisture
- (ii) 0.50% ash on a dry basis
- (iii) 100 Btu/lb. on a dry basis
- (iv) 0.10% sulfur on a dry basis.

For each coal quality specification in question, if the analysis of the Independent Lab differs from the analysis of Buyer by an amount more than the amounts listed above, then the analysis of the Independent Lab shall prevail and Buyer's analysis shall be disregarded. The cost of the analysis made by the Independent Lab shall be borne by Seller to the extent that Buyer's analysis prevails and by Buyer to the extent that the analysis of the Independent Lab prevails.

SECTION 8. PRICE.

§ 8.1 Base Price. The base price of the coal to be sold and delivered hereunder shall be determined according to the following schedule as set out by year, by Delivery Point and by quality as nominated by Buyer on the basis of \$/MMBTU F.O.B. Delivery Point ("Base Price"):

	Quality A 11,300 Btu F.O.B. Coal Pile Green Station	Quality B 10,500 Btu F.O.B. Coal Pile Wilson Station
2008	\$1.4500	\$1.4200
2009	\$1.4935	\$1.4626
2010	\$1.5383	\$1.5065
2011	\$1.5850	\$1.5517

§ 8.2 Diesel Fuel Adjustment (Surcharge or Discount). In addition to the Base Price §8.1 above, there shall be an adjustment to such price for changes in diesel fuel for each quality (surcharge or discount). The adjustment shall change in proportion to changes in the previous calendar quarter's Daily Average of the Average Rack Gross Price for Untaxed Ultra Low Sulfur

Diesel Fuel (Branded and Unbranded) published in the OPIS Newsletter Prices and reported daily at 6:00 P.M. – Evansville, IN (hereinafter the “OPIS”). The adjustment to the Base Price to be in effect for any particular quarter shall be calculated by multiplying a fraction, the denominator of which shall be the “Base Fuel Index” (as hereinafter defined) and the numerator of which shall be the “Adjusted Fuel Index” (as hereinafter defined), times the “Diesel Fuel Cost Component.”. The effective dates of each quarterly adjustment shall be May 1, August 1, November 1 and February 1, as the case may be. The first quarterly adjustment shall be applied beginning May 1, 2008 and the last adjustment shall be applied beginning November 1, 2011. The adjustment shall be rounded to four decimal places and reset to zero prior to each calculation.

For purposes of this Section, the terms below shall have the following meanings in connection with the calculation of the adjustment for Diesel Fuel for any particular quarter:

“Adjusted Fuel Index” shall mean the difference between (i) the average OPIS for the relevant Calculation Period, and (ii) the Base Fuel Index.

“Base Fuel Index” shall mean 230, (being the average OPIS for July, August and September 2007).

“Calculation Period” shall mean the three-month period ending (i) March 31, for a May 1 adjustment date, (ii) June 30, for a August 1 adjustment date, (iii) September 30, for a November 1 adjustment date, and (iv) December 31, for a February 1 of the subsequent year adjustment date.

“Diesel Fuel Price Component” shall mean the amount set forth for the relevant year and quality in the following table:

Diesel Fuel Price Component (\$/MMBTU):

	Quality A 11,300 Btu \$/MMBTU	Quality B 10,500 Btu \$/MMBTU
2008	\$0.29	\$0.21
2009	\$0.29	\$0.25
2010	\$0.10	\$0.25
2011	\$0.10	\$0.25

Example #1 for 11,300 BTU for 2008 to be effective from May 1 through July 31:

Calculation Period would be January, February and March 2008

Average OPIS for Calculation Period = 280.0 (hypothetical)

Base Fuel Index = 230

Fuel Adjustment Calculation = $[(280.0-230)/230]*\$0.29/\text{MMBTU}$

Fuel Adjustment = +\$0.0630 per MMBTU

Example #2 for 10,500 BTU for 2008 to be effective from May 1 through July 31:

Calculation Period would be January, February and March 2008

Average OPIS for Calculation Period = 280.0 (hypothetical)

Base Fuel Index = 230

Fuel Adjustment Calculation = $[(280.0-230)/230]*\$0.21/\text{MMBTU}$

Fuel Adjustment = +\$0.0457 per MMBTU

Example #3 for 11,300 BTU for 2008 to be effective from May 1 through July 31:

Calculation Period would be January, February and March 2008

Average OPIS for Calculation Period = 200.0 (hypothetical)

Base Fuel Index = 230

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Fuel Adjustment Calculation = $[(200.0-230)/230]*\$0.29/\text{MMBTU}$

Fuel Adjustment = $-\$0.0378$ per MMBTU

Example #4 for 10,500 BTU for 2008 to be effective from May 1 through July 31:

Calculation Period would be January, February and March 2008

Average OPIS for Calculation Period = 200.0 (hypothetical)

Base Fuel Index = 230

Fuel Adjustment Calculation = $[(200.0-230)/230]*\$0.21/\text{MMBTU}$

Fuel Adjustment = $-\$0.0274$ per MMBTU

§ 8.3 Payment Calculation. Payment shall be based solely upon the tonnage and BTU/LB received pursuant to Section 6. QUALITY and Section 7. WEIGHTS, SAMPLING AND ANALYSIS. If there are any adjustments pursuant to Section 6. QUALITY, such adjustments shall apply for the month the coal was delivered to the Delivery Point.

SECTION 9. INVOICES, BILLING AND PAYMENT.

§ 9.1 Invoicing Address. Invoices will be sent to Buyer at the following address:

Western Kentucky Energy Corp.
220 West Main Street (physical zip code 40202)
P.O. Box 32010
Louisville, Kentucky 40232
Attn.: Manager, Fuels Accounting

With a copy to:

Western Kentucky Energy Corp.
220 West Main Street (physical zip code 40202)
P.O. Box 32010

Louisville, Kentucky 40232
Attn.: Manager, Fuels Strategy and Procurement

§ 9.2 Payment Procedures for Coal Shipments. For all coal delivered pursuant to Article 5 hereof, and unloaded at the Delivery Point between the first (1st) and fifteenth (15th) days of any calendar month, Buyer shall make preliminary payment for one-hundred percent (100%) of the amount owed for the coal (based on the assumption that the coal will meet all guaranteed monthly quality parameters) by the twenty-fifth (25th) day of such month of unloading, except that, if the twenty-fifth (25th) is not a regular work day, payment shall be made on the next regular work day. All preliminary payments shall be calculated based upon the then current Base Price on a cents per MMBTU basis as calculated by the guaranteed monthly weighted average BTU/lb. Seller shall invoice Buyer for all coal delivered pursuant to Article 5 hereof, and unloaded at the Delivery Point between the first (1st) and fifteenth (15th) days of any calendar month by the 20th of the month, based upon the then current Base Price on a cents per MMBTU basis as calculated by the guaranteed monthly weighted average BTU/lb.

For all coal delivered, as defined in Article 5 hereof, and unloaded at the Delivery Point between the sixteenth (16th) and the last day of any calendar month, Buyer shall make a payment for one-hundred percent (100%) of the amount owed for the coal by the tenth (10th) day of the month following the month of unloading, except that, if the tenth (10th) is not a regular work day, payment shall be made on the next regular work day. Also by the tenth (10th) day of the following the month of unloading of coal at the Delivery Point, a reconciliation of amounts paid and amounts owed during said month shall be made, including, any adjustments for any

applicable discounts or other adjustments provided herein, except that, if the tenth (10th) is not a regular work day, payment shall be made on the next regular work day. Seller shall invoice Buyer for all coal delivered pursuant to Article 5 hereof, and unloaded at the Delivery Point between the sixteenth (16th) and last day of any calendar month by the 5th day of the following month, based upon the then current Base Price on a cents per MMBTU basis as calculated by the guaranteed monthly weighted average BTU/lb.

In the event Seller notifies Buyer that a pattern has developed whereby payments are not being paid when due, as set forth herein, Buyer shall review its internal approval and payment procedures and remedy such payment practices, if any develop. Except as provided in § 9.3 below, the amount of any correct invoice not paid within five (5) business days when due, shall bear interest at eight percent (8.0%) per annum based from the date due until such time as the payment is made in full to Seller.

Seller's Wiring Instructions:

Account Name:	Charolais Coal Sales, LLC
Receiving Financial Institution:	Fifth Third Bank
Bank Routing Number:	ABA # 042000314
Financial Institution's Account Number:	7691926336

§ 9.3 Withholding. Buyer shall have the right to withhold from payment of any billing or billings (i) any sums which it is not able in good faith to verify or which it otherwise in good faith disputes and (ii) any amounts owed to Buyer from Seller. Buyer shall notify Seller

promptly in writing of any such issue, stating the basis of its claim and the amount it intends to withhold. If such disputed amount or damage or likely damages exceed \$100,000, Seller shall have the right to suspend shipments until such time as the dispute is resolved and settlement of withholding occurs.

Payment by Buyer, whether knowing or inadvertent, of any amount in dispute shall not be deemed a waiver of any claims or rights by Buyer with respect to any disputed amounts or payments made. Any disputed amounts withheld by Buyer that are later found to have been withheld improperly, other than amounts disputed resulting from errors, lack of documentation, or other related incident surrounding any disputed amount or similar legitimate and reasonable dispute, shall be subject to interest at eight percent (8.0%) per annum based from the date due until such time as the payment is made in full to Seller.

SECTION 10. FORCE MAJEURE.

§ 10.1 General Force Majeure. Notwithstanding anything herein to the contrary, if an event occurs that would otherwise be a force majeure event under this Section 10.1, but Seller is still able to perform its obligations hereunder (after taking into account all of Seller's then existing obligations to deliver coal to third parties from the unaffected Coal Properties) through one or more of the Coal Properties (or portions thereof) that are not affected by such force majeure event, then such event shall not be considered a force majeure event hereunder. If either party hereto is delayed in or prevented from performing any of its obligations or from utilizing the coal sold under this Agreement due to acts of God, war, riots, civil insurrection, acts of the public enemy, terrorism, strikes, lockouts, labor disputes, disturbances or unrest, damage to

plants, equipment or facilities, fires, floods or earthquakes, inability to obtain permits or authorizations from any governmental authority after prudent and timely submission and application of same, mine accidents that are solely responsible for delaying or preventing performance of Seller, or unanticipated conditions in coal seams not discernable by prudent engineering which are beyond the reasonable control and without the fault or negligence of the party affected thereby, or if the right of Buyer to lease, operate or manage the electric generating facilities owned by Big Rivers Electric Corp. or the City of Henderson is suspended or terminated, then the obligations of both parties hereto shall be suspended to the extent made necessary by such event; provided that the affected party gives written notice to the other party as early as practicable of the nature and probable duration of the force majeure event. Failure to give such notice and to furnish the designated information shall be deemed a waiver of the affected party's rights under this § 10. The party declaring force majeure shall exercise due diligence to avoid the force majeure event or shorten its duration and will keep the other party advised as to the continuance of the force majeure event.

During any period in which Seller's ability to perform hereunder is affected by a force majeure event, Seller shall not deliver any coal to any other buyers to whom Seller's ability to supply is similarly affected by such force majeure event unless contractually committed to do so at the beginning of the force majeure event; and further shall deliver to Buyer under this Agreement at least a pro rata portion (on a per ton basis) of its total contractual commitments for all its buyers in place at the beginning of the force majeure event to whom Seller's ability to supply is similarly affected by such force majeure event.

An event which affects the Seller's ability to obtain Substitute Coal will not be considered a force majeure event hereunder. Events of force majeure as defined above affecting a supplier or contractor of a party hereto, other than for the production and shipping of coal, will be treated as the affected party's force majeure provided that the affected party diligently and promptly obtains an alternate source of supply or services.

Buyer reserves the right to purchase replacement coal from other sources during the occurrence of a force majeure event affecting Seller and Seller reserves the right to sell coal to third parties during the occurrence of a force majeure event affecting Buyer. If tonnage deficiencies result from a Seller's or Buyer's declared force majeure event lasting thirty (30) days or less, such deficiencies may be made up at the non-affected party's sole option on a mutually agreed-upon schedule. Any tonnage deficiencies resulting from a Seller's or Buyer's declared force majeure event lasting longer than thirty (30) days shall not be made up except by mutual agreement of the parties.

In the event that a situation of force majeure that materially affects a party's ability to perform its obligations hereunder continues for a period exceeding sixty (60) days, then the party not claiming force majeure may elect to terminate this Agreement by giving written notice to the affected party. In the event of such termination, neither party shall have any further liability to the other except for those obligations or liabilities which may have accrued with respect to performance or defaults prior to said termination.

§ 10.2 Environmental Law Force Majeure. The parties recognize that, during the continuance of this Agreement, legislative or regulatory bodies or the courts may adopt or amend

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environmental laws, regulations, policies and/or restrictions which will make it impossible or commercially impracticable for Buyer to utilize this or like kind and quality coal which thereafter would be delivered hereunder. If as a result of the adoption or amendment of such laws, regulations, policies, or restrictions, or change in the interpretation or enforcement thereof, Buyer decides that it will be impossible or commercially impracticable (uneconomical) for Buyer to utilize such coal, Buyer shall so notify Seller, and thereupon Buyer and Seller shall promptly consider whether corrective actions can be taken in the mining and preparation of the coal at Seller's mine and/or in the handling and utilization of the coal at Buyer's generating station; and if in Buyer's sole judgment such actions will not, without unreasonable expense to Buyer, make it possible and commercially practicable for Buyer to so utilize coal which thereafter would be delivered hereunder without violating, or creating the potential for violation of, any applicable law, regulation, policy or order, Buyer shall have the right, upon the later of sixty (60) days notice to Seller or the effective date of such restriction, to terminate this Agreement without further obligation hereunder on the part of either party hereto except for those obligations or liabilities which may have accrued with respect to performance or defaults prior to said termination.

SECTION 11. CHANGES.

Buyer or Seller may, by mutual agreement, at any time by written notice pursuant to § 12 of this Agreement, make changes within the general scope of this Agreement in any one or more of the following: quality of coal or coal specifications, quantity of coal, method or time of

shipments, place of delivery (including transfer of title and risk of loss), method(s) of weighing, sampling or analysis, or government imposition as hereinafter defined, and such other provision as may affect the suitability and amount of coal for Buyer's generating stations.

For the purposes of this Agreement, Government Imposition shall be defined as (i) taxes (other than state or federal income taxes or payroll taxes), (ii) fees and/or costs, including those occasioned by compliance with interpretations of law in force on the date of this Agreement, but only if, the interpretations are issued by a court, governmental agency, or regulatory body, and are different from the interpretations of the relevant laws as they existed on the date of this Agreement (other than fees and/or costs which (a) are brought about by the inefficient operations of Seller, (b) are attributable to Seller's negligence, or (c) are the result of criminal fines or penalties imposed on Seller by any government or governmental agency and relating to the mining, production, severance, preparation, sale of the coal). The Base Price includes all Government Impositions as of the date of this Agreement.

If any such changes makes necessary or appropriate an increase or decrease in the then current Base Price of coal, or in any other provision of this Agreement, an equitable adjustment shall be negotiated in good faith regarding changes in: price, whether current or future or both, and/or in such other provisions of this Agreement as are affected directly or indirectly by such change, and the Agreement shall thereupon be modified in writing accordingly.

Any claim by the Seller for adjustment under this § 11 shall be asserted within thirty (30) days after the date of Seller's receipt of the written notice of change, it being understood, however that Seller shall not be obligated to proceed under this Agreement as changed until an

equitable adjustment has been agreed upon. The parties agree to negotiate promptly and in good faith for a period not to exceed thirty (30) days from the date of notice provided by the party seeking adjustment, to agree upon the nature and extent of any equitable adjustment. In the event the parties cannot agree upon an adjustment, this Agreement shall terminate ninety days from the period negotiations cease.

SECTION 12. NOTICES.

§ 12.1 Form and Place of Notice. Any official notice, request for approval or other document required or permitted to be given under this Agreement shall be in writing, unless otherwise provided herein, and shall be deemed to have been sufficiently given when delivered in person, transmitted by facsimile or other electronic media, delivered to an established mail service for same day or overnight delivery, or dispatched in the United States mail, postage prepaid, for mailing by first class, certified, or registered mail, return receipt requested, and addressed as follows:

If to Buyer: Western Kentucky Energy Corp.
220 West Main Street (physical zip code 40202)
P.O. Box 32010
Louisville, Kentucky 40232
Attn: Manager, Fuels Strategy and Procurement

If to Seller: Phoenix Coal Corporation
1215 Nebo Road, Suite A
Madisonville, Kentucky 42431
Attn: Mike McElwain, Sr. Vice President - Sales

§ 12.2 Change of Person or Address. Any party may change the person or address specified above upon giving written notice to the other party of such change.

§ 12.3 Electronic Data Transmittal. Seller hereby agrees, at Seller's reasonable cost, to electronically transmit shipping notices and/or other data to Buyer in a format acceptable to and established by Buyer upon Buyer's reasonable request. Buyer shall provide Seller with the appropriate format and will inform Seller as to the electronic data transmission requirements at the appropriate time.

SECTION 13. INDEMNITY AND INSURANCE.

§ 13.1 Indemnity. Seller agrees to indemnify and save harmless Buyer, its officers, directors, employees and representatives from any responsibility and liability for any and all claims, demands, losses, legal actions for personal injuries, including death, property damage and pollution (including reasonable inside and outside attorney's fees) (the "Claims") (i) relating to the trucks provided by Seller or Seller's contractor while such trucks are delivering coal to the Delivery Point, (ii) due to any failure of Seller, their respective employees, agents, representatives, contractors or subcontractors, to comply with any laws, regulations or ordinances, relative to Seller's performance of this Agreement, or (iii) due to the acts or omissions of Seller, their respective employees, agents, representatives, contractors or subcontractors.

Buyer agrees to indemnify and save harmless Seller, its officers, directors, employees and representatives from any responsibility and liability for any and all Claims relating to the ownership or use of the coal from and after the time that the coal is delivered to Buyer at the Delivery Point.

§ 13.2 Insurance. Seller agrees to carry insurance coverage with minimum limits as follows.

(a) Commercial General Liability, including Completed Operations and Contractual Liability, \$1,000,000 single limit liability.

(b) Automobile General Liability, \$1,000,000 single limit liability.

(c) In addition, Seller shall carry excess liability insurance covering the foregoing perils in the amount of \$4,000,000 for any one occurrence.

(d) Workers' Compensation and Employer's Liability with statutory limits.

If any of the above policies are written on a claims made basis, then the retroactive date of the policy or policies will be no later than the effective date of this Agreement. Prior to the execution of this Agreement, Certificates of Insurance satisfactory in form to the Buyer and signed by the Seller's insurer shall be supplied by the Seller to the Buyer evidencing that the above insurance is in force and that not less than thirty (30) calendar days written notice will be given to the Buyer prior to any cancellation or material reduction in coverage under the policies. The Seller shall cause its insurer to waive all subrogation rights against the Buyer respecting all losses or claims arising from performance hereunder. Evidence of such waiver satisfactory in form and substance to the Buyer shall be exhibited in the Certificate of Insurance mentioned above. Seller's liability shall not be limited to its insurance coverage.

SECTION 14. TERMINATION FOR DEFAULT; BUYERS RIGHT TO TERMINATION.

If either party hereto commits a material breach of any of its obligations under this Agreement at any time, including but not limited to a breach of a representation or warranty, then the other party has the right to give written notice describing such breach and stating its intention to terminate this Agreement no sooner than fifteen (15) days after the date of the notice (the "Notice Period"). If such material breach is curable and the breaching party cures such material breach within the Notice Period, then the Agreement shall not be terminated due to such material breach. If such material breach is not curable or the breaching party fails to cure such material breach within the Notice Period, then this Agreement shall terminate at the end of the Notice Period in addition to all the other rights and remedies available to the aggrieved party under this Agreement and at law and in equity.

(b) In the event that (i) one or more parties constituting Buyer (and/or one or more of Buyer's affiliates) and Big Rivers Electric Corporation (and/or one or more of its affiliates; collectively, "BREC") enter into one or more binding agreements for the termination of Buyer's rights to lease, operate, or manage BREC's generating assets and/or the City of Henderson's generating assets, and (ii) this Agreement is not assigned to BREC in connection with such binding agreement(s), Buyer shall have the unfettered right, but not the obligation, to terminate this Agreement upon providing sixty (60) business days prior written notice of such termination of this Agreement to Seller. Buyer shall be liable for any and all outstanding balances up to and until the date of termination.

SECTION 15. TAXES, DUTIES AND FEES.

Seller shall pay when due, and the price set forth in § 8 of this Agreement shall be inclusive of, all taxes, duties, fees and other assessments of whatever nature imposed by governmental authorities with respect to the transactions contemplated under this Agreement except as provided in Section 11. Changes.

SECTION 16. DOCUMENTATION AND RIGHT OF AUDIT.

Seller and Buyer shall maintain all records and accounts pertaining to payments, quantities, quality analyses, and source for all coal supplied under this Agreement for a period lasting through the term of this Agreement and for two (2) years thereafter. Buyer and Seller shall have the right at no additional expense to audit, copy and inspect such records and accounts at any reasonable time upon reasonable notice during the term of this Agreement and for two (2) years thereafter.

SECTION 17. EQUAL EMPLOYMENT OPPORTUNITY.

To the extent applicable, Seller shall comply with all of the following provisions which are incorporated herein by reference: Equal Employment Opportunity regulations set forth in 41 CFR § 60-1.4(a) and (c) prohibiting discrimination against any employee or applicant for employment because of race, color, religion, sex, or national origin; Vietnam Era Veterans Readjustment Assistance Act regulations set forth in 41 CFR § 50-250.4 relating to the employment and advancement of disabled veterans and veterans of the Vietnam Era; Rehabilitation Act regulations set forth in 41 CFR § 60-741.4 relating to the employment and advancement of qualified disabled employees and applicants for employment; the clause known as "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled

by Socially and Economically Disadvantaged Individuals" set forth in 15 USC § 637(d)(3); and subcontracting plan requirements set forth in 15 USC § 637(d).

SECTION 18. COAL PROPERTY INSPECTIONS.

Buyer and its representatives and others as may be required by applicable laws, ordinances and regulations shall have the right, but not the obligation, upon reasonable notice at reasonable times and at their own expense to inspect the Coal Property, including the loading facilities, scales, sampling system(s), wash plant facilities, and mining equipment for conformance with this Agreement. Seller shall undertake reasonable care and precautions to prevent personal injuries to any representatives, agents or employees of Buyer (collectively, "Visitors") who inspect the Coal Property. Any such Visitors shall comply with Seller's regulations and rules regarding conduct on the work site, made known to Visitors prior to entry, as well as safety measures mandated by state or federal rules, regulations and laws. Buyer understands that coal mines and related facilities are inherently high-risk environments. Buyer's failure to inspect the Coal Property or to object to defects therein at the time Buyer inspects the same shall not be construed as constituting an approval of Seller's mining plan or mining practices, relieve Seller of any of its responsibilities, nor be deemed to be a waiver of any of Buyer's rights hereunder.

SECTION 19. MISCELLANEOUS.

§ 19.1 Applicable Law. This Agreement shall be construed in accordance with the laws of the Commonwealth of Kentucky, and all questions of performance of obligations hereunder shall be determined in accordance with such laws, without regard to choice of law principles.

§ 19.2 Headings. The paragraph headings appearing in this Agreement are for convenience only and shall not affect the meaning or interpretation of this Agreement.

§ 19.3 Waiver. The failure of either party to insist on strict performance of any provision of this Agreement, or to take advantage of any rights hereunder, shall not be construed as a waiver of such provision or right.

§ 19.4 Remedies Cumulative. Remedies provided under this Agreement shall be cumulative and in addition to other remedies provided under this Agreement or by law or in equity.

§ 19.5 Severability. If any provision of this Agreement is found contrary to law or unenforceable by any court of law, the remaining provisions shall be severable and enforceable in accordance with their terms, unless such unlawful or unenforceable provision is material to the transactions contemplated hereby, in which case the parties shall negotiate in good faith a substitute provision.

§ 19.6 Binding Effect. This Agreement shall bind and inure to the benefit of the parties and their successors and assigns.

§ 19.7 Assignment. Neither party may assign this Agreement or any rights or obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld or denied; provided, however, Buyer shall have the right, without consent of the Seller, to assign all or any part of this Agreement to BREC (as such term is defined in Section 14(b) above), or to an entity acquiring all or substantially all of the assets of that party, or for purposes of securing indebtedness, and such assignment shall release the

assigning party from all obligations under the Agreement from and after the effective date of such assignment. Notwithstanding the foregoing, no consent is required for an assignment or other transfer by a party as part of a merger, reorganization or consolidation involving such party.

§ 19.8 Entire Agreement. This Agreement contains the entire agreement between the parties as to the subject matter hereof, and there are no representations, understandings or agreements, oral or written, which are not included herein.

§ 19.9 Amendments. Except as otherwise provided herein, this Agreement may not be amended, supplemented or otherwise modified except by written instrument signed by both parties hereto.

§ 19.10 Brokers. Seller hereby indemnifies and holds Buyer harmless from all losses, costs, demands, and expenses Buyer may incur in connection with claims made against Buyer by any brokers claiming by, through or on behalf of Seller arising from this Agreement.

SECTION 20. CONFIDENTIALITY

Seller agrees to maintain in strict confidence the terms and conditions of this Agreement and any information or data relating hereto exchanged or obtained by the parties during negotiation and performance of this Agreement. Seller shall disclose any of the terms and conditions hereof to any third party (except to affiliates of Seller) without the prior written consent of the other party, except where such disclosure may be required by law or in connection with a judicial or administrative proceeding involving a party hereto, in which event the party intending to make such disclosure shall advise the other in advance and cooperate to minimize

the disclosure to the extent possible. The obligations of Seller arising under this § 20, shall continue for a period of three (3) years following termination or expiration of this Agreement.

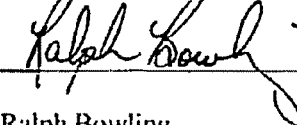
SECTION 21. ETHICAL DEALING

Each party represents and warrants that it has not given or received and shall not give or receive any commission, payment, kickback, secret rebate or other thing of value to or from any employee or agent of the other party or to any supplier of services in connection with this Agreement. Each party acknowledges that the giving or receiving of any such commission, payment, kickback, secret rebate or other thing of value constitutes a breach of ethical standards, is potentially in violation of applicable law and may result in immediate termination of this and other outstanding agreements between the parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date corresponding to each of their signature blocks below, but this Agreement shall be effective as of the date first above written.

BUYER:

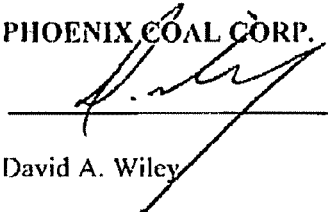
WESTERN KENTUCKY ENERGY CORP.


_____ *eth*
wkb

Ralph Bowling

SELLER:

PHOENIX COAL CORP.



David A. Wiley

Contract: WKE-07-025

Vice President – Power Operations

CEO

Date: 1/2/08

Date: 12-28-2007

SELLER:

CHAROLAIS COAL SALES, LLC

David A. Wiley

CEO

Date: 12-28-2007

Exhibit A

Phoenix Coal Corporation coal properties controlled by:

<u>Mining Company</u>	<u>Mine Name</u>	<u>Permit Number</u>
<u>Schoate Mining Co., LLC</u>	<u>Briar Hill Mine</u>	<u>889-0134</u>
<u>R & L Winn, Inc.</u>	<u>Back in Black</u>	<u>889-0135</u>
<u>Charolais Mining Co., LLC</u>	<u>Graham #5</u>	<u>889-0136</u>
<u>Charolais Mining Co., LLC</u>	<u>Vogue South reserve</u>	<u>Pending</u>
<u>Phoenix Coal Processing, LLC</u>	<u>River Queen Slurry</u>	<u>889-8004</u>
<u>Phoenix Coal Processing, LLC</u>	<u>Rock Crusher</u>	<u>889-0123</u>
<u>Phoenix coal Processing, LLC</u>	<u>Stony Point Mine</u>	<u>854-0253</u>
<u>PACT Resource</u>	<u>U/G Mine (Pending)</u>	<u>917-5019</u>

ASSIGNMENT AND ASSUMPTION OF CONTRACTS

This Assignment and Assumption of Contracts (this “**Assignment**”) is dated as of September 30, 2009, by and between Phoenix Coal Corporation, a Delaware corporation (the “**Company**”), and Phoenix Newco, LLC (to be renamed Oxford Mining Company - Kentucky, LLC), a Kentucky limited liability company (“**Newco**”).

PRELIMINARY STATEMENTS

Reference is made to that certain Acquisition Agreement dated as of August 14, 2009 and subsequent amendments thereto (the “**Acquisition Agreement**”) by and among Oxford Mining Company, LLC, Phoenix Coal Inc., Phoenix Coal Corporation and Newco.

Pursuant to Section 2.1(d)(ii) of the Acquisition Agreement, Phoenix Coal Corporation, as the parent (directly or indirectly) of the Company, is required to compel the Company to transfer to Newco all of (a) its surface mining coal sales agreements (pursuant to Section 2.1(b)(v) of the Acquisition Agreement and identified on Exhibit A hereto), (b) its surface mining coal purchase agreements (pursuant to Section 2.1(b)(vi) of the Acquisition Agreement and identified on Exhibit B hereto), and (c) its other Contracts related to the Surface Mining Business (identified on Exhibit C hereto, and including without limitation the contracts pursuant to Section 2.1(b)(vii) of the Acquisition Agreement) (collectively, the “**Assumed Contracts**”). The Company has agreed to assign the Assumed Contracts to facilitate the transactions described in the Acquisition Agreement.

AGREEMENT

NOW THEREFORE, the parties hereto, in consideration of the mutual promises and covenants contained herein, hereby agree as follows:

- 1. Capitalized Terms.** Capitalized terms used but not defined in this Assignment shall have the meanings given them in the Acquisition Agreement.
- 2. Assignment.** Effective as of the Closing Date, the Company by this Assignment does hereby sell, set over, assign, transfer, release, and deliver unto Newco, its successors and assigns all of the Company’s right, title, and interest in and to the Assumed Contracts.
- 3. Acceptance and Assumption.** Newco, effective as of the Closing Date and subject to the terms of the Acquisition Agreement, hereby accepts the assignment set forth herein and assumes and agrees to perform only those obligations and liabilities under the Assumed Contracts arising after the Closing Date. Newco assumes no other obligations or liabilities under the Assumed Contracts or any other Contracts of the Company of any kind. The parties hereto agree that, as between Newco and the Company, all such other obligations or liabilities under the Assumed Contracts or any other Contracts of the Company shall remain the sole responsibility of the Company.
- 4. Effects of Assignments and Assumptions.** The assignments and assumptions herein do not, as between the Company on the one hand and third parties having rights under the Assumed Contracts on the other hand, release the Company from liability to such third parties with respect to the Assumed Contracts. At the same time, such third parties shall be third party

beneficiaries with respect hereto to the extent of the assignments and assumptions herein. The assumption by Newco of the Assumed Contracts as herein provided is not intended by the parties hereto to and shall not expand the rights or remedies of any third party against Newco as compared to the rights and remedies that such third party would have had against the Company had the parties not consummated the transactions contemplated hereby. Nothing herein contained shall, or shall be construed to, prejudice the right of Newco to contest any claim or demand with respect to any obligation or liability assumed hereunder and Newco shall have all rights that the Company may have or has had to defend or contest any such claim or demand.

5. Governing Law. This Assignment shall be governed by the laws of the State of Delaware without regard to conflicts of law principles.

6. Successors and Assigns. Subject to the provisions of the Acquisition Agreement, this Assignment shall inure to the benefit of and be binding upon Newco and the Company and their respective successors and assigns.

7. Amendments and Waivers. No amendment of any provision of this Assignment shall be valid unless the same shall be in writing and signed by Newco and the Company.

8. Headings. The section headings contained in this Assignment are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Assignment.

9. Conflict with Acquisition Agreement. In the event of any conflict or inconsistency between the provisions set forth in this Assignment and those in the Acquisition Agreement, the provisions of the Acquisition Agreement shall prevail.

10. Dispute Resolution. Any Dispute arising out of or relating to this Assignment shall be a "Dispute" subject to Section 13.13 of the Acquisition Agreement and the dispute resolution provisions thereof.

11. Counterparts. This Assignment may be executed in one or more counterparts, each of which shall be deemed to be an original copy and all of which, when taken together, shall be deemed to constitute one and the same agreement. The exchange of copies of this Assignment and of signature pages by facsimile transmission shall constitute effective execution and delivery of this Assignment and signatures transmitted by facsimile shall be deemed to be original signatures for all purposes.

[Remainder of Page Intentionally Left Blank with Signatures on Following Page]

IN WITNESS WHEREOF, each of the parties hereto has duly executed and delivered this Assignment as of the date first set forth above.

NEWCO:

PHOENIX NEWCO, LLC,
a Kentucky limited liability company

By: Phoenix Coal Corporation, its sole member

By: _____
Name:
Title:

COMPANY:

PHOENIX COAL CORPORATION,
a Delaware corporation

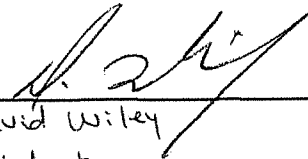
By: _____
Name:
Title:

IN WITNESS WHEREOF, each of the parties hereto has duly executed and delivered this Assignment as of the date first set forth above.

NEWCO:

PHOENIX NEWCO, LLC,
a Kentucky limited liability company

By: Phoenix Coal Corporation, its sole
member

By: 
Name: David Wiley
Title: President

COMPANY:

PHOENIX COAL CORPORATION,
a Delaware corporation

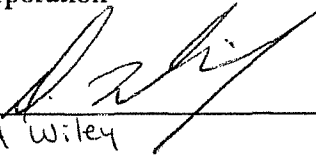
By: 
Name: David Wiley
Title: President

EXHIBIT A
COAL SALES AGREEMENTS

1. Coal Supply Agreement, dated as of December 31, 2007, by and between on the one hand, Western Kentucky Energy Corp., and on the other hand, Phoenix Coal Corporation and Charolais Coal Sales, LLC
2. Coal Supply Agreement, dated January 1, 2008, by and between Duke Energy Ohio, Inc. and Phoenix Coal Corporation
3. Mutual Release and Settlement Agreement, dated February 27, 2009, by and between Duke Energy Ohio, Inc. and Phoenix Coal Corporation
4. Restated and Amended Coal Supply Agreement, dated August 1, 2007, by and between on the one hand, Charolais Coal Sales, LLC and Phoenix Coal Corporation, and on the other hand, Kentucky Utilities Company
5. Amendment No. 1 to Fuel Supply Agreement [sic], dated January 1, 2009, by and between, on the one hand, Charolais Coal Sales, LLC and Phoenix Coal Corporation, and on the other hand, Kentucky Utilities Company

EXHIBIT B
COAL PURCHASE AGREEMENTS

None.

EXHIBIT C
OTHER CONTRACTS

1. Diesel Fuel Supply Agreement, dated January 1, 2008, by and between Phoenix Coal Corporation and Heritage Petroleum, LLC
2. Security Service Agreement, dated February 27, 2009, by and between Phoenix Coal Corporation and Allied Security LLC Legal Entity
3. Independent Contractor Agreement, dated April 15, 2009, by and between Phoenix Coal Corporation and John J. Hedges
4. Cooperative Agreement, dated May 27, 2009, by and between the Department of Highways, Transportation Cabinet, Commonwealth of Kentucky and Phoenix Coal Corporation

EXHIBIT Q

ACKNOWLEDGMENT OF ASSIGNMENT OF CONTRACTS

THIS ACKNOWLEDGMENT OF ASSIGNMENT OF CONTRACTS (this "*Acknowledgment*"), dated as of July 16, 2009 (the "Effective Date") is made by and among Marathon Petroleum Company LLC, a Delaware limited liability company (the "*Contract Counterparty*"), WESTERN KENTUCKY ENERGY CORP., a Kentucky corporation (the "*Assignor*"), and BIG RIVERS ELECTRIC CORPORATION, a Kentucky rural electric generation and transmission cooperative ("*Big Rivers*").

RECITALS

A. The Assignor and the Contract Counterparty are parties to that certain Pet Coke Supply Agreement dated November 30, 2000 (WKE-00-020) (the "*Pet Coke Contract*");

B. As part of the termination of certain property interest and contractual relationships previously created between Big Rivers, on the one hand, and Assignor and certain of its affiliates, on the other hand (the "Termination Transaction"), Big Rivers will re-assume operating responsibilities with respect to the generating plants owned by Big Rivers in Western Kentucky, as well as the Station Two generating plant owned by the City of Henderson. In connection therewith, the Assignor intends to assign to Big Rivers all of its right, title and interest in and to the Pet Coke Contract (other than Assignor's rights of collection with respect to any accrued payment obligations of Contract Counterparty as of the "Effective Time" (as hereinafter defined)), and Big Rivers intends to assume all of the Assignor's obligations under the Pet Coke Contract, in each case subject to Contract Counterparty's willingness to execute and deliver this Acknowledgment for the benefit of Assignor and Big Rivers.

C. The Contract Counterparty is willing to acknowledge and consent to such assignment upon the terms and subject to the conditions set forth in this Acknowledgement.

NOW THEREFORE, in consideration of good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, it is hereby agreed as follows:

Section 1. Acknowledgment of, and Consent to, Assignment. Contract Counterparty hereby acknowledges the assignment of the Pet Coke Contract, in whole or in part, by Assignor to Big Rivers, and to the assumption and performance by Big Rivers of the Pet Coke Contract, in each case at such time as Assignor and Big Rivers shall have consummated the Termination Transaction in accordance with the Transaction Termination Agreement among Big Rivers, Assignor and an affiliate of Assignor dated

March 26, 2007, as the same may have been or may hereafter be amended by those parties (the "Assignment Time"); provided, however, such assignment and assumption shall occur no later than ninety (90) days from the Effective Date or this Acknowledgment is null and void with no further obligation or liability by any party hereto. Written notice will be provided to the Contract Counterparty at least five (5) days prior to the Assignment Time. The Contract Counterparty further waives any and all provisions, if any, in the Pet Coke Contract which might prohibit or require any further consents or approvals of the Contract Counterparty to such assignment or assumption. Contract Counterparty acknowledges and agrees that, from and after the Assignment Time, it will accept performance from Big Rivers of all the obligations, duties and responsibilities formerly owed by Assignor under the Pet Coke Contract.

Section 2. Big Rivers Assumption of Pet Coke Contract. In consideration of the consent of the Contract Counterparty provided in Section 1, from and after the Assignment Time, Big Rivers agrees that it will perform all obligations, duties and responsibilities of Assignor under the Pet Coke Contract.

Section 3. Miscellaneous

(a) This Acknowledgment shall be binding upon and inure to the benefit of the Contract Counterparty, Big Rivers and the Assignor and each of their respective successors, transferees and assigns. The Contract Counterparty agrees to confirm such continuing obligation in writing upon the reasonable request of Big Rivers or any of its respective successors, transferees or assigns. No termination, amendment, variation or waiver of any provisions of this Acknowledgment shall be effective unless in writing and signed by Contract Counterparty, Big Rivers and the Assignor. This Acknowledgment constitutes the entire agreement and understanding of Contract Counterparty, on the one hand, and Assignor and Big Rivers, on the other hand, with respect to the subject matter hereof.

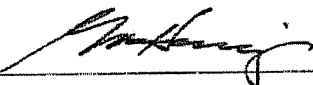
(b) THIS ACKNOWLEDGMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF KENTUCKY.

(c) Any term or provision of this Acknowledgment which is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Acknowledgment or affecting the validity or enforceability of any of the terms or provisions of this Acknowledgment in any other jurisdiction

(d) This Acknowledgment may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument. This Acknowledgment may not be revoked or terminated by Contract Counterparty.

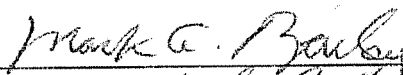
IN WITNESS WHEREOF, the Contract Counterparty, Big Rivers and the Assignor have caused this Acknowledgment to be duly executed and delivered by each of its respective officers thereunto duly authorized as of the date first above written.

MARATHON PETROLEUM COMPANY LLC


By: 
Name: _____
Title: President

APPROVED AS TO FORM
SWT
Next
date

BIG RIVERS ELECTRIC CORPORATION

By: 
Name: Mark A. Bailey
Title: President & CEO

WESTERN KENTUCKY ENERGY CORP.

By: 
Name: Paul W. Thompson
Title: President

PETROLEUM COKE SUPPLY AGREEMENT

This Petroleum Coke Supply Agreement (the "Agreement") dated as of November 30, 2000 between Western Kentucky Energy Corp., and WKE Station Two Inc. (collectively, the "Buyer"), both Kentucky corporations, 220 West Main Street, Louisville, Kentucky 40202, and Marathon Ashland Petroleum LLC, a Delaware limited liability company, 539 South Main Street, Findlay, Ohio 45840-3295 (the "Seller").

Buyer and Seller agree as follows:

ARTICLE I. DEFINITIONS

1.1 For purposes of this Agreement, the following terms shall have the meanings indicated below:

"All Commercially Reasonable Efforts" means those material activities which a reasonable business person, taking into consideration all pertinent facts, circumstances and exigencies, if any, existing at the time, and consistently applying such party's standards and practices for cost-benefit analysis and risk analysis as appropriate in such circumstances, would engage in so as to operate in an efficient manner, without undue economic risk or risk to personnel, property or the environment.

"Average Monthly Quality(ies)" shall have the meaning set forth in Article 7.3.

"Average Market Midpoint" means the arithmetic average, for the previous calendar quarter, of the high and low prices as printed in the *Pace Petroleum Coke Quarterly*, "Table 1, Green and Calcined Petroleum Coke Prices", Export Markets, High Sulfur Green Coke, Gulf Coast, Below 50 HGI, converted from metric to short ton by multiplying said high and low average by a factor of .9072. If the *Pace Petroleum Coke Quarterly* ceases to be published during the term of this Agreement, an equally representative publication, mutually agreeable to Buyer and Seller, will be used to establish the Average Market Midpoint.

"Buyer" means Western Kentucky Energy Corp. for Pet Coke that is delivered or is to be delivered to Western Kentucky Energy Corp., and WKE Station Two Inc. for Pet Coke that is delivered or is to be delivered to WKE Station Two Inc.

"Base Delivery Point" means Robert D. Green Generating Station at mile point 41.2 on the Green River.

"Coker Facility" means the coker to be constructed at Seller's Garyville, Louisiana refinery including, without limitation, crushing facilities, a conveying and barge loading system, and a holding/inventory pit.

"Delivery Point" shall have the meaning set forth in Article 5.1.

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“Force Majeure” shall have the meaning set forth in Article 10.1.

“Free Time Period” shall have the meaning set forth in Article 5.7.

“Grinders” shall have the meaning set forth in Article 3.1(b).

“Non-Conforming Shipment” means Pet Coke that is under the minimum specifications or over the maximum specifications set forth in Section 6.1 or that has not been processed through an operating crusher.

“Notice Period” shall have the meaning set forth in Article 13.1.

“Pet Coke” shall have the meaning set forth in Article 3.1(c).

“Power Facilities” means the Green and Henderson Station electricity generation facilities located near Sebree, Kentucky.

“Put Quantity” shall have the meaning set forth in Article 4.3.

“Quarterly Adjustment Amount” shall have the meaning set forth in Article 8.1.

“Seller’s Pet Coke Production” shall mean all Pet Coke produced from the Coker Facility plus or minus ten percent (10%) tolerance.

“Shipment” means one (1) barge load of Pet Coke.

“Ship Date” means the date a Shipment is loaded at the dock at Seller's Garyville, Louisiana refinery. For Shipments not produced from the Coker Facility, Ship Date means the date a Shipment is released from the loading port for delivery.

“SO2 Allowance Price” means Buyer's internal price of SO2 emission credits, not to exceed the freely traded price for SO2 allowances as reported in the most recently available publication of *Cantor-Fitzgerald*. If *Cantor-Fitzgerald* ceases to be published during the term of this Agreement, the daily price on the Chicago Mercantile Exchange will be used to establish the SO2 Allowance Price for purposes of this calculation.

“Source” means Seller’s Coker Facility or such other place producing Pet Coke to be delivered to Buyer, as approved by Buyer pursuant to Article 4.6.

“Startup Period” means the period beginning with the month in which Seller first introduces feed into the Coker Facility and continuing until the last day of the month in which all of the Average Monthly Qualities of Pet Coke produced by the Coker Facility first meet each of the specifications set forth in Article 6.1.

“Sulfur Adjustment” shall have the meaning set forth in Article 8.5.

“Ton” means a short ton consisting of 2000 pounds.

“Transaction Price” shall have the meaning set forth in Article 8.1.

“Transportation Adjustment” shall have the meaning set forth in Article 8.4.

ARTICLE II. TERM

2.1 Unless previously terminated pursuant to the termination provisions contained elsewhere in this Agreement, this Agreement shall come into force on the date hereof and continue in effect until December 31, 2011.

ARTICLE III. ASSURANCES OF BUYER AND SELLER

3.1 Buyer represents and warrants to Seller that:

(a) the execution and performance by Buyer of this Agreement has been authorized by all necessary company action. This Agreement has been duly executed by Buyer and, assuming the due authorization and execution of this Agreement by Seller, constitutes the legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms.

(b) Buyer has received all necessary internal approvals of Buyer, its parent and any affiliated companies including, but not limited to, budget and capital expenditure approvals, for the construction and operation of new grinding facilities and equipment at the Power Facilities (the “Grinders”).

(c) the Grinders will be designed so as to be capable of grinding green delayed petroleum coke (“Pet Coke”) having the specifications set forth in Article VI and making it suitable for use at the Power Facilities.

(d) Buyer will use All Commercially Reasonable Efforts to ensure that by, September 1, 2001: (i) all material aspects of the Grinders will be mechanically complete and in substantial conformity with their design plans and specifications, (ii) Buyer will have obtained any permits, licenses, authorizations, consents exemptions, registrations, approvals, or other authorizations of any kind which are required to operate the Grinders and to burn Pet Coke having the specifications set forth in Article VI at the Power Facilities including, but not limited to, required air permits; and (iii) the Grinders will be capable of grinding Pet Coke on or before September 1, 2001.

3.2 Buyer shall provide to Seller written progress reports, which include Buyer’s most recent projections as to the month in which the Grinders are expected to be mechanically complete and in which all required permits are expected to be secured. Buyer's reports will be provided to Seller on Jan. 15, March 15, May 15, July 15, and Sept. 15, 2001.

3.3 Seller represents and warrants to Buyer that:

(a) The execution and performance by Seller of this Agreement has been duly authorized by all necessary company action. This Agreement has been duly executed by Seller and, assuming the due authorization and execution of this Agreement by Buyer, constitutes the valid and binding obligation of Seller, enforceable against Seller in accordance with its terms.

(b) Seller has received all necessary approvals including, but not limited to, budget and capital expenditure approvals, for the construction and operation of the Coker Facility.

(c) The crushing facilities comprising a part of the Coker Facility will be capable of crushing Pet Coke produced from the Coker Facility to a size of 4" X 0" Nominal (Nominal meaning that the Pet Coke meets the size specification on at least two of its dimensions). All Pet Coke produced from the Coker Facility and sold to Buyer shall be processed through such crushing facilities.

(d) Seller will use All Commercially Reasonable Efforts to ensure that: (i) by September 1, 2001, all material aspects of the Coker Facility will be mechanically complete and in substantial conformity with their design plans and specifications, and that Pet Coke production will commence; (ii) by September 1, 2001, Seller will have obtained any permits, licenses, authorizations, consents exemptions, registrations, approvals, or other authorizations of any kind which are required to operate the Coker Facility and to produce Pet Coke having the specifications set forth in Article VI; and (iii) the Startup Period will end on or before March 31, 2002.

3.4 Seller shall provide to Buyer written progress reports, which include Seller's most recent projections as to the month in which the Coker Facility, currently under construction, is expected to be mechanically complete. Seller's reports will be provided to Buyer within 30 days following the end of each calendar quarter preceding completion, commencing in 2001.

3.5 Seller shall provide to Buyer (a) a written report of the projected Seller's Pet Coke Production for each calendar quarter within thirty (30) days prior to the beginning of such calendar quarter following the Startup Period; and (b) a written report of the actual Seller's Pet Coke Production for each calendar quarter within thirty (30) days after the end of such calendar quarter; it being understood that any such projection is for informational purposes only, and no such projection shall constitute or be deemed, interpreted or relied upon by Buyer as a certification by Seller of the volume of Pet Coke Seller is obligated to sell to Buyer hereunder. The reports of the actual Seller's Pet Coke Production will have a tolerance of plus or minus ten percent, as set forth in Article I, Definitions.

ARTICLE IV. QUANTITY

4.1 Buyer understands and agrees that Pet Coke is a by-product of oil refining and that, any

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term or provision of this Agreement to the contrary notwithstanding, Seller may from time to time determine, in its sole discretion, to (i) not produce Pet Coke; (ii) produce products other than Pet Coke; (iii) produce quantities of Pet Coke different from any estimates in this Agreement; or (iv) produce Pet Coke with quality specifications different from those set forth in Article VI of this Agreement.

4.2 Subject to the terms and conditions of this Agreement, Buyer shall purchase Pet Coke from Seller and Seller shall sell Pet Coke to Buyer in the quantities shipped by Seller to Buyer from time to time, in accordance with the following limits:

(a) in each calendar year, beginning with the calendar year in which Seller first introduces feed into the Coker Facility, at least 50% of Seller's Pet Coke Production (considering the ten percent (10%) tolerance referenced in Article I, Definitions) in the year, but no more than 500,000 Tons (or *pro rata* portion thereof, for periods which are less than a full calendar year); and

(b) subject to Article 4.2(a), in each calendar quarter, at least (i) 50% of Seller's Pet Coke Production (considering the ten percent (10%) tolerance referenced in Article I, Definitions) in such quarter or (ii) 75,000 Tons, (or *pro rata* portion thereof, for periods which are less than a full calendar quarter), whichever is less, but no more than 175,000 Tons.

4.3 Subject to the terms and conditions set forth in this Agreement, Seller may, at Seller's option, sell Pet Coke to Buyer (and upon exercise of Seller's option, Buyer shall purchase Pet Coke from Seller) in excess of the limits set forth in Article 4.2 (the "Put Quantity"). Put Quantity sales shall be upon and subject to the following terms and conditions:

(a) The right of Seller to sell Pet Coke as Put Quantity in a month shall be subject to the following:

(i) Seller may sell Pet Coke as Put Quantity if the maximum quarterly limitation set forth in Article 4.2(b) has been reached at that time, which is prior to the end of that calendar quarter;

(ii) the limitation set forth in Article 4.3(a)(i) shall not apply, and Seller may sell Pet Coke as Put Quantity, if the maximum annual limitation set forth in Article 4.2(a) has been reached at that time, which is prior to the end of that calendar year; in the event of which, any Pet Coke sold in such year which is in excess of the limitation set forth in Article 4.2(a) shall be sold as Put Quantity; and

(iii) the maximum volume of Pet Coke that Seller may sell as Put Quantity in a calendar year shall be 400,000 Tons (or *pro rata* portion thereof for periods less than a full calendar year).

(b) To exercise its option to sell Put Quantity volumes, Seller must give Buyer oral notice, followed by written confirmation, on or before the fifteenth day of a month, of Seller's

intention to deliver Put Quantity volumes in subsequent months. To be effective, such oral notice must be given:

(i) at least 15 days prior to the first day of a subsequent month, in order for Seller to sell a Put Quantity of 11,000 Tons or less to Buyer in the month;

(ii) at least 45 days prior to the first day of a subsequent month, in order for Seller to sell a Put Quantity of more than 11,000 Tons, up to 22,000 Tons, to Buyer in the month; and

(iii) at least 60 days prior to the first day of a subsequent month, in order for Seller to sell a Put Quantity of more than 22,000 Tons, up to 33,000 Tons, to Buyer in the month.

Seller may give Buyer its option exercise notice only once in a given month, for any one future month; it being understood, however, that Seller may in a given month give notices for multiple future months, and from month to month may deliver multiple notices to Buyer with respect to a given month, to the end that, with appropriate notification, the Put Quantity in a month may be as much as the maximum monthly limit set forth in Article 4.4.

(c) The purchase price to be paid by Buyer for any Put Quantity shall be the price determined in accordance with Article 8.3.

4.4 Articles 4.2 and 4.3 notwithstanding, the maximum volume of Pet Coke that Seller may sell to Buyer in a month, as Put Quantity or otherwise, shall be the greater of 91,000 Tons or Buyer's unloading capacity at the Power Facilities from time to time, which is 91,000 Tons on the date of this Agreement.

4.5 Each Shipment shall be adjusted for moisture content measured at the Source. Shipments having a moisture content of 9% or less shall receive no quantity adjustment. For Shipments having a moisture content more than 9%, the quantity thereof shall be determined by the following formula:

$$\text{Shipment quantity} = \text{Measured quantity (before moisture adjustment)} * (100-x)/91$$

Where x = the percent moisture in the Shipment.

By way of example, the Shipment quantity for a Shipment with ten percent moisture content would be multiplied by a factor of $(100-10)/91$, or 0.989.

4.6 With Buyer's consent, which may be withheld in Buyer's sole discretion, Seller may from time to time satisfy its obligations under this Agreement by selling Pet Coke to Buyer that has not been produced from the Coker Facility. Seller shall provide oral notification to Buyer of the anticipated source and quantity of the Pet Coke, and of any known variances that the Shipment is expected to have from the specifications set forth in Article VI, no less than 48 hours prior to the Ship Date of the Pet Coke, and Buyer shall accept or reject Seller's request within 48 hours after receiving such notification from Seller, it being understood that if Seller has not received notice

of Buyer's rejection within this time frame, Buyer shall have agreed to purchase the Pet Coke that is the subject of Seller's notification.

4.7 Buyer acknowledges that there are limited Pet Coke storage facilities at Seller's Garyville, Louisiana refinery and that its commitment to purchase and receive Pet Coke from Seller is accordingly of the essence of this Agreement. In the event that Buyer fails to purchase Pet Coke from Seller in the quantities required under this Agreement, and such failure is not otherwise excused pursuant to the terms and conditions of this Agreement, then in addition to Seller's right to recover compensatory damages, Buyer shall reimburse Seller for any and all other costs including, without limitation, any and all transportation, marketing and all other costs incurred by Seller to sell or dispose of Pet Coke not accepted by Buyer.

4.8 In the event that Seller fails to deliver Pet Coke to Buyer in the quantities required under this Agreement, and such failure is not otherwise excused pursuant to the terms and conditions of this Agreement, Seller shall reimburse Buyer for the costs of cover, including without limitation any and all transportation costs, costs of procurement of similar quality replacement Pet Coke to the extent but only to the extent that the purchase price thereof exceeds the amount due for an equal quantity of Pet Coke hereunder, and all other costs incurred by Buyer to acquire Pet Coke not delivered by Seller.

4.9 Any term or provision of this Agreement to the contrary notwithstanding, Buyer shall not be required to purchase, nor be subject to any liability for not purchasing Pet Coke hereunder if and to the extent that:

(a) such underpurchase comes as a consequence of Buyer performing or having performed remedial work required or beneficial for continued operation of the Grinders or Power Facilities (whether planned or unplanned) and causing Buyer to be unable, despite the exercise by Buyer of All Commercially Reasonable Efforts, to complete such remedial work in a timely fashion (it being understood by Seller that Buyer's ability to timely complete work on the Power Facilities may be influenced by its ability to secure necessary lessor and lessor's lenders' approvals), to purchase the minimum annual and quarterly quantities of Pet Coke set forth in Articles 4.2(a) and 4.2(b), respectively, provided that Buyer notifies Seller of any such planned work at least 90 days prior to the month in which such work is to begin, and of any other remedial work as soon as reasonably possible; or

(b) such underpurchase is the result of an underdelivery by Seller or is the result of Force Majeure excused pursuant to Article X.

4.10 Any other term or provision of this Agreement to the contrary notwithstanding, Seller shall not be required to deliver, nor be subject to any liability for not delivering Pet Coke hereunder if and to the extent that:

(a) such underdelivery results pursuant to a request by Seller to sell Pet Coke to a third party to which Buyer gives its consent, such request and consent to be in accordance with and governed by the following:

(i) Buyer shall receive Seller's verbal request no less than 72 hours prior to the date proposed by Seller as the effective date of the third party sale (which request shall set forth Seller's good faith estimate of proceeds Buyer will receive from such sale, shall be confirmed in writing by Seller, and shall be re-made if, prior to consummation of such sale, it becomes apparent that Buyer's proceeds will be more than fifteen percent less than originally estimated);

(ii) Buyer shall notify Seller of Buyer's rejection of Seller's request within 24 hours after receiving such request from Seller; it being understood that if Seller has not received notice of Buyer's rejection within this time frame, Buyer shall be deemed to have consented to Seller's request;

(iii) in the event Buyer consents to or fails to timely reject Seller's request, and Seller proceeds with the sale of Pet Coke to a third party, Seller shall pay Buyer an amount equal to 50% of the amount by which the net proceeds of the third party sale exceeds the net proceeds that would have been received by Seller had the Pet Coke been sold to Buyer hereunder, it being understood that Seller's net proceeds from the sale of the Pet Coke to a third party shall be calculated by subtracting, from the aggregate price paid by the third party, all of Seller's third party costs associated with the sale including, but not limited to, usual and customary marketing and transportation costs, and it being further understood that any such sale to a third party shall not result in a negative charge to Buyer; and

(iv) Seller's payment shall be in the form of a credit to the invoice issued by Seller pursuant to Article IX in the month following the month in which Seller receives the proceeds of sale of the third party sale; provided that in no event shall the final amount of any such invoice be negative by operation of this Article. In the event such credit would create a negative invoice amount, the excess will be carried forward and credited against the Buyer's next invoice;

(b) such underdelivery is the result of:

- (i) an underpurchase by Buyer;
- (ii) Force Majeure excused pursuant to Article X; or

(c) such underdelivery is within the tolerance referenced in Article I, Definitions .

4.11 Seller will notify Buyer of and afford Buyer an opportunity to bid upon any open market sales of Pet Coke that Seller intends to offer.

ARTICLE V. DELIVERY

5.1 Pet Coke shall be delivered as directed by Buyer via barge (i) F.O.B. Robert D. Green Generating Station at mile point 41.2 on the Green River, (ii) F.O.B. D.B. Wilson Generating Station at mile point 74.0 on the Green River, (iii) F.O.B. Coleman Generating Station at mile point 728.4 on the Ohio River, or (iv) F.O.B. Grand River Terminal at mile point 23 on the

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Tennessee River, as designated by Buyer (each a "Delivery Point"), or to such other place as may be designated by Buyer as provided in Article 5.2.

5.2 Buyer shall have the right to change designation of Delivery Points hereunder by timely notifying Seller of the revised Delivery Point. If in Seller's reasonable judgement, such notice provides Seller with sufficient time to redirect the barge before the Shipment arrives at the originally designated Delivery Point, Seller shall advise Buyer, as soon as Seller is reasonably able to do so, of any increases or decreases in transportation costs that would result from such change, with supporting documentation if requested by Buyer. Thereafter, Buyer shall notify Seller as to whether it wishes to proceed with the designation of a new Delivery Point. If Seller incurs additional transportation or other costs as a result of Buyer's designation of a new Delivery Point, or as a result of Buyer's election not to ultimately proceed with the new Delivery Point, any resulting increases in transportation costs shall be solely for the account of Buyer, and any decreases in transportation costs shall be credited to Buyer's account.

5.3 Seller shall arrange for barge transportation and shall pay for all costs, charges, and fees related to the transportation of the Pet Coke to a Delivery Point. Seller shall require that all barges employed in the delivery of Pet Coke are jumbo, open hopper type barges without covers, are maintained in a safe, seaworthy condition, suitable for the offloading of Pet Coke, and at the time of loading shall be free of debris and water.

5.4 Buyer's offloading facilities shall be capable of offloading Pet Coke from barges at the rate of at least 300 Tons per hour.

5.5 All costs incurred by either party in offloading Pet Coke from the barges including, but not limited to cleaning expenses resulting from cargo or debris left on board barges, are for the Buyer's account. Buyer shall remove all Pet Coke cargo and thereafter release barges with hoppers, walkways and decks reasonably free of Pet Coke and debris; provided, the estimated weight of any debris contained in cargo shall be deducted from the weight of the cargo. If the hoppers, walkways and decks are not reasonably free of Pet Coke and debris upon release by Buyer, the barges will remain on placement until cleaning is completed.

5.6 Title to and risk of loss of Pet Coke sold will pass to Buyer when barges are moored all fast in the unloading area designated by Buyer at the Delivery Point. Seller shall reimburse Buyer for any Pet Coke for which title has passed to Buyer but of which Buyer is unable, using its usual and customary unloading procedures and equipment, to actually take possession due to the negligent acts of Seller or Seller's carrier.

5.7 The Transaction Price set forth in Article 8 hereof includes a free time period of three days (the "Free Time Period"). The running of the Free Time Period and any resulting demurrage shall be determined in accordance with the following:

- (a) The Free Time Period shall not stop running during Sundays and national holidays.
- (b) For Delivery Points located on the Green River, Seller or Seller's carrier shall notify Buyer when a barge carrying a Shipment is ready to proceed to the Delivery Point from

the mouth of the Green River. If Buyer thereupon advises Seller or Seller's carrier that the barge may proceed to the intended Delivery Point, the Free Time Period shall commence upon actual placement of the barge at the Delivery Point. If Buyer advises Seller or Seller's carrier that the barge may not proceed to the Delivery Point, the Free Time Period shall commence upon actual placement of the barge at the fleeting service at the mouth of the Green River. In the event that actual placement at the Delivery Point or at the mouth of the Green River occurs after 6:00 p.m. local time, the Free Time Period shall commence no earlier than 7:00 a.m. on the following day;

- (c) For Delivery points not located on the Green River, the Free Time Period shall commence upon actual placement of the barge at the Delivery Point. In the event that actual placement at the Delivery Point occurs after 6:00 p.m. local time, the Free Time Period shall commence no earlier than 7:00 a.m. on the following day;
- (d) The Free Time Period shall end 72 hours after the Free Time Period commences.
- (e) If Buyer fails to complete unloading of the Pet Coke cargo for any reason that is not excused hereunder, and to provide Seller or Seller's carrier of notice of completion of unloading within the Free Time Period, demurrage charges shall be included in Seller's invoices to Buyer. Demurrage charges will be calculated at a daily rate equal to the demurrage rates in Seller's contract with the carrier.

ARTICLE VI. QUALITY

6.1 Pet Coke delivered hereunder shall be free and clear of any lien, claim or encumbrance, samples shall be taken from each Shipment and each Shipment shall conform to the following specifications:

<u>Property</u>	<u>Specification</u>	<u>Typical*</u>
Moisture, %	12.5 max	9.0
Ash (Dry Basis), %	1.5 max	< 0.2
Volatile Matter (Dry Basis), %	7.0 min	9.5
Sulfur (Dry Basis), %	10.0 max	7.7
HHV (Dry Basis), BTU/lb	13,500 min	14,750
HGI	25 min	30
Nickel (Dry Basis), ppm		360
Vanadium (Dry Basis), ppm		1600

*for information purposes only

For any given Shipment, the specifications expressed in this Article on a dry basis can be equated to an as-shipped specification by multiplying the dry specification value by (100-x)/100, where x is the actual percent moisture in the individual Shipment.

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6.2 Buyer acknowledges that Pet Coke is a refinery by-product and that for economic reasons, Seller cannot control the chemical composition of the Pet Coke sold to Buyer hereunder. **THEREFORE, PET COKE SOLD AND DELIVERED UNDER THIS AGREEMENT IS SOLD ON AN "AS IS" BASIS, EXCEPT AS OTHERWISE PROVIDED IN ARTICLE 6.1, AND NO OTHER WARRANTIES OR REPRESENTATIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, ARE MADE BY SELLER. SELLER EXPRESSLY DISCLAIMS WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE.**

6.3 Upon receipt of documentation that a Shipment is a Non-Conforming Shipment, Seller shall timely notify Buyer which specification or specifications cause the Shipment to be a Non-Conforming Shipment. Seller may sell the Non-Conforming Shipment to Buyer at a mutually agreeable price, provided that Seller shall be under no obligation to sell the Non-Conforming Shipment to Buyer.

6.4 Seller may require Buyer to purchase, at a price that is representative in the market place for similar quality petroleum coke, any Non-Conforming Shipment, provided such Non-Conforming Shipment is, in the reasonable judgement of Buyer, physically capable of being unloaded from barges using Buyer's unloading equipment. If Buyer and Seller are unable to agree on a price that is representative in the market place for similar quality petroleum coke, the parties shall select a third party consultant to determine the market price for the Non-Conforming Shipment. The cost of using such consultant shall be borne equally by Buyer and Seller. Buyer and Seller agree that if, in the reasonable judgment of Buyer, Buyer cannot use the Non-Conforming Shipment as fuel in the Power Facilities, Buyer will so advise Seller within seventy-two (72) hours after receiving Seller's verbal notice that the Shipment is a Non-Conforming Shipment. Upon receiving Buyer's notice, Seller shall either sell the Non-Conforming Shipment to a third-party purchaser or shall otherwise dispose of the Non-Conforming Shipment. In the event the Non-Conforming Shipment has been unloaded at the Buyer's Facilities, Buyer will assist Seller in loading the Non-Conforming Shipment into barges, trucks, or other transport means chosen by Seller, for further disposal by Seller. Seller will reimburse Buyer for reasonable costs incurred in loading the Non-Conforming Shipment. Title to Non-Conforming Shipments that are sold to third parties or otherwise disposed of by Seller shall remain with Seller. All costs incurred in selling and delivering the Non-Conforming Shipment to the third-party purchaser and/or costs incurred in transporting and disposing of the Non-Conforming Shipment shall be borne by Seller.

6.5 The volume of any Non-Conforming Shipments for which Buyer does not pay the Transaction Price shall not be counted as Pet Coke sold hereunder for purposes of determining fulfillment of Seller's obligation to supply or Buyer's obligation to buy Pet Coke for the calendar year in which the Non-Conforming Shipment's Ship Date occurred.

6.6 If, at any time after the Startup Period, Seller ships 5 or more Non-Conforming Shipments in a month, or if 20% or more of the Shipments during any calendar quarter are Non-Conforming Shipments, then Buyer may, upon 48 hours written notice to Seller, suspend future Shipments except Shipments already loaded into barges. After such notice, Seller may provide Buyer with assurances that subsequent Shipments of Pet Coke shall meet the specifications set

forth in Article 6.1, which assurances shall include All Commercially Reasonable Efforts to produce Pet Coke meeting the specifications set forth hereunder. Upon acceptance of Seller's assurances, such acceptance not to be unreasonably withheld, Buyer's suspension will end and Seller may resume shipments to Buyer. It is understood that if suspension occurs more than twice in one rolling twelve (12) month period, Seller will use All Commercially Reasonable Efforts to include corrective measures not theretofore taken in providing its assurances to Buyer.

ARTICLE VII. WEIGHTS, SAMPLING AND ANALYSIS

7.1 The weight of the Pet Coke delivered hereunder shall be determined by Seller on the basis of either belt scale weights or barge draft surveys, at Seller's option. Scale tests and calibrations shall occur pursuant to manufacturer's specifications or as mutually agreed by Buyer and Seller. Buyer may request that Seller have the scale tested by an independent testing agency chosen by Buyer after consulting with Seller, provided that such independent tests shall be performed no more than once every calendar quarter and that all testing costs shall be paid by Buyer. Seller shall provide Buyer with a copy of the test results and associated scale adjustments, if any, within three (3) working days after completion of the test. Buyer and its representatives shall have the right, upon reasonable notice to Seller, to observe a test at the loading port simultaneously with Seller and/or Seller's contractor.

7.2 The sampling of the Pet Coke delivered hereunder shall be performed at the loading port. Such sampling and analysis thereof shall be performed by Seller or Seller's contractor and, subject to Buyer's rights arising under this Article 7.2, the results thereof shall be accepted and used by the parties for determination of quality and characteristics of the Pet Coke delivered under this Agreement. Analyses shall be prepared in accordance with industry-accepted, ASTM standards or as mutually agreed by Buyer and Seller, and all costs of collecting samples and preparing the analyses shall be shared equally by Buyer and Seller. Samples for analyses shall be taken by an automatic sampler capable of belt sweep sampling, may be composited, and shall be taken with a frequency and regularity sufficient to provide reasonably accurate representative samples of the deliveries made hereunder. Seller or Seller's contractor shall maintain such sampler in good and reasonable mechanical condition such that the sampler shall perform its intended task of obtaining an unbiased sample complying with the standards as set forth by ASTM or as mutually agreed by Buyer and Seller. Seller shall notify Buyer in writing of any significant changes in the sampling and analysis practices. Any such changes in the sampling and analysis practices shall, except for industry accepted changes in practices, provide for no less accuracy than the sampling and analysis practices existing at the time of the execution of this Agreement, unless the parties otherwise mutually agree.

7.3 Each sample shall be divided into three (3) parts using acceptable industry standards and put into airtight containers, properly labeled and sealed. One part shall be used for analysis by Seller; one part shall be retained by Seller or Seller's contractor for a period of thirty (30) days and shall be delivered to Buyer for analysis if Buyer so requests within such thirty (30) day period; and one part ("Referee Sample") shall be retained by Seller or Seller's contractor for a period of thirty (30) days. Buyer shall be given timely and routine copies of all analyses as soon as practicable upon loading barges but in no case later than five (5) days following the loading of any given barge, unless such analysis is not yet available to Seller. Buyer, on reasonable notice

to Seller, shall have the right to have a representative present to observe the sampling and analyses performed by Seller or Seller's contractor. Unless Buyer requests a Referee Sample analysis, Seller's analysis shall be used by the parties to determine the quality of the Pet Coke delivered hereunder. At the end of each month the analyses and dry weights for Shipments during the month will be used to calculate a weighted average for each of the specifications identified in Article 6.1 (individually, an "Average Monthly Quality"; collectively, the "Average Monthly Qualities"). Non Conforming Shipments shall not be included in the calculation of the Average Monthly Qualities.

7.4 In the event the test results indicate that a Shipment has an HGI of less than 28, Seller shall, upon request of Buyer, have the sample for said Shipment re-tested. The arithmetic average of the two HGI tests shall be the HGI specification used for the Shipment.

7.5 Within the later of ten (10) days after the date of sampling, or three days after Buyer's receipt of analysis results, Buyer will provide the Seller written notice of any analysis results that are in dispute. Upon such notice, the Referee Sample shall be submitted for analysis to an independent commercial testing laboratory ("Independent Lab") mutually chosen by Buyer and Seller.

7.6 For each Pet Coke quality specification in question, if the analysis of the Independent Lab differs from the analysis of Seller by an amount that is no more than the amounts listed below:

- (a) 0.50% moisture
- (b) 0.06% ash on a dry basis
- (c) 2.0% volatile matter on a dry basis
- (d) 0.50% sulfur on a dry basis
- (e) 100 Btu/lb. on a dry basis
- (f) 3 HGI

then the analysis of the Seller shall prevail and the Independent Lab's analysis shall be disregarded. The cost of the analysis of the Independent Lab shall be borne by the Buyer in such case.

7.7 For each Pet Coke quality specification in question, if the analysis of the Independent Lab differs from the analysis of Seller by an amount more than the amounts listed in Article 7.6, then the analysis of the Independent Lab shall prevail and Seller's analysis shall be disregarded. The cost of the analysis made by the Independent Lab shall be borne by Seller in such case.

ARTICLE VIII. PRICE

8.1 The price of Pet Coke sold hereunder that is not part of a Non-Conforming Shipment or a Put Quantity shall be calculated each calendar quarter in accordance with the following formula (the "Transaction Price"):

Transaction Price = \$10.80/Ton + Quarterly Adjustment Amount

Where Quarterly Adjustment Amount is equal to:

Through December 31, 2007: (Average Market Midpoint - \$4.00) * 25%
 Effective January 1, 2008: (Average Market Midpoint - \$4.00) * 50%

For avoidance of doubt, Annex A is attached hereto to provide examples of the operation of the above formula.

8.2 Article 8.1 notwithstanding, in no event shall the Transaction Price be less than the minimum dollar amount, nor more than the maximum dollar amounts, indicated for the following time periods:

<u>Period</u>	<u>Minimum</u>	<u>Maximum</u>
2001 – 2004	\$10.00/Ton	\$11.25/Ton
2005 – 2007	\$10.00/Ton	\$12.37/Ton
2008 – 2011	\$ 9.00/Ton	\$13.37/Ton

8.3 The Transaction Price for all Tons comprising a Put Quantity shall be discounted \$0.375 per Ton in years 2001, 2002, 2003 and 2004. Commencing January 1, 2005 the Transaction Price for all Tons comprising a Put Quantity shall be discounted \$0.75 per Ton.

8.4 To reflect increases or decreases in Seller’s transportation costs resulting from Shipments delivered to any location other than the Base Delivery Point, Seller’s invoices shall include a transportation adjustment (the “Transportation Adjustment”). The Transportation Adjustment shall be equal to Seller’s incremental costs or savings resulting from delivery to a location other than the Base Delivery Point, provided such incremental costs or savings reflect arms-length negotiations for market transportation rates.

8.5 The parties agree to adjust the Transaction Price to reflect the quality of the Pet Coke delivered to Buyer hereunder as follows: if in any given month the Average Monthly Quality for sulfur is greater than 8.9% or less than 6.1% on a dry basis, Seller shall calculate an adjustment (“the Sulfur Adjustment”) to be applied to all Tons of Pet Coke shipped by Seller during the month. The Sulfur Adjustment shall be calculated as follows:

(a) If the Average Monthly Quality for sulfur is greater than 8.9%:

Sulfur Adjustment = Tons of Pet Coke purchased * [(8.9 - Average Monthly Quality for sulfur)* SO2 Allowance Price * 2]/100

For the avoidance of doubt, the sulfur adjustment where the Average Monthly Quality for sulfur is 9.9% and the SO2 Allowance Price is \$110/Ton SO2 shall be calculated as follows:

[(8.9 – 9.9) *110*2]/100 = -\$2.20/Ton. (This negative amount will be a reduction to the Transaction Price.)

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(b) If the Average Monthly Quality for sulfur is less than 6.1% but greater than or equal to 5.0%:

Sulfur Adjustment = Tons of Pet Coke purchased * (6.1 - Average Monthly Quality for Sulfur) * \$0.44

(c) If the Average Monthly Quality for sulfur is less than 5.0%:

Sulfur Adjustment = Tons of Pet Coke purchased * (\$0.48 + (5.0 - Average Monthly Quality for Sulfur) * \$0.80).

For the avoidance of doubt, the sulfur adjustment for Pet Coke having an Average Monthly Quality for sulfur of 3.0% shall be calculated as follows:

$\$0.48 + (5.0 - 3.0) * \$0.80 = \$2.08/\text{Ton}$ This positive amount will be an increase to the Transaction Price.

ARTICLE IX. INVOICES, BILLING AND PAYMENT

9.1 Invoices will be sent to Buyer by fax or email, at Seller's option, at fax and email addresses specified by Buyer.

9.2 For Shipments having a Ship Date of the 1st through the 15th of any calendar month, Seller shall invoice Buyer on the 25th of that month. For Shipments having a Ship Date of the 16th through the 31st of any calendar month, Seller shall invoice Buyer on the 10th of the following month. In the event that the invoice date falls on a weekend or a recognized holiday, the Shipments will be invoiced on the first business day preceding the weekend or holiday.

9.3 Seller may include in Seller's invoices any amounts permitted to be charged or credited to the account of Buyer, including but not limited to the Transaction Price for Pet Coke, Put Quantities, and Non-Conforming Shipment sales, Transportation Adjustments, Sulfur Adjustments, Buyer's percentage share of Call Quantity sales, taxes, duties, and fees set forth in Article XV, sampling and analysis costs, and other charges or credits permitted to be charged to Buyer under this Agreement. Seller will provide appropriate documentation and support for all charges/credits included in each invoice.

9.4 All payments required to be made by Buyer under this Agreement shall be made in immediately available U. S. Dollars, without discount or deduction other than as expressly provided in this Agreement, by wire transfer or by Automated Clearing House, at Seller's direction, to such bank account at such bank as may be designated by Seller from time to time. Payments shall be made on or before the day that is 10 days after the date of the invoice. In the event that the due date falls on a weekend or on a recognized national holiday, the payment will be due on the first business day immediately preceding said weekend or holiday.

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9.5 In the event of late payment by Buyer for any reason other than late receipt of Seller's invoices or Seller's supporting detail, then to the maximum extent permitted by applicable law, and without prejudice to the application of any other provision hereof or to any other remedy provided to Seller hereunder, interest shall accrue daily on the amount of the overdue payment, commencing on the date such payment was due, at a rate per annum equal to 2% above the prime rate in effect on such due date as announced by Citibank, N.A. at its offices in New York, New York, payable on demand.

9.6 Buyer shall have the right to withhold from payment of any invoice any sums which it is not able in good faith to verify or which it otherwise in good faith disputes, Buyer shall notify Seller promptly in writing of any such dispute, stating the basis of its claim and the amount it intends to withhold. Payment by Buyer, whether knowing or inadvertent, of any amount in dispute shall not be deemed a waiver of any claims or rights by Buyer with respect to any disputed amounts or payments made. In the event that Buyer withholds payment of any invoice, in whole or in part, pursuant to this Article, other than an invoice for which Seller has failed to provide supporting detail, and it is later determined that the withheld amount is owed, in whole or in part, to Seller, then Buyer shall reimburse Seller for the amount determined be owed together with interest thereon at the rate referred to in Article 9.5 calculated from the date the payment was due to the date of reimbursement.

ARTICLE X. FORCE MAJEURE

10.1 For purposes of this Agreement "Force Majeure" shall include any act or event by which the performance of a party's contractual obligation hereunder is prevented or impeded if and to the extent that the act or event is beyond the reasonable control of that party, is not the result of the party's breach, negligence or other fault, and the consequences of such act or event cannot be overcome through the party's exercise of All Commercially Reasonable Efforts and available rights to cure defaults, regardless whether such causes or circumstances could have been foreseen at the time when the agreement was entered into. Subject to the foregoing, Force Majeure shall include, but not be limited to strikes, lock-outs, labor disputes, sabotage, storm damage, floods and other natural phenomena, explosion, accidents, fire, war or acts of war, international conflicts, civil commotion, riot, insurrection, piracy, terrorism, blockade, epidemic, quarantine, embargo, mobilization, nondelivery or delayed delivery from or nonperformance due to Force Majeure declared by Seller's suppliers, shortage of suitable transportation, loading or unloading facilities, transport, loading or unloading hindrances or delays, restraints of whichever kind, shortage of energy or raw materials, export or import restrictions or prohibitions, institutions of quota and/or other measures or acts of any government, international organization or agency thereof, construction of independent power production facilities on site at Seller's Garyville, Louisiana refinery, which facilities utilize the total production of refinery Pet Coke, or termination or suspension of Buyer's rights to lease, operate or manage the Power Facilities, other than such termination or suspension resulting solely from any act or omission of Buyer which causes or gives rise to an event of default under any agreement under which such Buyer's rights to lease, operate or manage the Power Facilities arises and to which Buyer is a party. If Buyer's default is in dispute, and Buyer is prevented or suspended from leasing, operating or

managing the Power Facilities as a direct result of such dispute, a force majeure condition will be permissible only until such prevention or suspension is removed and Buyer's right to lease, operate and manage the Power Facilities is fully restored in accordance with that agreement.

10.2 Neither party to this Agreement shall be liable for demurrage, loss, damage, claim or demand of any nature arising out of delays or defaults in performance under this Agreement if and to the extent that such delays or defaults are due to Force Majeure.

10.3 Nothing herein shall (a) relieve Buyer of its obligation to pay in full for Pet Coke sold and delivered hereunder and all other amounts due and payable under this Agreement; or (b) require a party to make any settlement or arrangement with any labor union, supplier or other party which the party deems inadvisable in its sole discretion.

10.4 Seller shall allocate its available Coker Facility Pet Coke, on a *pro rata* basis, to all its affected commitments and reduce the total Shipments of Pet Coke to be supplied to Buyer without liability. Equitable allocation may include, at Seller's sole option, allocation of full Shipments and cancellation of other full Shipments; it being understood that the occurrence of an event of Force Majeure shall not under any circumstances require Seller to purchase Pet Coke from any party to sell to Buyer.

10.5 In the event that as a result of an event of Force Majeure, a party's performance under this Agreement is excused in part or in whole for a period in excess of 180 days, the other party shall have the right to terminate this Agreement exercisable by the delivery of written notice to the other party within thirty (30) days prior to (subject to the occurrence of the foregoing) or sixty (60) days following the end of such 180 day period. The occurrence of an event of Force Majeure shall in no event operate to extend the term of this Agreement or the parties' obligations deliver and purchase Pet Coke hereunder.

10.6 If the use of Pet Coke as a fuel source for the coal burning boilers at any of the Power Facilities is prohibited or restricted as a result of the enactment of environmental laws, the adoption of regulations or the reinterpretation of existing laws or regulations by a court or government agency, Buyer or Seller shall so notify the other party of such force majeure in writing, and thereupon Buyer and Seller shall promptly consider whether corrective actions can be taken in the production, preparation, transportation, handling and/or utilization of the Pet Coke. In the event of such enactment, adoption, or reinterpretation, Buyer agrees to either undertake negotiations or undertake All Commercially Reasonable Efforts to correct or eliminate this cause of force majeure; provided, however, Buyer shall not be required to use the Pet Coke at a generating station served by any other Delivery Point. Buyer acknowledges the fact that Seller may be able to provide valuable assistance with corrective actions or suggestions for addressing such laws and regulations and accordingly, Buyer agrees to provide Seller with the opportunity to suggest such assistance where practicable. Notwithstanding the foregoing, it is agreed that Seller shall have no obligation to provide such assistance and additionally, Buyer shall have sole discretion in determining the course of action that is appropriate for Buyer to use in addressing such situations. For the avoidance of doubt, Buyer will not be excused from performance under this agreement as a result of being required by the U.S. EPA to install Selective Catalytic Reduction Systems at any of the Green Station Units 1 or 2 .

ARTICLE XI. NOTICES.

11.1 All oral notices given pursuant to this Agreement shall be promptly confirmed in writing.

11.2 Any official notice, request for approval or other document required or permitted to be given under this Agreement shall be in writing, unless otherwise provided herein, and shall be deemed to have been sufficiently given when received through any of the following methods: delivery in person, transmission by facsimile or other electronic media with reasonable confirmation of receipt, delivery through an established delivery service requiring acknowledgment of receipt for same day or overnight delivery, or delivery through the United States mail, postage prepaid, for mailing by first class, certified, or registered mail, return receipt requested, and addressed as follows:

If to Buyer: Western Kentucky Energy Corp
P.O. Box 32030 (40232)
220 West Main Street
Louisville, Kentucky 40202 (physical address Zip Code)
Attn.: Manager - Fuels Strategy and Procurement, 4th Floor

If to Seller: Marathon Ashland Petroleum LLC
539 South Main Street
Findlay, Ohio 45840-3295
Attn: National Account Representative

11.3 Either party may change the person or address specified above upon giving written notice to the other party of such change.

11.4 Seller hereby agrees to electronically transmit shipping notices and/or other data to Buyer by facsimile or email upon Buyer's request provided that the cost to Seller is not unreasonable, in Seller's opinion. Buyer and Seller shall mutually agree on the appropriate format for any electronic data transmission requirements.

ARTICLE XII. INDEMNITY AND LIMITATION OF LIABILITY

12.1 Each party (the "Indemnifying Party") agrees to indemnify and hold harmless the other party, its parent and affiliates and any of their officers, directors, and employees (collectively the "Indemnified Party"), from any and all claims, demands, losses, liabilities including, but not limited to, liabilities for personal injury or death of persons, property damage or destruction, or pollution of air, soil or groundwater, costs and expenses including, but not limited to, reasonable attorney fees, expert witness and other consultant fees, and other costs and expense of litigation, due to the Indemnifying Party's failure to comply with any laws, regulations or ordinances, (ii) due to the acts or omissions of the Indemnifying Party in the performance of this Agreement, or

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(iii) resulting or arising from a breach by the Indemnifying Party of any of its representations or warranties contained herein.

12.2 Except for consequential damages that are expressly provided hereunder, neither party shall be liable for consequential, special or punitive damages of any kind arising out of or in any way connected with the performance of or failure to perform this Agreement including, but not limited to, losses or damages resulting from shutdown of plants or inability to perform other contracts. Additionally, each party shall use good faith efforts to mitigate damages whenever practicable, except to the extent such damages are caused by the breaching party's willful misconduct.

ARTICLE XIII. TERMINATION FOR DEFAULT.

13.1 If any party hereto commits a material breach of any of its obligations under this Agreement at any time, then the other party has the right to give written notice describing such breach and stating its intention to terminate this Agreement no sooner than three (3) days, in the case of nonpayment by Buyer of Seller's invoices when due, and no sooner than sixty (60) days in the case of any other material breach hereunder, after the date of the notice (the "Notice Period"). If such material breach is curable and the breaching party cures such material breach within the Notice Period, then the Agreement shall not be terminated due to such material breach. If such material breach is not curable or the breaching party fails to cure such material breach within the Notice Period, then this Agreement shall terminate at the end of the Notice Period; provided, that such termination shall be cumulative to and not in substitution of all the other rights and remedies available to an aggrieved party under this Agreement, at law or in equity.

ARTICLE XIV. DISPUTE RESOLUTION

14.1 The parties will attempt in good faith to resolve any controversy or claim, whether based in contract, tort or otherwise, arising out of, relating to or in connection with this Agreement ("Dispute") in accordance with this Article. Without limiting the generality of the foregoing, the following are considered Disputes: (a) all questions relating to the breach of any obligation, warranty, covenant or condition herein; (b) all questions relating to any representations, negotiations and other proceedings leading to the execution hereof; (c) failure of any party to deny or reject a claim or demand of any other party, (d) all questions relating to the causes, validity or circumstances of the termination of this Agreement; (e) all questions as to whether Disputes are to be resolved pursuant to the provisions of this Article; and (f) all questions relating to a claim for indemnity pursuant to this Agreement. The parties' obligation to resolve Disputes pursuant to this Article shall survive the termination of this Agreement.

14.2 The parties will promptly seek to resolve any Dispute by negotiations between senior executives of the parties who have authority to settle the controversy. When a party believes there is a Dispute under this Agreement, that party will give the other party written notice of the Dispute. Within twenty (20) days after the date of such notice, the receiving party shall submit

to the other a written response. The notice and response shall include (a) a statement of each party's position and a summary of the evidence and arguments supporting its position, and (b) the name and title of the executive who will represent that party. The executives shall meet at a mutually acceptable time and place within thirty (30) days after the date of the notice and thereafter as often as they reasonably deem necessary to exchange relevant information and to attempt to resolve the Dispute. If a party's executive intends to be accompanied at a meeting by an attorney, the other party shall be given at least three (3) Business Days' notice of such intention and may be accompanied by an attorney. All negotiations pursuant to this Article 14.2 shall be held confidential by each party, and shall be treated as compromise and settlement negotiations for the purposes of the Federal Rules of Evidence and State Rules of Evidence.

14.3 If the Dispute has not been resolved within sixty (60) days after the date of the notice given pursuant to Article 14.2, or if either party fails or refuses to participate in the negotiations described in Article 14.2, the Dispute shall be finally settled by arbitration conducted expeditiously in accordance with the then current Rules of Practice and Procedure for the arbitration of commercial disputes of J.A.M.S./Endispute or any successor thereto ("JAMS"), by three independent and impartial arbitrators selected by JAMS. The arbitration will be binding and non-appealable, and shall be governed by the United States Arbitration Act, 9 U.S.C. 1-16, to the exclusion of any provision of state law inconsistent therewith and which would produce a different result, and judgment upon the award rendered by the Arbitrators may be entered by any court having jurisdiction thereof. The place of arbitration shall be Cincinnati, Ohio. The arbitrators shall apply the substantive law of the State of Kentucky, exclusive of its conflict of law rules. The arbitrators are empowered to award compensatory damages (including attorneys' and experts' fees and interest), and each party hereby irrevocably waives any damages in excess of compensatory damages (including attorneys' and experts' fees and interest), including a waiver of any punitive or multiple damages. The arbitrators are also empowered to render decisions declaratory of the party's respective rights and obligations under this Agreement.

14.4 All deadlines specified in this Article XIV may be extended by mutual written agreement.

14.5 Each party is required to continue to perform its obligations under this Agreement pending final resolution of any Dispute.

14.6 Unless otherwise set forth herein, the procedures specified in this Article XIV shall be the sole and exclusive procedures for the resolution of Disputes between the parties arising out of or relating to this Agreement; provided, however, that a party may seek a preliminary injunction or other preliminary legal or equitable relief if in the judgment of that party such action is necessary to avoid irreparable damage or to preserve the status quo. The parties hereto agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties hereto shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in any court of the United States in the State of Ohio or Kentucky, or in any Ohio or Kentucky state court, this being in addition to any other remedy to which they are entitled at law or in equity.

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ARTICLE XV. TAXES, DUTIES AND FEES

15.1 Buyer agrees to pay for or reimburse Seller for all taxes, duties, fees or other assessments imposed by any US, state, local or other governmental entity on the sale, use, delivery of or otherwise in connection with the sale of Pet Coke to Buyer hereunder. Such taxes, duties, fees and other assessments shall include, but not be limited to, sales, processing, gross receipts, excise, privilege, environmental and fuel taxes. Buyer and Seller acknowledge that if Pet Coke were being sold to Buyer at the time of execution of this Agreement, no taxes, duties, fees, or assessments would be applicable to such sale. If, however, during the term of this Agreement, any such tax at any time equals or exceeds \$2.00 per Ton of Pet Coke, Buyer and Seller shall meet to discuss possible adjustments to the pricing or quantity terms of this Agreement. Such taxes shall not include any tax measured by the net income from the sale of the Pet Coke. Buyer must timely furnish Seller with satisfactory exemption certificates where exemptions are claimed.

ARTICLE XVI. ASSIGNMENT

16.1 Except as expressly provided by this Article XVI, neither party shall assign all or any part of this Agreement, directly or indirectly, by operation of law or otherwise, to any person without first obtaining the written approval of the other, which approval may be granted or withheld in the other party's sole discretion. Notwithstanding anything to the contrary contained in this Agreement, no assignment of this Agreement shall be made except to a permitted assignee hereunder.

16.2 In the event that either party shall be party to a merger, consolidation or similar business combination transaction with a third party, or sell all or substantially all its assets to a third party, the party may assign this Agreement to such third party; provided, that at least thirty (30) days prior to such assignment, the assigning party has delivered to the non-assigning party an instrument in form and substance satisfactory to the non-assigning party containing provisions whereby the surviving entity is deemed a party to this Agreement and agrees to be bound by all of the terms of, and to undertake all the obligations of the assigning party contained herein.

16.3 Either party may, without consent of the other, assign all or any part of this Agreement to any company, controlling, controlled by, or under common control with the assigning party; provided, the assigning party enters into an agreement with the nonassigning party providing that during the term of this Agreement, such company shall remain in control of, controlled by, or under common control with the assigning party.

16.4 Seller may assign this Agreement without the consent of Buyer to any person who:

- (a) acquires its refinery at Garyville, Louisiana;
- (b) has petroleum refinery operating expertise and experience comparable to that of Seller; and

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(c) has an investment-grade quality and capacity, or has its obligations guaranteed by an affiliate having an investment-grade quality and capacity.

16.5 In connection with any assignment by a party pursuant to Articles 16.2, 16.3, or 16.4, the assignee shall at the time of such assignment become subject to all of the assigning party's obligations hereunder and shall succeed to all of the assigning party's rights hereunder, and assigning party shall be relieved of its obligations hereunder.

16.6 In the event of an assignment made in violation of the applicable provisions of this Agreement, the non-assigning party shall have the right, without prejudice to any other rights or remedies it may have hereunder or otherwise, to terminate this Agreement effective immediately upon notice to the assigning party.

ARTICLE XVII. MISCELLANEOUS

17.1 This Agreement shall be construed in accordance with the laws of the State of Kentucky, and all questions of performance of obligations hereunder shall be determined in accordance with such laws, without regard to choice of law principles.

17.2 The paragraph headings appearing in this Agreement are for convenience only and shall not affect the meaning or interpretation of this Agreement.

17.3 The failure of either party to insist on strict performance of any provision of this Agreement, or to take advantage of any rights hereunder, shall not be construed as a waiver of such provision or right.

17.4 Remedies provided under this Agreement shall be cumulative and in addition to other remedies provided under this Agreement or by law or in equity.

17.5 If any provision of this Agreement is found contrary to law or unenforceable by any court of law, the remaining provisions shall be severable and enforceable in accordance with their terms, unless such unlawful or unenforceable provision is material to the transactions contemplated hereby, in which case the parties shall negotiate in good faith a substitute provision.

17.6 This Agreement shall bind and inure to the benefit of the parties and their successors and assigns.

17.8 This Agreement contains the entire agreement between the parties as to the subject matter hereof, and there are no representations, understandings or agreements, oral or written, which are not included herein.

17.9 Except as otherwise provided herein, this Agreement may not be amended, supplemented or otherwise modified except by written instrument signed by both parties hereto.

ARTICLE XVIII. CONFIDENTIALITY

18.1 Seller and Buyer agree to maintain in strict confidence the terms and conditions of this Agreement and any information or data relating hereto exchanged or obtained by the parties during negotiation and performance of this Agreement. Neither Buyer nor Seller shall disclose any of the terms and conditions hereof to any third party (except to affiliates of Seller or Buyer) without the prior written consent of the other party, except where such disclosure may be required by law or in connection with a judicial or administrative proceeding involving a party hereto, in which event the party intending to make such disclosure shall advise the other in advance and cooperate to minimize the disclosure to the extent possible. The obligations of Buyer and Seller arising under this Article XVIII shall continue for a period of three (3) years following termination or expiration of this Agreement.

ARTICLE XIX. BUSINESS RELATIONSHIP

19.1 This Agreement is not intended to constitute or create a joint venture, pooling arrangement, partnership, or formal business organization of any kind, and the rights and obligations of the parties shall be only those expressly set forth herein. Neither party shall have authority to bind the other party. Both parties shall remain as independent contractors at all times, and neither party shall act as the agent for another. Nothing herein shall be construed as providing for the sharing of profits or losses arising out of the efforts of any of the parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

WESTERN KENTUCKY ENERGY CORP.

By: George Basinger
George Basinger
President - WKEC
Date: 12/12/00

MARATHON ASHLAND PETROLEUM LLC

By: John P. Sumner
Date: _____



WKE STATION TWO INC.

By: George Basinger
George Basinger
President - WKE Station Two Inc.
Date: 12/12/00

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ANNEX A

TRANSACTION PRICE – SAMPLE CALCULATIONS

	Sample Quarter 1	Sample Quarter 2	Sample Quarter 3	Sample Quarter 4	Sample Quarter 5
Average Market Midpoint	\$ 3.00	\$ 5.00	\$ 4.00	\$ 12.00	\$ (4.00)
Average Market Midpoint Less \$4.00	\$ (1.00)	\$ 1.00	\$ -	\$ 8.00	\$ (8.00)
Quarterly Adjustment Amount (Previous Line X 25%*)	\$ (0.25)	\$ 0.25	\$ -	\$ 2.00	\$ (2.00)
Add \$10.80	\$ 10.80	\$ 10.80	\$ 10.80	\$ 10.80	\$ 10.80
Transaction Price Before Limits	\$ 10.55	\$ 11.05	\$ 10.80	\$ 12.80	\$ 8.80
<i>Maximum Limit at Beginning of Contract**</i>	\$ 11.25	\$ 11.25	\$ 11.25	\$ 11.25	\$ 11.25
<i>Minimum Limit at Beginning of Contract**</i>	\$ 10.00	\$ 10.00	\$ 10.00	\$ 10.00	\$ 10.00
Transaction Price	\$ 10.55	\$ 11.05	\$ 10.80	\$ 11.25	\$ 10.00

* The 25% factor increases to 50% on January 1, 2008

**Maximum Limit increases to \$12.37 on January 1, 2005; Maximum and Minimum limits change to \$13.37 and \$9.00 respectively on January 1, 2008

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COAL SUPPLY AGREEMENT

This Coal Supply Agreement (the "Agreement") dated as of January 1, 20~~10~~, by and between BIG RIVERS ELECTRIC CORPORATION, a Kentucky corporation, 201 Third Street, Henderson, Kentucky 42420 ("Buyer"), and ALLIED RESOURCES, INC., a Kentucky corporation, having an address of 15 New Steamport Road, Sebree, Kentucky 42455 ("Seller") establishes the terms and conditions pursuant to which the Buyer shall purchase and the Seller shall sell coal of the qualities and quantities described herein. The following terms constitute all of the terms and conditions of the binding agreement between the parties regarding this transaction. Seller agrees to sell and deliver, and Buyer agrees to buy and accept, bituminous coal of quality, quantity, price, and on the terms and conditions stated in this Agreement.

WITNESSETH:

WHEREAS, Buyer desires to purchase steam coal; and

WHEREAS, Buyer and Seller desire to enter into a coal supply agreement pursuant to which the Seller will supply coal to Buyer under the terms as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1. GENERAL.

(a) The above recitals are true and correct and comprise a part of this Agreement.

(b) Seller will sell to Buyer, and Buyer will buy from Seller steam coal under all the terms and conditions of this Agreement.

(c) Each covenant, representation and warranty given by Seller herein is a material inducement for Buyer to enter into this Agreement.

SECTION 2. TERM. The term of this Agreement shall commence on January 1, 2010 and shall continue through December 31, 2011, unless earlier terminated as specifically provided herein.

SECTION 3. QUANTITY.

§ 3.1 Base Quantity. Seller shall sell and deliver and Buyer shall purchase and accept delivery of the following annual base quantity of coal ("Base Quantity").

<u>Year</u>	<u>Base Quantity (tons)</u>
2010	650,000
2011	500,000

§ 3.2 Delivery Schedule. Seller shall deliver the Base Quantity in approximately equal monthly installments during the calendar year. Buyer and Seller agree to work in good faith to establish or make reasonable changes in previously established delivery schedules to the extent

possible given Seller's operational logistics and schedules with its other customers and Buyer's operational logistics and schedules with its other suppliers.

Time is of the essence with respect to such deliveries. A failure by Seller to deliver coal or by Buyer to accept coal in accordance with the provisions of this § 3.2, other than a failure resulting from a force majeure event, as defined in § 10 hereof, shall constitute a material breach within the meaning of § 14 of this Agreement.

SECTION 4. SOURCE.

§ 4.1 Source. During the term of this Agreement (through December 31, 2011), Seller shall mine and supply the coal sold hereunder from the Onton No. 9 Mine, an underground mining facility located in Webster County, Kentucky, holding mining permits 915-5017 and mine MSHA ID 15-18547 and mining the West Kentucky No. 9 geological coal seam (the "Coal Property"). If Seller or any of its subsidiaries, acquire or come into the control of a new mine after the date hereof, Seller shall have the right to add such new mine as an additional source under this Section 4.1, upon the written notice by Seller to Buyer of the addition of such new source. In the event a new mine is added as a source by Seller pursuant to the preceding sentence, such new mine shall be automatically included, from and after the date of the notice, in the definition of "Coal Properties". Any coal supplied from a new mine shall comply with all of the terms and conditions hereof, including without limitation, the quality specifications provided in Section 6. The decision regarding which one or more of the Coal Properties will source the coal sold hereunder at any given time shall be at Seller's sole discretion.

§ 4.2 Assurance of Operation and Reserves. Seller represents and warrants that the Coal Property contains economically recoverable coal of a quality and in quantities which will be sufficient to satisfy all the requirements of this Agreement. Seller agrees and warrants that it or its producer will have adequate machinery, equipment and other facilities to produce, prepare and deliver coal in the quantity and of the quality required by this Agreement. Seller hereby dedicates to this Agreement sufficient reserves of coal meeting the quality specifications hereof so as to fulfill the quantity requirements hereof. Seller's dedication of reserves shall in no way be construed to limit or restrict Seller's ability to claim a valid force majeure event under provisions of Section 10 herein.

§ 4.3 Non-Diversion of Coal. Seller agrees and warrants that it will not, without Buyer's express prior written consent, use or sell coal, from the Coal Property in a way that will reduce the economically recoverable balance of coal in the Coal Property to an amount of coal less than that required to be supplied to Buyer based on the economic and mining conditions then existing.

§ 4.4 Mining Overview. On or before March 1, 2010, Seller and Buyer shall meet and Seller shall have prepared a general overview of Seller's mining plan for the Coal Property with reasonable information to demonstrate Seller's capability to have coal produced from the Coal Property which meets the quantity and quality specifications of this Agreement. Seller shall not be obligated to provide Buyer with any written detail, however, Seller shall provide reasonable, timely, and adequate information to Buyer in regard to any foreseen mining conditions which might hinder, delay, or otherwise cause supply disruptions during the term of this Agreement.

Buyer's receipt of any such mining information or data furnished voluntarily by Seller (the "Mining Information") shall not in any manner relieve Seller of any of Seller's obligations or responsibilities under this Agreement. Buyer's receipt and review, if any, of any Mining Information shall not be construed as constituting an approval of Seller's proposed mining overview or mining practices. Any such mining information furnished to Buyer by Seller shall be held in strict confidence and shall not be disclosed to third parties during the term of this Agreement and for a period of two (2) years thereafter. The parties acknowledge that Buyer has no right to approve, disapprove or require modification of Seller's mining plan. Buyer and Seller understand and acknowledge that a review, if any, by Buyer of the Mining Information shall be limited solely to a determination, for Buyer's purposes only, of Seller's capability to supply coal to fulfill Buyer's requirements of a dependable coal supply. In the event, Buyer does not reasonably believe that Seller has sufficiently demonstrated Seller's capability to have coal produced from the Coal Property which meets the quantity and quality specifications of this Agreement, then the Buyer may terminate this Agreement upon 30 days written notice to the Seller, and Buyer shall not have any further obligations to Seller hereunder.

§ 4.5 Relationship of the Parties. Seller agrees that it is not and will not hold itself out as a partner, joint venturer, employee, agent or representative of Buyer. Nothing herein contained shall be construed as creating a single enterprise, joint venture, agency, partnership, joint employer, owner-contractor, or lessor-lessee relationship between Buyer and Seller.

Seller shall have sole and exclusive authority to direct and control its respective activities and operations, and those of any subcontractors, undertaken in the performance of Seller's obligations under this Agreement. Seller shall exercise full and complete control over its respective work force and labor relations policies. Buyer shall have no authority or control over Seller's operations or work force.

§ 4.6 Substitute Coal. Notwithstanding the above representations and warranties, Seller shall promptly advise Buyer at least thirty (30) days prior to any scheduled delivery date in the event that Seller anticipates that it will be unable to produce or obtain coal from the Coal Property in the quantity and of the quality required by this Agreement, and such inability is not caused by a force majeure event as defined in § 10. Buyer may request, within five (5) business days after such notification, that Seller supply coal to Buyer not produced from the Coal Property ("Substitute Coal"). Seller will then have the right, with the express written consent of Buyer, which shall not be unreasonably withheld, to supply Substitute Coal. Alternatively, Seller may request Buyer's written consent, which shall not be unreasonably withheld, to supply Substitute Coal. Any such supply of Substitute Coal shall be subject to all the terms and conditions of this Agreement including, but not limited to, the price provisions of § 8, the quality specifications of § 6.1, and the provisions of § 5 concerning reimbursement to Buyer for increased transportation costs. Buyer's failure to request that Seller provide substitute coal shall not limit or affect any rights and remedies Buyer may have for Seller's breach of its obligations to supply coal pursuant

to this Agreement. Seller's delivery of Substitute Coal without having received the express written consent of Buyer shall constitute a material breach of this Agreement.

SECTION 5. DELIVERY.

§ 5.1 Delivery Point. The coal shall be delivered to Buyer F.O.B. coal pile at Buyer's Sebree Generating Complex located at 9000 Highway 2096, Robards, Kentucky or F.O.B. barge at Seller's Steamport Dock located at mile point 45.6 on the Green River as directed by Buyer (the "Delivery Point"). Buyer may also elect another delivery point; however, any additional expense or savings as a result of the election of an alternate delivery point shall be for Buyer's account.

§ 5.2 Title/Risk of Loss. Title to and risk of loss of coal sold hereunder will pass to Buyer and the coal will be considered to be delivered when trucks containing the coal are fully unloaded by Seller's trucking contractor at the Delivery Point or as fully loaded barges are released by Seller to Buyer's barging contractor at the Steamport Dock.

§ 5.3 Barge Delivery. Buyer or its contractor shall furnish suitable barges in accordance with a delivery schedule provided by Buyer to Seller. Seller shall ensure that rake barges are loaded to a minimum of 1,525 tons per barge and that box barges are loaded to a minimum of 1,625 tons per barge unless river conditions are such that less amounts must be loaded or barges arrive at the loading point containing excess residual coal material. It shall be the responsibility of Buyer or its contractor to ensure barges supplied are clean and suitable for loading. In the event lesser amounts are loaded, notice of light loading and river condition requirements for such

light loading shall accompany Seller's shipment notice. Seller shall arrange and pay for all costs of transporting the coal to the staging areas for loading of barges and for loading and trimming the coal into barges to the proper weight and proper distribution within the barges. Buyer shall arrange for transporting the coal from the Delivery Point to Buyer's generating station(s) and shall pay for the cost of such transportation. Seller shall be responsible for any delays costs or other penalties assessed by Buyer's barging contractor and actually paid by Buyer for actual charges or costs incurred by Buyer which accrue at the Delivery Point which are deemed to have been caused by Seller, and not otherwise excused by an event of force majeure. If, in the reasonable opinion of Seller or its representative, the supplied barges contain an excess of residual material which makes them unsuitable for loading, it will be the responsibility of Buyer or its contractor to remove any residual material from the supplied barges at Buyer's expense. Seller shall, as the loading operator, ensure that the barges provided by Buyer or Buyer's contractor shall be provided convenient and safe ingress, transit, berth, loading, and egress while the barges are at the Seller's Steamport Dock. Seller shall be responsible for all fleeting, switching, and other mooring fees associated with loading and safely harboring the barges until such time as Buyer's contractor removes the barges. Buyer or its contractor shall not unreasonably delay pick up of barges upon notice of loading and release.

SECTION 6. QUALITY.

§ 6.1 Specifications. (a) The coal delivered hereunder shall conform to the following specifications on an "as received" basis pursuant to Buyer's election of quality:

<u>Quality A Specifications</u> BTU/LB.	<u>Guaranteed Monthly Weighted Average</u> min. 11,700	<u>Rejection Limits (per shipment)</u> < 11,200
Ash	Max. 9.65 lbs./MMBTU	> 10.15 lbs./MMBTU
Moisture	Max. 10.26 lbs./MMBTU	> 11.54 lbs./MMBTU
Sulfur	Max. 2.625 lbs./MMBTU	> 3.00 lbs./MMBTU
<u>Quality B Specifications</u> BTU/LB.	<u>Guaranteed Monthly Weighted Average</u> min. 11,500	<u>Rejection Limits (per shipment)</u> < 11,000
Ash	Max. 10.50 lbs./MMBTU	> 11.00 lbs./MMBTU
Moisture	Max. 10.43 lbs./MMBTU	> 11.74 lbs./MMBTU
Sulfur	Max. 2.87 lbs./MMBTU	> 3.12 lbs./MMBTU
<u>Quality C Specifications</u> BTU/LB.	<u>Guaranteed Monthly Weighted Average</u> min. 11,000	<u>Rejection Limits (per shipment)</u> < 10,500
Ash	Max. 13.25 lbs./MMBTU	> 13.75 lbs./MMBTU
Moisture	Max. 10.90 lbs./MMBTU	> 12.30 lbs./MMBTU
Sulfur	Max. 3.63 lbs./MMBTU	> 3.75 lbs./MMBTU

All Qualities (lbs./MMBTU)

Sulfur	min. 2.00	< 2.00
Chlorine	max. 0.13	> 0.18
Fluorine	max. .01	> .0125
Nitrogen	max. 1.75	> 2.50

Arsenic (ug/g)	max. 15	> 20
Vanadium (ug/g)	max. 75	> 130
SIZE (3" x 0"):		
Top size (inches)*	max. 3"	> 3"
Fines (% by wgt)		
Passing 1/4" screen	max. 50%	> 55 %

% BY WEIGHT:

VOLATILE	min. 35	< 33
FIXED CARBON	min. 40	< 38
GRINDABILITY (HGI)	min. 52	< 50

ASH FUSION TEMPERATURE (°F) (ASTM D1857)

REDUCING ATMOSPHERE

Initial Deformation	min. 1990	min. 1990
Softening (H=W)	min. 2150	min. 2000
Softening (H=1/2W)	min. 2300	min. 2150
Fluid	min. 2350	min. 2200

OXIDIZING ATMOSPHERE

Initial Deformation	min. 2410	min. 2300
Softening (H=W)	min. 2440	min. 2375
Softening (H=1/2W)	min. 2550	min. 2425
Fluid	min. 2590	min. 2450

* All the coal will be of such size that it will pass through a screen having circular perforations three (3) inches in diameter, but shall not contain more than fifty-five percent (55%) by weight of coal that will pass through a screen having circular perforations one-quarter (1/4) of an inch in diameter.

Note: As used herein: > means greater than;
 < means less than.

§ 6.2 Election of Quality. Buyer may reasonably elect deliveries of a single quality, or multiple qualities, from the qualities listed under § 6.1 Specifications. Buyer shall specify the quality of coal to be delivered by providing oral, followed by written notice (which may be via electronic correspondence) to Seller specifying the monthly quantity for a particular quality of coal to be purchased by Buyer. Buyer and Seller agree to work in good faith to make changes in previously established delivery schedules for a particular quantity and quality of coal to the extent possible given Seller's operational capabilities, logistics and schedules with its other customers and Buyer's operational logistics and schedules with its other suppliers.

§ 6.3 Definition of "Shipment". As used herein, a "shipment" shall mean: one (1) day's delivery of loaded coal trucks or one (1) jumbo open-top barge, in accordance with Buyer's or Seller's sampling and analyzing practices. Buyer shall not be responsible for improperly loaded trucks in the event Seller controls or contracts the truck delivery and/or truck loading process. Furthermore, Buyer has the right to refuse delivery of over-weight or improperly loaded trucks.

§ 6.4 Rejection. Buyer has the right, but not the obligation, to reject any shipment which fail(s) to conform to the Rejection Limits set forth in § 6.1. Buyer must reject such coal within seventy-two (72) hours of receipt of the coal analysis provided for in § 7.2 or such right to reject is waived. Buyer has the further right, but not the obligation, to reject at any time, any shipment which contains extraneous materials, which include, but are not limited to, slate, rock,

wood, corn husks, mining materials, metal, steel, etc. ("Debris") as reasonably determined by Buyer.

In the event Buyer rejects such non-conforming coal, title to and risk of loss of the coal shall be considered to have never passed to Buyer and Buyer may, at its sole option, stop the non-conforming shipment in route, prevent the unloading of the non-conforming shipment, return the coal to Seller or mutually agree with Seller upon a disposition for such coal shipment, all at Seller's cost and risk.

Seller shall replace the rejected coal within five (5) working days from notice of rejection with coal exceeding the Rejection Limits set forth in § 6.1. If Seller fails to replace the rejected coal within such five (5) working day period or the replacement coal is rightfully rejected, Buyer may purchase coal from another source in order to replace the rejected coal. Seller shall reimburse Buyer for (i) any amount by which the actual price plus transportation costs to Buyer of such coal purchased from another source exceeds the price of such coal under this Agreement plus transportation costs to Buyer from the Delivery Point; and (ii) any and all transportation, storage, handling, or other directly related expenses that have been incurred by Buyer for rightfully rejected coal.

If the non-conforming shipment has been unloaded at Buyer's generating station prior to the receipt of the coal analysis provided for in § 7.2, Buyer and Seller shall, at Buyer's option, confer for the purpose of reaching agreement on an adjustment to the Base Price to be paid for such coal. In addition, Seller shall reimburse Buyer for any penalties, costs or charges, including

reasonable inside and outside attorney's fees, associated with or resulting from the use of the non-conforming shipment. Buyer shall provide Seller with a written calculation of any such penalties, costs or charges within thirty (30) days after receipt of the coal analysis, or as soon as practicable thereafter. Seller shall make payment to Buyer within thirty (30) days of receipt of the written calculation.

In the event Buyer and Seller are unable to reach an agreement concerning an adjustment to the Base Price, Buyer may, at its sole option, and upon written notice to Seller, require Seller to remove all coal constituting the non-conforming shipment from Buyer's property, or such other location as desired by Buyer, all at Seller's cost and risk. Seller shall remove such coal within five (5) days after receipt of Buyer's written notice relating thereto.

The remedies set forth herein are in addition to all of Buyer's other remedies under this Agreement and under applicable law and in equity for Seller's breach.

If Buyer fails to reject a shipment of non-conforming coal which it had the right to reject for failure to meet any or all of the Rejection Limits set forth in § 6.1 or because such shipment contained Debris, then such non-conforming coal shall be deemed accepted by Buyer; however, the quantity Seller is obligated to sell to Buyer under the Agreement shall be reduced by the amount of each such non-conforming shipment which is not rejected. Further, for shipments containing Debris, the estimated weight of such materials shall be deducted from the weight of that shipment.

§ 6.5 Suspension and Termination. If the coal sold hereunder fails to meet two or more of the Guaranteed Monthly Weighted Averages as nominated and as set forth in § 6.1 for any two (2) months in a six (6) month period, or if nine (9) shipments are rejectable in any thirty (30) day period, Buyer may upon written notice delivered in accordance with § 12, Notices, suspend future shipments except shipments already loaded into trucks. Seller shall, within ten (10) days after receipt of Buyer's notice, provide Buyer with reasonable assurances that subsequent monthly deliveries of coal shall meet or exceed the Guaranteed Monthly Weighted Averages set forth in § 6.1 and that the coal from the source will exceed the Rejection Limits set forth in § 6.1. If Seller fails to provide such assurances within said ten (10) day period, Buyer may terminate this Agreement by giving written notice of such termination at the end of the ten (10) day period. Buyer's failure to terminate after the end of such ten (10) day period shall not constitute a waiver for a continuing default or for any subsequent defaults. If Seller provides such assurances to Buyer's reasonable satisfaction, shipments hereunder shall resume and any tonnage deficiencies resulting from suspension may be made up at Buyer's sole option. Buyer shall not unreasonably withhold its acceptance of Seller's assurances, or delay the resumption of shipment. If Seller, after such assurances, fails to meet any of the Guaranteed Monthly Weighted Averages for any one (1) month within the next six (6) months or if three (3) shipments are rejectable within any one (1) month during such six (6) month period, then Buyer may terminate this Agreement and exercise all its other rights and remedies under applicable law and in equity for Seller's breach.

All costs, expenses or damages incurred by Buyer in obtaining Seller's assurance that subsequent deliveries will conform to the quality specifications shall be paid to Buyer by Seller.

SECTION 7. WEIGHTS, SAMPLING AND ANALYSIS.

§ 7.1 Weights for Deliveries. The weight of the coal delivered hereunder by truck shall be determined on a per shipment basis by Buyer on the basis of scale weights at the Delivery Point unless another method is mutually agreed upon by the parties. The weight of the coal delivered hereunder by barge shall be determined on a per shipment basis by Seller on the basis of scale weights at the Delivery Point unless another method is mutually agreed upon by the parties. The scales of both ^{as of 1/19/20} Byer and Seller shall be duly reviewed by an appropriate independent testing agency (such as the Department of Agriculture, Division of Weights and Measures) and maintained in a condition such that the weights are deemed accurate and reliable so as to be used for payment purposes in accordance with the terms and conditions of this Agreement. To ensure such accuracy and reliability, such scales shall be tested and shall comply with appropriate conditions for weighing pursuant to the National Institute of Standards and Technology Handbook 44 for such scales. Seller and Buyer shall have the right, at their own expense and upon reasonable notice, to have the scales checked for accuracy at any reasonable time or frequency. If the scales are found to be over or under the tolerance range allowable for the scales based on the National Institute of Standards and Technology Handbook 44, either party shall pay to the other any amounts owed due to such inaccuracy for a period not to exceed the mid-point of time in days between the last test and the point in time at which the scale is found to be

inaccurate, provided however, the number of days shall not exceed one-half the number of days between scale tests.

§ 7.2 Sampling and Analysis for Deliveries. The sampling and analysis of the coal delivered hereunder shall be performed by Buyer for truck shipments and by Seller for barge shipments at the Delivery Point and the results thereof shall be accepted and used for the quality and characteristics of the coal delivered under this Agreement. Depending upon the mode (truck or barge) the party providing analysis shall send to the other by facsimile or via email a copy of its analysis within five (5) business days after sampling the applicable shipment. All truck shipment analyses shall be made in Buyer's or Buyer's contractor's laboratory at Buyer's expense in accordance with American Society of Testing and Measurement (hereinafter referred to as "A.S.T.M.") practices and procedures. All barge shipment analyses shall be made in Seller's or Seller's contractor's laboratory at Seller's expense in accordance with A.S.T.M. practices and procedures. Samples for analyses: (i) shall be taken by the most current industry-accepted standard for the mechanical sampling system in place; (ii) shall be mutually acceptable to both parties; and (iii) shall be taken with a frequency and regularity sufficient to provide reasonably accurate representative samples of the deliveries made hereunder. Seller and Buyer represent that they are familiar with the sampling and analysis practices to be utilized hereunder, and find them to be acceptable. Either party shall notify the other in writing of any significant changes in its sampling and analysis practices. Any such changes in either party's or party's contractor's sampling and analysis practices shall, except for A.S.T.M. accepted changes in practices, provide

for no less accuracy than the sampling and analysis practices existing at the time of the execution of this Agreement, unless the parties otherwise mutually agree. Either party shall have the right, at its expense and upon reasonable notice, to visit the other's sample collection area, sampler and laboratory to review coal quality analysis processes and shall further have the right to suggest processes for improvement in accuracy at any reasonable time or frequency.

Each sample taken by either party shall be divided into four (4) parts and put into airtight containers, properly labeled and sealed. One part shall be used for analysis; one part shall be used as a check sample, if the party in its sole judgment determines it is necessary; one part shall be retained until the twenty-fifth (25th) of the month following the month of unloading (the "Disposal Date") and shall be delivered to the other for analysis if a party so requests before the Disposal Date; and one part ("Referee Sample") shall be retained until the Disposal Date. Seller must provide in a timely manner to Buyer all analysis results to enable Buyer to provide a composite of all the analyses for presentation to Seller by the fifteenth (15th) day of the month following the month of unloading. Either party, upon reasonable notice to the other, shall have the right to have a representative present to observe the sampling and analyses performed by the other party. Unless a party requests a Referee Sample analysis before the Disposal Date, the party's analysis shall be used to determine the quality of the coal delivered hereunder. The Monthly Weighted Averages shall be determined by utilizing the individual Shipment analyses and the weight of each Shipment.

If any dispute arises before the Disposal Date, the Referee Sample shall be submitted for analysis to an independent commercial testing laboratory ("Independent Lab") mutually chosen by Buyer and Seller. For each coal quality specification in question, a dispute shall be deemed not to exist and the party's analysis shall prevail and the analysis of the Independent Lab shall be disregarded if the analysis of the Independent Lab differs from the analysis by an amount equal to or less than:

- (i) 0.50% moisture
- (ii) 0.50% ash on a dry basis
- (iii) 100 Btu/lb. on a dry basis
- (iv) 0.10% sulfur on a dry basis.

For each coal quality specification in question, if the analysis of the Independent Lab differs from the analysis of the party whose analysis was challenged by an amount more than the amounts listed above, then the analysis of the Independent Lab shall prevail and the party's analysis shall be disregarded. The cost of the analysis made by the Independent Lab shall be borne by party whose analysis was questioned, to the extent the analysis of the Independent Lab prevails and by the other party to the extent the questioned analysis prevails. By means of example, if Buyer questions Seller's analysis and Seller's analysis prevails, Buyer shall bear the costs of the Independent Lab.

SECTION 8. PRICE.

§ 8.1 Base Price. The base price of the coal to be sold and delivered hereunder shall be determined according to the following schedule as set out by Delivery Point and by quality as

nominated by Buyer on the basis of \$/MMBTU F.O.B. Delivery Point as directed by Buyer ("Base Price"):

<u>2010</u>	<u>Quality A</u>	<u>Quality B</u>	<u>Quality C</u>
Sebree Station	\$1.990	\$1.959	\$1.923
Steamport Dock	\$1.959	\$1.929	\$1.891
<u>2011</u>	<u>Quality A</u>	<u>Quality B</u>	<u>Quality C</u>
Sebree Station	\$2.039	\$2.009	\$1.971
Steamport Dock	\$2.009	\$1.979	\$1.939

§ 8.2 Diesel Fuel Adjustment (Surcharge or Discount). In addition to the Base Price §8.1 above, there shall be an adjustment to such price for changes in diesel fuel (surcharge or discount) for transportation purposes. The diesel fuel adjustment shall be adjusted effective on the first day of each month, beginning January 1, 2010, to reflect any change in the price of diesel fuel, calculated as follows:

For every \$0.10 increase or decrease in the base fuel price of \$2.50 per gallon, the truck delivery price shall adjust by one percent (1%) accordingly.

Seller shall furnish Buyer with a copy of the appropriate and representative diesel fuel adjustment calculation, and any necessary and reasonable supporting documentation regarding

the price change above and/or below of the base fuel price of \$2.50 per gallon. Seller shall submit any such diesel fuel price adjustment following the month of delivery.

§ 8.3 Payment Calculation. Payment shall be based solely upon the tonnage and BTU/LB received pursuant to Section 6. **QUALITY**, Section 7. **WEIGHTS, SAMPLING AND ANALYSIS**, and Section 8. **BASE PRICE**. If there are any adjustments pursuant to Section 6. **QUALITY**, such adjustments shall apply for the month the coal was delivered to the Delivery Point.

SECTION 9. INVOICES, BILLING AND PAYMENT.

§ 9.1 Invoicing Address. Invoices will be sent to Buyer at the following address:

Big Rivers Electric Corporation
201 Third Street (physical zip code 42420)
P.O. Box 24
Henderson, Kentucky 42419-0024
Attn.: Supervisor, Fuels Accounting

With a copy to:

Big Rivers Electric Corporation
201 Third Street (physical zip code 42420)
P.O. Box 24
Henderson, Kentucky 42419-0024
Attn.: Director, Fuels Procurement

§ 9.2 Payment Procedures for Coal Shipments. For all coal delivered pursuant to Article 5 hereof, and unloaded from truck and/or barge, as the case may be, between the first (1st) and fifteenth (15th) days of any calendar month, Buyer shall make preliminary payment for one-

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hundred percent (100%) of the amount owed for the coal (based on the assumption that the coal will meet all guaranteed monthly quality parameters) by the twenty-fifth (25th) day of such month of unloading, except that, if the twenty-fifth (25th) is not a regular work day, payment shall be made on the next regular work day. All preliminary payments shall be calculated based upon the then current Base Price on a cents per MMBTU basis as calculated by the guaranteed monthly weighted average BTU/lb. Seller shall invoice Buyer for all coal delivered pursuant to Article 5 hereof, and unloaded at the Delivery Point between the first (1st) and fifteenth (15th) days of any calendar month by the 20th of the month, based upon the then current Base Price on a cents per MMBTU basis as calculated by the guaranteed monthly weighted average BTU/lb.

For all coal delivered, as defined in Article 5 hereof, and unloaded at the Delivery Point between the sixteenth (16th) and the last day of any calendar month, Buyer shall make a payment for one-hundred percent (100%) of the amount owed for the coal by the tenth (10th) day of the month following the month of unloading, except that, if the tenth (10th) is not a regular work day, payment shall be made on the next regular work day. Also by the tenth (10th) day of the month following the month of unloading of coal at the Delivery Point, a reconciliation of amounts paid and amounts owed during said month shall be made, including, any adjustments for any applicable discounts or other adjustments provided herein, except that, if the tenth (10th) is not a regular work day, payment shall be made on the next regular work day. Seller shall invoice Buyer for all coal delivered pursuant to Article 5 hereof, and unloaded at the Delivery Point between the sixteenth (16th) and last day of any calendar month by the 5th day of the following

month, based upon the then current Base Price on a cents per MMBTU basis as calculated by the guaranteed monthly weighted average BTU/lb. X ~~11/19/10~~

In the event Seller notifies Buyer that a pattern has developed whereby payments are not being paid when due, as set forth herein, Buyer shall review its internal approval and payment procedures and remedy such payment practices, if any develop. Except as provided in § 9.3 below, the amount of any correct invoice not paid within five (5) business days when due, shall bear interest at six percent (6.0%) per annum based from the date due until such time as the payment is made in full to Seller.

Seller shall provide Buyer its bank wiring and A.C.H. instructions at least two weeks prior to first scheduled payment.

§ 9.3 Withholding. Buyer shall have the right to withhold from payment of any billing or billings (i) any sums which it is not able in good faith to verify or which it otherwise in good faith disputes and (ii) any amounts owed to Buyer from Seller. Buyer shall notify Seller promptly in writing of any such issue, stating the basis of its claim and the amount it intends to withhold. If such disputed amount or damage or likely damages exceed \$100,000, Seller shall have the right to suspend shipments until such time as the dispute is resolved and settlement of withholding occurs.

Payment by Buyer, whether knowing or inadvertent, of any amount in dispute shall not be deemed a waiver of any claims or rights by Buyer with respect to any disputed amounts or payments made. Any disputed amounts withheld by Buyer that are later found to have been

withheld improperly, other than amounts disputed resulting from errors, lack of documentation, or other related incidents surrounding any disputed amount or similar legitimate and reasonable disputes, shall be subject to interest at eight percent (8.0%) per annum based from the date due until such time as the payment is made in full to Seller.

SECTION 10. FORCE MAJEURE.

§ 10.1 General Force Majeure. If either party hereto is delayed in or prevented from performing any of its obligations or from utilizing the coal sold under this Agreement due to acts of God, war, riots, civil insurrection, acts of the public enemy, terrorism, strikes, lockouts, labor disputes, disturbances or unrest, damage to plants, equipment or facilities, fires, floods or earthquakes, inability to obtain permits or authorizations from any governmental authority after prudent and timely submission and application of same, mine accidents that are solely responsible for delaying or preventing performance of Seller, or unanticipated conditions in coal seams not discernable by prudent engineering which are beyond the reasonable control and without the fault or negligence of the party affected thereby, then the obligations of both parties hereto shall be suspended to the extent made necessary by such event; provided that the affected party gives written notice to the other party as early as practicable of the nature and probable duration of the force majeure event. Failure to give such notice and to furnish the designated information shall be deemed a waiver of the affected party's rights under this § 10. The party declaring force majeure shall exercise due diligence to avoid the force majeure event or shorten

its duration and will keep the other party advised as to the continuance of the force majeure event.

During any period in which Seller's ability to perform hereunder is affected by a force majeure event, Seller shall not deliver any coal to any other buyers to whom Seller's ability to supply is similarly affected by such force majeure event unless contractually committed to do so at the beginning of the force majeure event; and further shall deliver to Buyer under this Agreement at least a pro rata portion (on a per ton basis) of its total contractual commitments for all its buyers in place at the beginning of the force majeure event to whom Seller's ability to supply is similarly affected by such force majeure event.

An event which affects the Seller's ability to obtain Substitute Coal will not be considered a force majeure event hereunder. Events of force majeure as defined above affecting a supplier or contractor of a party hereto, other than for the production and shipping of coal, will be treated as the affected party's force majeure provided that the affected party diligently and promptly obtains an alternate source of supply or services.

Buyer reserves the right to purchase replacement coal from other sources during the occurrence of a force majeure event affecting Seller and Seller reserves the right to sell coal to third parties during the occurrence of a force majeure event affecting Buyer. If tonnage deficiencies result from a Seller's or Buyer's declared force majeure event lasting thirty (30) days or less, such deficiencies may be made up at the non-affected party's sole option on a mutually agreed-upon schedule. Any tonnage deficiencies resulting from a Seller's or Buyer's declared

force majeure event lasting longer than thirty (30) days shall not be made up except by mutual agreement of the parties.

In the event that a situation of force majeure that materially affects a party's ability to perform its obligations hereunder continues for a period exceeding sixty (60) days, then the party not claiming force majeure may elect to terminate this Agreement by giving written notice to the affected party. In the event of such termination, neither party shall have any further liability to the other except for those obligations or liabilities which may have accrued with respect to performance or defaults prior to said termination.

Notwithstanding anything herein to the contrary, if an event occurs that would otherwise be a force majeure event under this Section 10.1, but Seller is still able to perform its obligations hereunder by delivering coal from one or more of the Coal Properties (or portions thereof) that are not affected by such force majeure event without adversely affecting Seller's ability to meet its obligations to deliver coal to third parties pursuant to then existing contracts, then such event shall not be considered a force majeure event hereunder.

§ 10.2 Environmental Law Force Majeure. The parties recognize that, during the continuance of this Agreement, legislative or regulatory bodies or the courts may adopt or amend environmental laws, regulations, policies and/or restrictions which will make it impossible or commercially impracticable for Buyer to utilize this or like kind and quality coal which thereafter would be delivered hereunder. If as a result of the adoption or amendment of such laws, regulations, policies, or restrictions, or change in the interpretation or enforcement thereof, Buyer

decides that it will be impossible or commercially impracticable (uneconomical) for Buyer to utilize such coal, Buyer shall so notify Seller, and thereupon Buyer and Seller shall promptly consider whether corrective actions can be taken in the mining and preparation of the coal at Seller's mine and/or in the handling and utilization of the coal at Buyer's generating station; and if in Buyer's sole judgment such actions will not, without unreasonable expense to Buyer, make it possible and commercially practicable for Buyer to so utilize coal which thereafter would be delivered hereunder without violating, or creating the potential for violation of, any applicable law, regulation, policy or order, Buyer shall have the right, upon the later of sixty (60) days notice to Seller or the effective date of such restriction, to terminate this Agreement without further obligation hereunder on the part of either party hereto except for those obligations or liabilities which may have accrued with respect to performance or defaults prior to said termination.

SECTION 11. CHANGES.

Buyer or Seller may, by mutual agreement, at any time by written notice pursuant to § 12 of this Agreement, make changes within the general scope of this Agreement in any one or more of the following: quality of coal or coal specifications, quantity of coal, method or time of shipments, place of delivery (including transfer of title and risk of loss), method(s) of weighing, sampling or analysis, or government imposition as hereinafter defined, and such other provision as may affect the suitability and amount of coal for Buyer's generating stations.

For the purposes of this Agreement, Government Imposition shall be defined as (i) taxes (other than state or federal income taxes or payroll taxes), (ii) fees and/or costs, including those occasioned by compliance with interpretations of law in force on the date of this Agreement, but only if, the interpretations are issued by a court, governmental agency, or regulatory body, and are different from the interpretations of the relevant laws as they existed on the date of this Agreement (other than fees and/or costs which (a) are brought about by the inefficient operations of Seller, (b) are attributable to Seller's negligence, or (c) are the result of criminal fines or penalties imposed on Seller by any government or governmental agency and relating to the mining, production, severance, preparation, or sale of the coal). The Base Price includes all Government Impositions as of the date of this Agreement.

If any such change makes necessary or appropriate an increase or decrease in the then current Base Price of coal, or in any other provision of this Agreement, an equitable adjustment shall be negotiated in good faith regarding changes in: price, whether current or future or both, and/or in such other provisions of this Agreement as are affected directly or indirectly by such change, and the Agreement shall thereupon be modified in writing accordingly.

Any claim by the Seller for adjustment under this § 11 shall be asserted within thirty (30) days after the date of Seller's receipt of the written notice of change, it being understood, however that Seller shall not be obligated to proceed under this Agreement as changed until an equitable adjustment has been agreed upon. The parties agree to negotiate promptly and in good faith for a period not to exceed thirty (30) days from the date of notice provided by the party

seeking adjustment, to agree upon the nature and extent of any equitable adjustment. In the event the parties cannot agree upon an adjustment, this Agreement shall terminate ninety days from the date on which negotiations cease.

SECTION 12. NOTICES.

§ 12.1 Form and Place of Notice. Any official notice, request for approval or other document required or permitted to be given under this Agreement shall be in writing, unless otherwise provided herein, and shall be deemed to have been sufficiently given when delivered in person, transmitted by facsimile or other electronic media, delivered to an established mail service for same day or overnight delivery, or dispatched in the United States mail, postage prepaid, for mailing by first class, certified, or registered mail, return receipt requested, and addressed as follows:

If to Buyer: Big Rivers Electric Corporation
201 Third Street (physical zip code 42420)
P.O. Box 24
Henderson, Kentucky 42419-0024
Attn: Director, Fuels Procurement

If to Seller: Allied Resources, Inc.
15 New Steamport Road
Sebree, Kentucky 42455
Attn: President

§ 12.2 Change of Person or Address. Any party may change the person or address specified above upon giving written notice to the other party of such change.

§ 12.3 Electronic Data Transmittal. Seller hereby agrees, at Seller's reasonable cost, to electronically transmit shipping notices and/or other data to Buyer in a format acceptable to and established by Buyer upon Buyer's reasonable request. Buyer shall provide Seller with the appropriate format and will inform Seller as to the electronic data transmission requirements at the appropriate time.

SECTION 13. INDEMNITY AND INSURANCE.

§ 13.1 Indemnity. Seller agrees to indemnify and save harmless Buyer, its officers, directors, employees and representatives from any responsibility and liability for any and all claims, demands, losses, legal actions for personal injuries, including death, property damage and pollution (including reasonable inside and outside attorney's fees) (the "Claims") (i) relating to the trucks provided by Seller or Seller's contractor while such trucks are delivering coal to the Delivery Point, (ii) due to any failure of Seller, their respective employees, agents, representatives, contractors or subcontractors, to comply with any laws, regulations or ordinances, relative to Seller's performance of this Agreement, or (iii) due to the acts or omissions of Seller, their respective employees, agents, representatives, contractors or subcontractors.

Buyer agrees to indemnify and save harmless Seller, its officers, directors, employees and representatives from any responsibility and liability for any and all Claims relating to the

ownership or use of the coal from and after the time that the coal is delivered to Buyer at the Delivery Point.

§ 13.2 Insurance. Seller agrees to carry insurance coverage with minimum limits as follows.

(a) Commercial General Liability, including Completed Operations and Contractual Liability, \$1,000,000 single limit liability.

(b) Automobile General Liability, \$1,000,000 single limit liability.

(c) In addition, Seller shall carry excess liability insurance covering the foregoing perils in the amount of \$4,000,000 for any one occurrence.

(d) Workers' Compensation and Employer's Liability with statutory limits.

If any of the above policies are written on a claims made basis, then the retroactive date of the policy or policies will be no later than the effective date of this Agreement. Prior to the execution of this Agreement, Certificates of Insurance satisfactory in form to the Buyer and signed by the Seller's insurer shall be supplied by the Seller to the Buyer evidencing that the above insurance is in force and that not less than thirty (30) calendar days written notice will be given to the Buyer prior to any cancellation or material reduction in coverage under the policies. The Seller shall cause its insurer to waive all subrogation rights against the Buyer respecting all losses or claims arising from performance hereunder. Evidence of such waiver satisfactory in form and substance to the Buyer shall be exhibited in the Certificate of Insurance mentioned above. Seller's liability shall not be limited to its insurance coverage.

SECTION 14. TERMINATION FOR DEFAULT.

If either party hereto commits a material breach of any of its obligations under this Agreement at any time, including but not limited to a breach of a representation or warranty, then the other party has the right to give written notice describing such breach and stating its intention to terminate this Agreement no sooner than fifteen (15) days after the date of the notice (the "Notice Period"). If such material breach is curable and the breaching party cures such material breach within the Notice Period, then the Agreement shall not be terminated due to such material breach. If such material breach is not curable or the breaching party fails to cure such material breach within the Notice Period, then this Agreement shall terminate at the end of the Notice Period in addition to all the other rights and remedies available to the aggrieved party under this Agreement and at law and in equity.

SECTION 15. TAXES, DUTIES AND FEES.

Seller shall pay when due, and the price set forth in § 8 of this Agreement shall be inclusive of, all taxes, duties, fees and other assessments of whatever nature imposed by governmental authorities with respect to the transactions contemplated under this Agreement except as provided in Section 11. Changes.

SECTION 16. DOCUMENTATION AND RIGHT OF AUDIT.

Seller and Buyer shall maintain all records and accounts pertaining to payments, quantities, quality analyses, and source for all coal supplied under this Agreement for a period lasting through the term of this Agreement and for two (2) years thereafter. Buyer and Seller shall have the right at no additional expense to audit, copy and inspect such records and accounts at any reasonable time upon reasonable notice during the term of this Agreement and for two (2) years thereafter.

SECTION 17. EQUAL EMPLOYMENT OPPORTUNITY.

To the extent applicable, Seller shall comply with all of the following provisions which are incorporated herein by reference: Equal Employment Opportunity regulations set forth in 41 CFR § 60-1.4(a) and (c) prohibiting discrimination against any employee or applicant for employment because of race, color, religion, sex, or national origin; Vietnam Era Veterans Readjustment Assistance Act regulations set forth in 41 CFR § 50-250.4 relating to the employment and advancement of disabled veterans and veterans of the Vietnam Era; Rehabilitation Act regulations set forth in 41 CFR § 60-741.4 relating to the employment and advancement of qualified disabled employees and applicants for employment; the clause known as "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals" set forth in 15 USC § 637(d)(3); and subcontracting plan requirements set forth in 15 USC § 637(d).

SECTION 18. COAL PROPERTY INSPECTIONS.

Buyer and its representatives and others as may be required by applicable laws, ordinances and regulations shall have the right, but not the obligation, upon reasonable notice at reasonable times and at their own expense to inspect the Coal Property, including the loading facilities, scales, sampling system(s), wash plant facilities, and mining equipment for conformance with this Agreement. Seller shall undertake reasonable care and precautions to prevent personal injuries to any representatives, agents or employees of Buyer (collectively, "Visitors") who inspect the Coal Property. Any such Visitors shall comply with Seller's regulations and rules regarding conduct on the work site, made known to Visitors prior to entry, as well as safety measures mandated by state or federal rules, regulations and laws. Buyer understands that coal mines and related facilities are inherently high-risk environments. Buyer's failure to inspect the Coal Property or to object to defects therein at the time Buyer inspects the same shall not be construed as constituting an approval of Seller's mining plan or mining practices, relieve Seller of any of its responsibilities, nor be deemed to be a waiver of any of Buyer's rights hereunder.

SECTION 19. MISCELLANEOUS.

§ 19.1 Applicable Law. This Agreement shall be construed in accordance with the laws of the Commonwealth of Kentucky, and all questions of performance of obligations hereunder shall be determined in accordance with such laws, without regard to choice of law principles.

§ 19.2 Headings. The paragraph headings appearing in this Agreement are for convenience only and shall not affect the meaning or interpretation of this Agreement.

§ 19.3 Waiver. The failure of either party to insist on strict performance of any provision of this Agreement, or to take advantage of any rights hereunder, shall not be construed as a waiver of such provision or right.

§ 19.4 Remedies Cumulative. Remedies provided under this Agreement shall be cumulative and in addition to other remedies provided under this Agreement or by law or in equity.

§ 19.5 Severability. If any provision of this Agreement is found contrary to law or unenforceable by any court of law, the remaining provisions shall be severable and enforceable in accordance with their terms, unless such unlawful or unenforceable provision is material to the transactions contemplated hereby, in which case the parties shall negotiate in good faith a substitute provision.

§ 19.6 Binding Effect. This Agreement shall bind and inure to the benefit of the parties and their successors and assigns.

§ 19.7 Assignment. Neither party may assign this Agreement or any rights or obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld or denied. Notwithstanding the foregoing, no consent is required for an assignment or other transfer by a party as part of a merger, reorganization or consolidation involving such party.

§ 19.8 Entire Agreement. This Agreement contains the entire agreement between the parties as to the subject matter hereof, and there are no representations, understandings or agreements, oral or written, which are not included herein.

§ 19.9 Amendments. Except as otherwise provided herein, this Agreement may not be amended, supplemented or otherwise modified except by written instrument signed by both parties hereto.

§ 19.10 Brokers. Seller hereby indemnifies and holds Buyer harmless from all losses, costs, demands, and expenses Buyer may incur in connection with claims made against Buyer by any brokers claiming by, through or on behalf of Seller arising from this Agreement.

SECTION 20. CONFIDENTIALITY

Seller and Buyer agree to maintain in strict confidence the terms and conditions of this Agreement and any information or data relating hereto exchanged or obtained by the parties during negotiation and performance of this Agreement. Neither Buyer nor Seller shall disclose any of the terms and conditions hereof to any third party (except to affiliates of Seller or Buyer) without the prior written consent of the other party, except where such disclosure may be required by law or in connection with a judicial or administrative proceedings before courts, regulatory bodies, or agencies such as the Kentucky Public Service Commission involving a party hereto, in which event the party intending to make such disclosure shall advise the other in advance and cooperate to minimize the disclosure to the extent possible. The obligations of

Buyer and Seller arising under this § 20, shall continue for a period of three (3) years following termination or expiration of this Agreement.

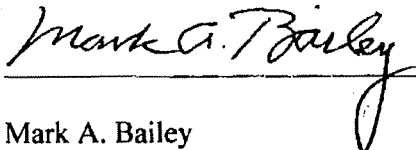
SECTION 21. ETHICAL DEALING

Each party represents and warrants that it has not given or received and shall not give or receive any commission, payment, kickback, secret rebate or other thing of value to or from any employee or agent of the other party or to any supplier of services in connection with this Agreement. Each party acknowledges that the giving or receiving of any such commission, payment, kickback, secret rebate or other thing of value constitutes a breach of ethical standards, is potentially in violation of applicable law and may result in immediate termination of this and other outstanding agreements between the parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date corresponding to each of their signature blocks below, but this Agreement shall be effective as of the date first above written.

BUYER:

BIG RIVERS ELECTRIC COMPANY



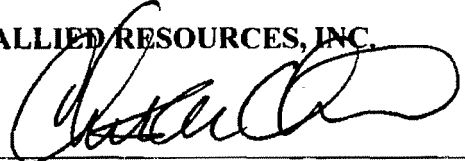
Mark A. Bailey

Chief Executive Officer and President

Date: 1-19-10

SELLER:

ALLIED RESOURCES, INC.



Chester M. Thomas

President

Date: 1-18-10

COAL SUPPLY AGREEMENT

This Coal Supply Agreement (the "Agreement") dated as of December 30, 2009, by and between; (i) BIG RIVERS ELECTRIC CORPORATION, a Kentucky corporation, 201 Third Street, Henderson, Kentucky 42420 ("Buyer"); and (ii) Alliance Coal, LLC, a Delaware limited liability company, having an address of 1717 South Boulder Avenue, Suite 400, Tulsa, Oklahoma 74119 ("Seller"), and ALLIANCE COAL SALES, a division of Alliance Coal, LLC, having an address of 1717 South Boulder Avenue, Suite 400, Tulsa, Oklahoma 74119 (the "Seller's Agent") establishes the terms and conditions pursuant to which the Buyer shall purchase and the Seller shall sell coal of the qualities and quantities described herein. The following terms constitute all of the terms and conditions of the binding agreement between the parties regarding this transaction. Seller agrees to sell and deliver, and Buyer agrees to buy and accept, bituminous coal of quality, quantity, price, and on the terms and conditions stated in this Agreement.

WITNESSETH:

WHEREAS, Buyer desires to purchase steam coal; and

WHEREAS, Buyer and Seller desire to enter into a coal supply agreement pursuant to which the Seller will supply coal to Buyer under the terms as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1. GENERAL.

(a) The above recitals are true and correct and comprise a part of this Agreement.

(b) Seller will sell to Buyer, and Buyer will buy from Seller steam coal under all the terms and conditions of this Agreement.

(c) Each covenant, representation and warranty given by Seller herein is a material inducement for Buyer to enter into this Agreement.

SECTION 2. TERM. The term of this Agreement shall commence on January 1, 2010 and shall continue through December 31, 2010, unless earlier terminated as specifically provided herein.

SECTION 3. QUANTITY.

§ 3.1 Base Quantity. Seller shall sell and deliver and Buyer shall purchase and accept delivery of the following annual base quantity of coal ("Base Quantity").

<u>Year</u>	<u>Base Quantity (tons)</u>
2010	680,000

§ 3.2 Delivery Schedule. Seller shall deliver the Base Quantity in approximately equal monthly installments during the calendar year. Buyer and Seller agree to work in good faith to establish or make necessary changes in previously established delivery schedules to the extent possible given Seller's operational logistics and schedules with its other customers and Buyer's operational logistics and schedules with its other suppliers.

Time is of the essence with respect to Seller's delivery of coal and Buyer's acceptance of deliveries of coal; however, Buyer's right to reject coal pursuant to §6.4 shall not be duly affected by such timely delivery. A failure by Seller to deliver coal or by Buyer to accept coal in accordance with the provisions of this § 3.2, other than a failure resulting from a force majeure event, as defined in § 10 hereof, shall constitute a material breach within the meaning of § 14 of this Agreement.

SECTION 4. SOURCE.

§ 4.1 Source. During the term of this Agreement, Seller shall mine and supply the coal sold hereunder from any one or more of the mines currently owned or controlled by either Hopkins County Coal, LLC, Warrior Coal, LLC or Webster County Coal, LLC (collectively, the "Coal Properties"); provided that all coal sold by Seller hereunder shall comply with all of the terms and conditions hereof, including without limitation, the quality specifications provided in Section 6. The decision regarding which one or more of the Coal Properties will source the coal sold hereunder at any given time shall be at Seller's sole discretion. If Alliance Coal, LLC, or any of its affiliates, acquire or come into the control of a new mine after the date hereof, such new mine shall be added as an additional source under this Section 4.1, upon the written notice by Seller to Buyer of the addition of such new source. In the event a new mine is added as a source by Seller pursuant to the preceding sentence, such new mine shall be automatically included, from and after the date of the notice, in the definition of "Coal Properties".

§ 4.2 Assurance of Operation and Reserves. Seller represents and warrants that the Coal Property contains economically recoverable coal of a quality and in quantities which will be

sufficient to satisfy all the requirements of this Agreement. Seller agrees and warrants that it or its producer will have adequate machinery, equipment and other facilities to produce, prepare and deliver coal in the quantity and of the quality required by this Agreement.

§ 4.3 Non-Diversion of Coal. Seller agrees and warrants that it will not, without Buyer's express prior written consent, use or sell coal, from the Coal Property in a way that will reduce the economically recoverable balance of coal in the Coal Property to an amount of coal less than that required to be supplied to Buyer

§ 4.4 Relationship of the Parties. The Parties agree that they are not and will not hold themselves out as partners, joint venturers, employees, agents or representatives of each other. Nothing herein contained shall be construed as creating a single enterprise, joint venture, agency, partnership, joint employer, owner-contractor, or lessor-lessee relationship between Buyer and Seller.

Seller shall have sole and exclusive authority to direct and control its respective activities and operations, and those of any subcontractors, undertaken in the performance of Seller's obligations under this Agreement. Seller shall exercise full and complete control over its respective work force and labor relations policies. Buyer shall have no authority or control over Seller's operations or work force.

SECTION 5. DELIVERY.

§ 5.1 Delivery Point. The coal shall be delivered to Buyer F.O.B. coal pile at Buyer's Sebree Generating Complex located at 9000 Highway 2096, Robards, Kentucky or F.O.B. coal pile Energy Dock located at 128 Eastwood Ferry Road, Sebree, Kentucky as directed by Buyer

(the "Delivery Point"). Buyer may also elect another delivery point; however, any additional expense or savings as a result of the election of an alternate delivery point shall be for Buyer's account.

§ 5.2 Title/Risk of Loss. Title to and risk of loss of coal sold hereunder will pass to Buyer and the coal will be considered to be delivered when trucks containing the coal are fully unloaded by Seller's trucking contractor at the Delivery Point.

SECTION 6. QUALITY.

§ 6.1 Specifications. (a) The coal delivered hereunder shall conform to the following specifications on an "as received" basis pursuant to Buyer's election of quality:

<u>Quality A Specifications</u> BTU/LB.	<u>Guaranteed Monthly Weighted Average</u> min. 12,000	<u>Rejection Limits (per shipment)</u> < 11,700
Ash	Max. 8.00 lbs./MMBTU	> 10.50 lbs./MMBTU
Moisture	Max. 8.00 lbs./MMBTU	> 9.50 lbs./MMBTU
Sulfur	Max. 2.88 lbs./MMBTU	> 3.08 lbs./MMBTU
<u>Quality B Specifications</u> BTU/LB.	<u>Guaranteed Monthly Weighted Average</u> min. 11,800	<u>Rejection Limits (per shipment)</u> < 11,500
Ash	Max. 10.00 lbs./MMBTU	> 12.50 lbs./MMBTU
Moisture	Max. 9.00 lbs./MMBTU	> 10.50 lbs./MMBTU
Sulfur	Max. 2.89 lbs./MMBTU	> 3.10 lbs./MMBTU

<u>Quality C Specifications</u> BTU/LB.	<u>Guaranteed Monthly Weighted Average</u> min. 11,500	<u>Rejection Limits (per shipment)</u> < 11,200
Ash	Max. 12.50 lbs./MMBTU	> 15.00 lbs./MMBTU
Moisture	Max. 9.00 lbs./MMBTU	> 10.50 lbs./MMBTU
Sulfur	Max. 3.13 lbs./MMBTU	> 3.33 lbs./MMBTU

<u>Quality D Specifications</u> BTU/LB.	<u>Guaranteed Monthly Weighted Average</u> min. 11,000	<u>Rejection Limits (per shipment)</u> < 10,700
Ash	Max. 15.00 lbs./MMBTU	> 17.50 lbs./MMBTU
Moisture	Max. 9.00 lbs./MMBTU	> 10.00 lbs./MMBTU
Sulfur	Max. 3.25 lbs./MMBTU	> 3.45 lbs./MMBTU

All Qualities (lbs./MMBTU)

Sulfur	min. 1.90	< 1.70
Chlorine	max. 0.15	> 0.17
Fluorine	max. .02	> .03
Nitrogen	max. 1.35	> 1.55

Arsenic (ug/g)	max. 15	> 20
Vanadium (ug/g)	max. 75	> 130

SIZE (3" x 0"):

Top size (inches)*	max. 3"	> 4"
Fines (% by wgt)		
Passing 1/4" screen	max. 50%	> 55 %

% BY WEIGHT:

VOLATILE	min. 35	< 33
FIXED CARBON	min. 40	< 38
GRINDABILITY (HGI)	min. 52	< 50

ASH FUSION TEMPERATURE (°F) (ASTM D1857)

REDUCING ATMOSPHERE

Initial Deformation	min.	1960	min.	1940
Softening (H=W)	min.	2000	min.	1980
Softening (H=1/2W)	min.	2070	min.	2050
Fluid	min.	2300	min.	2280

OXIDIZING ATMOSPHERE

Initial Deformation	min.	2310	min.	2290
Softening (H=W)	min.	2360	min.	2340
Softening (H=1/2W)	min.	2430	min.	2410
Fluid	min.	2580	min.	2560

* All the coal will be of such size that it will pass through a screen having circular perforations three (3) inches in diameter, but shall not contain more than fifty-five percent (55%) by weight of coal that will pass through a screen having circular perforations one-quarter (1/4) of an inch in diameter.

Note: As used herein: > means greater than;
< means less than.

§ 6.2 Election of Quality. Buyer may reasonably elect deliveries of a single quality, or multiple qualities, from the qualities listed under § 6.1 Specifications. Buyer shall specify the quality of coal to be delivered by providing oral, followed by written notice (which may be by electronic correspondence) to Seller specifying the monthly quantity for a particular quality of coal to be purchased by Buyer. Buyer and Seller agree to work in good faith to make changes in previously established delivery schedules for a particular quantity and quality of coal to the

extent possible given Seller's operational logistics and schedules with its other customers and Buyer's operational logistics and schedules with its other suppliers.

§ 6.3 Definition of "Shipment". As used herein, a "shipment" shall mean: one (1) day's delivery of loaded coal trucks in accordance with Buyer's sampling and analyzing practices. Buyer shall not be responsible for improperly loaded trucks in the event Seller controls or contracts the truck delivery and/or truck loading process. Furthermore, Buyer has the right to refuse delivery of over-weight or improperly loaded trucks.

§ 6.4 Rejection. Buyer has the right, but not the obligation, to reject any shipment which fail(s) to conform to the Rejection Limits set forth in § 6.1. Buyer must reject such coal within seventy-two (72) hours of receipt of the coal analysis provided for in § 7.2 or such right to reject is waived. Buyer has the further right, but not the obligation, to reject within seventy-two (72) hours of receipt, any shipment which contains extraneous materials, which include, but are not limited to, slate, rock, wood, corn husks, mining materials, metal, steel, etc. ("Debris") as determined by Buyer.

In the event Buyer rejects such non-conforming coal, title to and risk of loss of the coal shall be considered to have never passed to Buyer and Buyer may, at its sole option, stop the non-conforming shipment in route, prevent the unloading of the non-conforming shipment, return the coal to Seller or mutually agree with Seller upon a disposition for such coal shipment, all at Seller's cost and risk.

Seller shall replace the rejected coal within five (5) working days from notice of rejection with coal exceeding the Rejection Limits set forth in § 6.1. If Seller fails to replace the rejected

coal within such five (5) working day period or the replacement coal is rightfully rejected, Buyer may purchase coal from another source in order to replace the rejected coal. Seller shall reimburse Buyer for (i) any amount by which the actual price plus transportation costs to Buyer of such coal purchased from another source exceeds the price of such coal under this Agreement plus transportation costs to Buyer from the Delivery Point; and (ii) any and all transportation, storage, handling, or other directly related expenses that have been incurred by Buyer for rightfully rejected coal.

If the non-conforming shipment has been unloaded at Buyer's generating station prior to the receipt of the coal analysis provided for in § 7.2, Buyer and Seller shall, at Buyer's option, confer for the purpose of reaching agreement on an adjustment to the Base Price to be paid for such coal.

In the event Buyer and Seller are unable to reach an agreement concerning an adjustment to the Base Price, Buyer may, at its sole option, and upon written notice to Seller, require Seller to remove all coal constituting the non-conforming shipment from the Delivery Point all at Seller's cost and risk. Seller shall remove such coal within five (5) days after receipt of Buyer's written notice relating thereto.

The remedies set forth herein, except as provide for in Section 6.5, are Buyer's sole and exclusive remedies for Seller's non-conforming shipments.

If Buyer fails to reject a shipment of non-conforming coal which it had the right to reject for failure to meet any or all of the Rejection Limits set forth in § 6.1 or because such shipment contained Debris, then such non-conforming coal shall be deemed accepted by Buyer; however,

the quantity Seller is obligated to sell to Buyer under the Agreement shall be reduced by the amount of each such non-conforming shipment which is not rejected. Further, for shipments containing Debris, the estimated weight of such materials shall be deducted from the weight of that shipment.

§ 6.5 Suspension and Termination. If the coal sold hereunder during two consecutive months or more, or for any two (2) months in a six (6) month period, fails to meet the two or more of the Guaranteed Monthly Weighted Averages as nominated and as set forth in § 6.1, or if nine (9) shipments are rejectable in any thirty (30) day period, Buyer may upon written notice delivered in accordance with § 12, Notices, suspend future shipments except shipments already loaded into trucks. Seller shall, within ten (10) days after receipt of Buyer's notice, provide Buyer with reasonable assurances that subsequent monthly deliveries of coal shall meet or exceed the Guaranteed Monthly Weighted Averages set forth in § 6.1 and that the coal from the source will exceed the Rejection Limits set forth in § 6.1. If Seller fails to provide such assurances within said ten (10) day period, Buyer may terminate this Agreement by giving written notice of such termination at the end of the ten (10) day period. Buyer's failure to terminate after the end of such ten (10) day period shall not constitute a waiver for a continuing default or for any subsequent defaults. If Seller provides such assurances to Buyer's reasonable satisfaction, shipments hereunder shall resume and any tonnage deficiencies resulting from suspension may be made up at Buyer's sole option. Buyer shall not unreasonably withhold its acceptance of Seller's assurances, or delay the resumption of shipment. If Seller, after such assurances, fails to meet any of the Guaranteed Monthly Weighted Averages for any one (1) month within the next

six (6) months or if three (3) shipments are rejectable within any one (1) month during such six (6) month period, then Buyer may terminate this Agreement and exercise all its other rights and remedies under applicable law and in equity for Seller's breach. All costs, expenses or damages incurred by Buyer in obtaining Seller's assurance that subsequent deliveries will conform to the quality specifications shall be paid to Buyer by Seller.

SECTION 7. WEIGHTS, SAMPLING AND ANALYSIS.

§ 7.1 Weights for Deliveries. The weight of the coal delivered hereunder by truck shall be determined on a per shipment basis by Buyer on the basis of scale weights at the Delivery Point unless another method is mutually agreed upon by the parties. Such scales shall be duly reviewed by an appropriate independent testing agency and maintained in a condition such that the weights are deemed accurate and reliable so as to be used for payment purposes in accordance with the terms and conditions of this Agreement. To ensure such accuracy and reliability, such scales shall be tested and shall comply with appropriate conditions for weighing pursuant to the National Institute of Standards and Technology Handbook 44 for such scales. Seller shall have the right, at Seller's expense and upon reasonable notice, to have the scales checked for accuracy at any reasonable time or frequency. If the scales are found to be over or under the tolerance range allowable for the scales based on the National Institute of Standards and Technology Handbook 44, either party shall pay to the other any amounts owed due to such inaccuracy for a period not to exceed the mid-point of time in days between the last test and the point in time at which the scale is found to be inaccurate, provided however, the number of days shall not exceed one-half the number of days between scale tests.

§ 7.2 Sampling and Analysis for Deliveries. The sampling and analysis of the coal delivered hereunder shall be performed by Buyer at the Delivery Point and the results thereof shall be accepted and used for the quality and characteristics of the coal delivered under this Agreement, except as otherwise provided for herein. Buyer shall send to Seller by facsimile or via email a copy of Buyer's analysis within five (5) business days after sampling the applicable shipment. All analyses shall be made in Buyer's or Buyer's contractor's laboratory at Buyer's expense in accordance with American Society of Testing and Measurement (hereinafter referred to as "A.S.T.M.") practices and procedures. Samples for analyses: (i) shall be taken by the most current industry-accepted standard for the mechanical sampling system in place; (ii) shall be mutually acceptable to both parties; and (iii) shall be taken with a frequency and regularity sufficient to provide reasonably accurate representative samples of the deliveries made hereunder. Seller represents that it is familiar with the sampling and analysis procedures described above and finds them to be acceptable. Buyer shall notify Seller in writing of any significant changes in Buyer's sampling and analysis practices. Any such changes in Buyer's or Buyer's contractor's sampling and analysis practices shall, except for A.S.T.M. accepted changes in practices, provide for no less accuracy than the sampling and analysis practices existing at the time of the execution of this Agreement, unless the parties otherwise mutually agree. Seller shall have the right, at Seller's expense and upon reasonable notice, to visit Buyer's or Buyer's sample collection area, sampler and Buyer's and/or Buyer's contractor's laboratory to review coal quality analysis processes and shall further have the right to suggest processes for improvement in accuracy at any reasonable time or frequency.

Each sample taken by Buyer shall be divided into four (4) parts and put into airtight containers, properly labeled and sealed. One part shall be used for analysis by Buyer; one part shall be used by Buyer as a check sample, if Buyer in its sole judgment determines it is necessary; one part shall be retained by Buyer until the twenty-fifth (25th) of the month following the month of unloading (the "Disposal Date") and shall be delivered to Seller for analysis if Seller so requests before the Disposal Date; and one part ("Referee Sample") shall be retained by Buyer until the Disposal Date. Buyer shall provide a composite of all the analysis for presentation to Seller by the fifteenth (15th) day of the month following the month of unloading. Seller, on reasonable notice to Buyer, shall have the right to have a representative present to observe the sampling and analyses performed by Buyer or Buyer's contractor. Unless Seller requests a Referee Sample analysis before the Disposal Date, Buyer's analysis shall be used to determine the quality of the coal delivered hereunder. The Monthly Weighted Averages shall be determined by utilizing the individual Shipment analyses and the weight of each Shipment.

If any dispute arises before the Disposal Date, the Referee Sample retained by Buyer shall be submitted for analysis to an independent commercial testing laboratory ("Independent Lab") mutually chosen by Buyer and Seller. For each coal quality specification in question, a dispute shall be deemed not to exist and Buyer's analysis shall prevail and the analysis of the Independent Lab shall be disregarded if the analysis of the Independent Lab differs from the analysis of Seller by an amount equal to or less than:

- (i) 0.50% moisture
- (ii) 0.50% ash on a dry basis
- (iii) 100 Btu/lb. on a dry basis

(iv) 0.10% sulfur on a dry basis.

For each coal quality specification in question, if the analysis of the Independent Lab differs from the analysis of Buyer by an amount more than the amounts listed above, then the analysis of the Independent Lab shall prevail and Buyer's analysis shall be disregarded. The cost of the analysis made by the Independent Lab shall be borne by Seller to the extent that Buyer's analysis prevails and by Buyer to the extent that the analysis of the Independent Lab prevails.

SECTION 8. PRICE.

§ 8.1 Base Price. The base price of the coal to be sold and delivered hereunder shall be determined according to the following schedule as set out by Delivery Point and by quality as nominated by Buyer on the basis of \$/MMBTU F.O.B. Delivery Point as directed by Buyer ("Base Price"):

	Quality A 12,000 Btu	Quality B 11,800 Btu	Quality C 11,500 Btu	Quality D 11,000 Btu	All prices \$/MMBTU
2010					
Sebree Complex	\$2.060	\$2.061	\$2.063	\$2.065	
Energy Dock	\$2.048	\$2.048	\$2.050	\$2.052	

§ 8.2 Diesel Fuel Adjustment (Surcharge or Discount). In addition to the Base Price §8.1 above, there shall be an adjustment to such price for changes in diesel fuel (surcharge or discount) for transportation purposes. The diesel fuel adjustment shall be adjusted effective on the first day of each month, beginning January 1, 2010, to reflect any change in the price of diesel fuel, calculated as follows:

BPG = Base fuel price per gallon is \$2.50 per gallon.

APG = The adjustment for each month shall be based upon the average price reported for the second month preceding the month of delivery in the Energy Information Administration Weekly Retail On-Highway Diesel Prices – Average All Types (Dollars per Gallon, including all Taxes) for the Midwest No. 2 Diesel Retail Sales by All Sellers (Cents per Gallon) found under the link [Spreadsheet of Complete Diesel Historical Data](#) (worksheet name Cell Data 2 M Diesel Prices All types) (the “E.I.A. Report”).

If the applicable average monthly price reported in the E.I.A. Report for the second month preceding the month of delivery exceeds or is less than \$2.50 per gallon, the price of coal during the month of delivery shall be either increased or decreased by \$0.04 per ton for each \$0.10 per gallon, on a pro rata basis, that the applicable second preceding month the E.I.A. Report price either exceeds or is less than \$2.50 per gallon.

For example and avoidance of doubt, a calculation formula is provided.

Formula: $APG - BPG =$ Positive (surcharge) or negative (discount) change in per gallon price of fuel. For \$0.10 increase or decrease in the cost of diesel fuel, the per ton surcharge or discount shall be \$0.04 per ton, fractions pro rata.

Seller shall furnish Buyer with a copy of the appropriate E.I.A. Report information, calculation, and any necessary and reasonable supporting documentation on the average diesel fuel price with each fuel surcharge and/or discount submitted prior to each month of delivery.

§ 8.3 Payment Calculation. Payment shall be based solely upon the tonnage and BTU/LB received pursuant to Section 6. QUALITY and Section 7. WEIGHTS, SAMPLING AND ANALYSIS. If there are any quality adjustments pursuant to Section 9.2 , such adjustments shall apply for the month the coal was delivered to the Delivery Point.

SECTION 9. INVOICES, BILLING AND PAYMENT.

§ 9.1 Invoicing Address. Invoices will be sent to Buyer at the following address:

Big Rivers Electric Corporation
201 Third Street (physical zip code 42420)
P.O. Box 24
Henderson, Kentucky 42419-0024
Attn.: Supervisor, Fuels Accounting

With a copy to:

Big Rivers Electric Corporation
201 Third Street (physical zip code 42420)
P.O. Box 24
Henderson, Kentucky 42419-0024
Attn.: Director, Fuels Procurement

§ 9.2 Payment Procedures for Coal Shipments. For all coal delivered pursuant to Article 5 hereof, and unloaded at the Delivery Point between the first (1st) and fifteenth (15th) days of any calendar month, Buyer shall make preliminary payment for one-hundred percent (100%) of the amount owed for the coal (based on the assumption that the coal will meet all guaranteed monthly quality parameters) by the twenty-fifth (25th) day of such month of unloading, except that, if the twenty-fifth (25th) is not a regular work day, payment shall be made on the next regular work day. All preliminary payments shall be calculated based upon the then current Base

Price on a cents per MMBTU basis as calculated by the guaranteed monthly weighted average BTU/lb. Seller shall invoice Buyer for all coal delivered pursuant to Article 5 hereof, and unloaded at the Delivery Point between the first (1st) and fifteenth (15th) days of any calendar month by the 20th of the month, based upon the then current Base Price on a cents per MMBTU basis as calculated by the guaranteed monthly weighted average BTU/lb.

For all coal delivered, as defined in Article 5 hereof, and unloaded at the Delivery Point between the sixteenth (16th) and the last day of any calendar month, Buyer shall make a payment for one-hundred percent (100%) of the amount owed for the coal by the tenth (10th) day of the month following the month of unloading, except that, if the tenth (10th) is not a regular work day, payment shall be made on the next regular work day. Also by the tenth (10th) day of the month following the month of unloading of coal at the Delivery Point, a reconciliation of amounts paid and amounts owed during said month shall be made, including, any adjustments for any applicable discounts or other adjustments provided herein, except that, if the tenth (10th) is not a regular work day, payment shall be made on the next regular work day. Seller shall invoice Buyer for all coal delivered pursuant to Article 5 hereof, and unloaded at the Delivery Point between the sixteenth (16th) and last day of any calendar month by the 5th day of the following month, based upon the then current Base Price on a cents per MMBTU basis as calculated by the guaranteed monthly weighted average BTU/lb.

In the event Seller notifies Buyer that a pattern has developed whereby payments are not being paid when due, as set forth herein, Buyer shall review its internal approval and payment procedures and remedy such payment practices, if any develop. Except as provided in § 9.3

below, the amount of any correct invoice not paid within five (5) business days when due, shall bear interest at six percent (6.0%) per annum based from the date due until such time as the payment is made in full to Seller.

Seller shall provide Buyer its bank wiring and A.C.H. instructions at least two weeks prior to first scheduled payment.

§ 9.3 Withholding. Buyer shall have the right to withhold from payment of any billing or billings (i) any sums which it is not able in good faith to verify or which it otherwise in good faith disputes and (ii) any amounts owed to Buyer from Seller. Buyer shall notify Seller promptly in writing of any such issue, stating the basis of its claim and the amount it intends to withhold. If such disputed amount or damage or likely damages exceed \$100,000, Seller shall have the right to suspend shipments until such time as the dispute is resolved and settlement of withholding occurs.

Payment by Buyer, whether knowing or inadvertent, of any amount in dispute shall not be deemed a waiver of any claims or rights by Buyer with respect to any disputed amounts or payments made. Any disputed amounts withheld by Buyer that are later found to have been withheld improperly, other than amounts disputed resulting from errors, lack of documentation, or other related incidents surrounding any disputed amount or similar legitimate and reasonable disputes, shall be subject to interest at six percent (6.0%) per annum based from the date due until such time as the payment is made in full to Seller.

SECTION 10. FORCE MAJEURE.

§ 10.1 General Force Majeure. Notwithstanding anything herein to the contrary, if an event occurs that would otherwise be a force majeure event under this Section 10.1, but either Party is still able to perform its obligations hereunder, (in Seller's case, after taking into account all of Seller's then existing obligations to deliver coal to third parties from the unaffected Coal Properties through one or more of the Coal Properties (or portions thereof) that are not affected by such force majeure event), then such event shall not be considered a force majeure event hereunder. If either party hereto is delayed in or prevented from performing any of its obligations or from utilizing the coal sold under this Agreement due to acts of God, war, riots, civil insurrection, acts of the public enemy, terrorism, strikes, lockouts, labor disputes, disturbances or unrest, damage to plants, equipment or facilities, fires, floods or earthquakes, inability to obtain permits or authorizations from any governmental authority after prudent and timely submission and application of same, mine accidents that are solely responsible for delaying or preventing performance of Seller, roof falls, roof and floor intrusions, geologic pressure which traps equipment, underground flooding, build up of methane gas or any other mining conditions which cause unusually dangerous and unsafe working conditions at the Coal Properties; extraordinary and unanticipated changes in coal seam characteristics at the Coal Properties related to a parting in the coal seam and/or a high sulfur pocket which require Seller to retreat its affected mining units to other areas of its mining reserves at the Coal Properties, reduced productivity at the Coal Properties resulting from a labor dispute or compliance with Government Imposition as set forth in Section 11, and without the fault or negligence of the party affected thereby, then the obligations of both parties hereto shall be suspended to the extent made necessary by such event;

provided that the affected party gives written notice to the other party as early as practicable of the nature and probable duration of the force majeure event. Failure to give such notice and to furnish the designated information shall be deemed a waiver of the affected party's rights under this § 10. The party declaring force majeure shall exercise due diligence to avoid the force majeure event or shorten its duration and will keep the other party advised as to the continuance of the force majeure event.

During any period in which Seller's ability to perform hereunder is affected by a force majeure event, Seller shall not deliver any coal to any other buyers to whom Seller's ability to supply is similarly affected by such force majeure event unless contractually committed to do so at the beginning of the force majeure event; and further shall deliver to Buyer under this Agreement at least a pro rata portion (on a per ton basis) of its total contractual commitments for all its buyers in place at the beginning of the force majeure event to whom Seller's ability to supply is similarly affected by such force majeure event.

During any period in which Buyer's ability to perform hereunder is affected by a force majeure event, Buyer shall not purchase any coal from any other sellers unless contractually committed to do so at the beginning of the force majeure event; and further shall purchase from Seller under this Agreement at least a pro rata portion (on a per ton basis) of its total contractual commitments for all its sellers in place at the beginning of the force majeure event with whom Buyer has contracted for the supply of coal.

Events of force majeure as defined above affecting a supplier or contractor of a party hereto, other than for the production and shipping of coal, will be treated as the affected party's

force majeure provided that the affected party diligently and promptly obtains an alternate source of supply or services. Force majeure does not include: (i) the loss of Buyer's markets; (ii) a change in market conditions including the ability of the Seller to sell coal at a higher price; (iii) Seller's inability to economically produce or obtain the coal; or (iv) Buyer's inability to economically purchase coal under this Agreement, including Buyer's ability to buy other coal at a lower price, whether or not foreseeable.

Buyer reserves the right to purchase replacement coal from other sources during the occurrence of a force majeure event affecting Seller and Seller reserves the right to sell coal to third parties during the occurrence of a force majeure event affecting Buyer. If tonnage deficiencies result from a Seller's or Buyer's declared force majeure event lasting thirty (30) days or less, such deficiencies may be made up at the non-affected party's sole option on a mutually agreed-upon schedule. Any tonnage deficiencies resulting from a Seller's or Buyer's declared force majeure event lasting longer than thirty (30) days shall not be made up except by mutual agreement of the parties.

In the event that a situation of force majeure that materially affects a party's ability to perform its obligations hereunder continues for a period exceeding sixty (60) days, then the party not claiming force majeure may elect to terminate this Agreement by giving written notice to the affected party. In the event of such termination, neither party shall have any further liability to the other except for those obligations or liabilities which may have accrued with respect to performance or defaults prior to said termination.

§ 10.2 Environmental Law Force Majeure. The parties recognize that, during the continuance of this Agreement, legislative or regulatory bodies or the courts may adopt or amend environmental laws, regulations, policies and/or restrictions which will make it impossible or commercially impracticable for Buyer to utilize this or like kind and quality coal which thereafter would be delivered hereunder. If as a result of the adoption or amendment of such laws, regulations, policies, or restrictions, or change in the interpretation or enforcement thereof, Buyer decides that it will be impossible or commercially impracticable (uneconomical) for Buyer to utilize such coal, Buyer shall so notify Seller, and thereupon Buyer and Seller shall promptly consider whether corrective actions can be taken in the mining and preparation of the coal at Seller's mine and/or in the handling and utilization of the coal at Buyer's generating station; and if in Buyer's sole judgment such actions will not, without unreasonable expense to Buyer, make it possible and commercially practicable for Buyer to so utilize coal which thereafter would be delivered hereunder without violating, or creating the potential for violation of, any applicable law, regulation, policy or order, Buyer shall have the right, upon the later of sixty (60) days notice to Seller or the effective date of such restriction, to terminate this Agreement without further obligation hereunder on the part of either party hereto except for those obligations or liabilities which may have accrued with respect to performance or defaults prior to said termination.

SECTION 11. CHANGES

Buyer or Seller may, by mutual agreement, at any time by written notice pursuant to § 12 of this Agreement, make changes within the general scope of this Agreement in any one or more

of the following: quality of coal or coal specifications, quantity of coal, method or time of shipments, place of delivery (including transfer of title and risk of loss), method(s) of weighing, sampling or analysis, or government imposition as hereinafter defined, and such other provision as may affect the suitability and amount of coal for Buyer's generating stations.

For the purposes of this Agreement, Government Imposition shall be defined as changes in (i) taxes (other than state or federal income taxes or payroll taxes), (ii) fees and/or (iii) costs as a result of action by any level of government or administrative agency, including those changes occasioned by compliance with interpretations or enforcements of law in force on the date of this Agreement, but only if, the interpretations or enforcements are issued by a court, governmental agency, or regulatory body, and are different from the interpretations or enforcements of the relevant laws as they existed on the date of this Agreement (other than fees and/or costs which (a) are brought about by the inefficient operations of Seller, (b) are attributable to Seller's negligence, or (c) are the result of criminal fines or penalties imposed on Seller by any government or governmental agency and relating to the mining, production, severance, preparation, or sale of the coal). The Base Price includes all Government Impositions as of the date of this Agreement.

If any Government Imposition occurs during the term of this Agreement, Seller shall make a claim for an equitable pro rata adjustment equal to the change in costs based upon Buyer's apportionment of tonnage.

Any claim by the Seller for adjustment under this § 11 shall be asserted as soon as Seller is able to determine the cost increase or decrease impact after the date of the Government

Imposition, it being understood, however that Seller shall not be obligated to proceed under this Agreement until an equitable adjustment has been agreed upon. The parties agree to negotiate promptly and in good faith for a period not to exceed thirty (30) days from the date of notice provided by the party seeking adjustment, to agree upon the nature and extent of any equitable adjustment. In the event the parties cannot agree upon an adjustment, this Agreement shall terminate ninety days from the date on which negotiations cease.

Any claim by the Seller for adjustment under this § 11 which is asserted after the expiration date of this Agreement which is retroactive in nature shall be submitted as soon as Seller is able to determine the cost increase or decrease impact, but in no event later than April 30, 2011. In the event the parties cannot agree upon an adjustment, the Parties shall submit the matter to binding arbitration for determination of the price adjustment. Buyer shall be afforded full discovery at its expense of any and all documentation regarding any claim. Buyer and Seller shall mutually agree to the selection of the arbitrator. The fees paid to the arbitrator shall be shared equally between Buyer and Seller. Buyer and Seller shall each bear their own legal fees and expenses in connection with the arbitration.

SECTION 12. NOTICES.

§ 12.1 Form and Place of Notice. Any official notice, request for approval or other document required or permitted to be given under this Agreement shall be in writing, unless otherwise provided herein, and shall be deemed to have been sufficiently given when delivered in person, transmitted by facsimile or other electronic media, delivered to an established mail service for same day or overnight delivery, or dispatched in the United States mail, postage

prepaid, for mailing by first class, certified, or registered mail, return receipt requested, and addressed as follows:

If to Buyer: Big Rivers Electric Corporation
201 Third Street (physical zip code 42420)
P.O. Box 24
Henderson, Kentucky 42419-0024
Attn: Director, Fuels Procurement

If to Seller: Warrior Coal, LLC.
1717 South Boulder Ave, Suite 400
Tulsa, OK 74119
Attn: General Manager – Contract Administration

With Copy To: Alliance Coal Sales
3110 Fairview Drive, Suite 111
Owensboro, Kentucky 42303
Attn: General Manager - Central Region Sales

§ 12.2 Change of Person or Address. Any party may change the person or address specified above upon giving written notice to the other party of such change.

§ 12.3 Electronic Data Transmittal. Seller hereby agrees, at Seller's reasonable cost, to electronically transmit shipping notices and/or other data to Buyer in a format acceptable to and established by Buyer upon Buyer's reasonable request. Buyer shall provide Seller with the appropriate format and will inform Seller as to the electronic data transmission requirements at the appropriate time.

SECTION 13. INDEMNITY AND INSURANCE.

§ 13.1 Indemnity. Seller agrees to indemnify and save harmless Buyer, its officers, directors, employees and representatives from any responsibility and liability for any and all claims, demands, losses, legal actions for personal injuries, including death, and property damage (the "Claims") (i) relating to the trucks provided by Seller or Seller's contractor while such trucks are delivering coal to the Delivery Point, (ii) due to any failure of Seller, their respective employees, agents, representatives, contractors or subcontractors, to comply with any laws, regulations or ordinances, relative to Seller's performance of this Agreement, or (iii) due to the acts or omissions of Seller, and its respective employees, agents, representatives, contractors or subcontractors, in performing Seller's obligations specifically set forth under this Agreement,.

Buyer agrees to indemnify and save harmless Seller, its officers, directors, employees and representatives from any responsibility and liability for any and all Claims relating to) the ownership or use of the coal from and after the time that the coal is delivered to Buyer at the Delivery Point.

§ 13.2 Insurance. Seller agrees to carry insurance coverage with minimum limits as follows.

(a) Commercial General Liability, including Completed Operations and Contractual Liability, \$1,000,000 single limit liability.

(b) Automobile General Liability, \$1,000,000 single limit liability.

(c) In addition, Seller shall carry excess liability insurance covering the foregoing perils in the amount of \$4,000,000 for any one occurrence.

(d) Workers' Compensation and Employer's Liability with statutory limits.

If any of the above policies are written on a claims made basis, then the retroactive date of the policy or policies will be no later than the effective date of this Agreement. Prior to the execution of this Agreement, Certificates of Insurance satisfactory in form to the Buyer and signed by the Seller's insurer shall be supplied by the Seller to the Buyer evidencing that the above insurance is in force and that not less than thirty (30) calendar days written notice will be given to the Buyer prior to any cancellation or material reduction in coverage under the policies. The Seller shall cause its insurer to waive all subrogation rights against the Buyer respecting all losses or claims arising from performance hereunder. Evidence of such waiver satisfactory in form and substance to the Buyer shall be exhibited in the Certificate of Insurance mentioned above. Seller's liability shall not be limited to its insurance coverage.

SECTION 14. TERMINATION FOR DEFAULT.

If either party hereto commits a material breach of any of its obligations under this Agreement at any time, including but not limited to a breach of a representation or warranty, then the other party has the right to give written notice describing such breach and stating its intention to terminate this Agreement no sooner than fifteen (15) days after the date of the notice (the "Notice Period"). If such material breach is curable and the breaching party cures such material breach within the Notice Period, then the Agreement shall not be terminated due to such material breach. If such material breach is not curable or the breaching party fails to cure such material breach within the Notice Period, then this Agreement shall terminate at the end of the Notice

Period in addition to all the other rights and remedies available to the aggrieved party under this Agreement and at law and in equity.

SECTION 15. TAXES, DUTIES AND FEES.

Seller shall pay when due, and the price set forth in § 8 of this Agreement shall be inclusive of, all taxes, duties, fees and other assessments of whatever nature imposed by governmental authorities with respect to the transactions contemplated under this Agreement except as provided in Section 11. Changes.

SECTION 16. DOCUMENTATION AND RIGHT OF AUDIT.

Seller and Buyer shall maintain all records and accounts pertaining to payments, quantities, quality analyses, and source for all coal supplied under this Agreement for a period lasting through the term of this Agreement and for two (2) years thereafter. Buyer and Seller shall have the right at no additional expense to audit, copy and inspect such records and accounts at any reasonable time upon reasonable notice during the term of this Agreement and for two (2) years thereafter.

SECTION 17. EQUAL EMPLOYMENT OPPORTUNITY.

To the extent applicable, Seller shall comply with all of the following provisions which are incorporated herein by reference: Equal Employment Opportunity regulations set forth in 41 CFR § 60-1.4(a) and (c) prohibiting discrimination against any employee or applicant for employment because of race, color, religion, sex, or national origin; Vietnam Era Veterans Readjustment Assistance Act regulations set forth in 41 CFR § 50-250.4 relating to the employment and advancement of disabled veterans and veterans of the Vietnam Era;

Rehabilitation Act regulations set forth in 41 CFR § 60-741.4 relating to the employment and advancement of qualified disabled employees and applicants for employment; the clause known as "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals" set forth in 15 USC § 637(d)(3); and subcontracting plan requirements set forth in 15 USC § 637(d).

SECTION 18. COAL PROPERTY INSPECTIONS.

Buyer and its representatives and others as may be required by applicable laws, ordinances and regulations shall have the right, but not the obligation, upon reasonable notice at reasonable times and at their own risk and expense to inspect the Coal Property, including the loading facilities, scales, sampling system(s), wash plant facilities, and mining equipment for conformance with this Agreement. Seller shall undertake reasonable care and precautions to prevent personal injuries to any representatives, agents or employees of Buyer (collectively, "Visitors") who inspect the Coal Property. Any such Visitors shall comply with Seller's regulations and rules regarding conduct on the work site, made known to Visitors prior to entry, as well as safety measures mandated by state or federal rules, regulations and laws. Buyer understands that coal mines and related facilities are inherently high-risk environments. Buyer's failure to inspect the Coal Property or to object to defects therein at the time Buyer inspects the same shall not be construed as constituting an approval of Seller's mining plan or mining practices, relieve Seller of any of its responsibilities, nor be deemed to be a waiver of any of Buyer's rights hereunder.

SECTION 19. MISCELLANEOUS.

§ 19.1 Applicable Law. This Agreement shall be construed in accordance with the laws of the Commonwealth of Kentucky, and all questions of performance of obligations hereunder shall be determined in accordance with such laws, without regard to choice of law principles.

§ 19.2 Headings. The paragraph headings appearing in this Agreement are for convenience only and shall not affect the meaning or interpretation of this Agreement.

§ 19.3 Waiver. The failure of either party to insist on strict performance of any provision of this Agreement, or to take advantage of any rights hereunder, shall not be construed as a waiver of such provision or right.

§ 19.4 Remedies Cumulative. Except for those remedies identified under this Agreement as exclusive remedies, any other remedies provided under this Agreement shall be cumulative and in addition to other remedies provided under this Agreement or by law or in equity, except that neither Party shall in any event be liable for any special, consequential, incidental, indirect, exemplary, or punitive damages, including without limitation lost profits, on account of any alleged default, breach of contract, negligence, or other act pursuant to this Agreement.

§ 19.5 Severability. If any provision of this Agreement is found contrary to law or unenforceable by any court of law, the remaining provisions shall be severable and enforceable in accordance with their terms, unless such unlawful or unenforceable provision is material to the transactions contemplated hereby, in which case the parties shall negotiate in good faith a substitute provision.

§ 19.6 Binding Effect. This Agreement shall bind and inure to the benefit of the parties and their successors and assigns.

§ 19.7 Assignment. Neither party may assign this Agreement or any rights or obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld or denied. Notwithstanding the foregoing, no consent is required for an assignment or other transfer by a party as part of a merger, reorganization or consolidation involving such party.

§ 19.8 Entire Agreement. This Agreement contains the entire agreement between the parties as to the subject matter hereof, and there are no representations, understandings or agreements, oral or written, which are not included herein.

§ 19.9 Amendments. Except as otherwise provided herein, this Agreement may not be amended, supplemented or otherwise modified except by written instrument signed by both parties hereto.

§ 19.10 Brokers. Seller hereby indemnifies and holds Buyer harmless from all losses, costs, demands, and expenses Buyer may incur in connection with claims made against Buyer by any brokers claiming by, through or on behalf of Seller arising from this Agreement.

SECTION 20. CONFIDENTIALITY

Seller and Buyer agree to maintain in strict confidence the terms and conditions of this Agreement and any information or data relating hereto exchanged or obtained by the parties *during negotiation and performance of this Agreement*. *Neither Buyer nor Seller shall disclose any of the terms and conditions hereof to any third party (except to affiliates of Seller or Buyer) without the prior written consent of the other party, except where such disclosure may be required by law or in connection with a judicial or administrative proceedings before courts,*

regulatory bodies, or agencies such as the Kentucky Public Service Commission involving a party hereto, in which event the party intending to make such disclosure shall advise the other in advance and cooperate to minimize the disclosure to the extent possible. The obligations of Buyer and Seller arising under this § 20, shall continue for a period of three (3) years following termination or expiration of this Agreement.

SECTION 21. ETHICAL DEALING

Each party represents and warrants that it has not given or received and shall not give or receive any commission, payment, kickback, secret rebate or other thing of value to or from any employee or agent of the other party or to any supplier of services in connection with this Agreement. Each party acknowledges that the giving or receiving of any such commission, payment, kickback, secret rebate or other thing of value constitutes a breach of ethical standards, is potentially in violation of applicable law and may result in immediate termination of this and other outstanding agreements between the parties.

(Signature page follows)

Contract: BRE-09-015

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date corresponding to each of their signature blocks below, but this Agreement shall be effective as of the date first above written.

BUYER:

BIG RIVERS ELECTRIC COMPANY

Mark A. Bailey

Mark A. Bailey

Chief Executive Officer and President

Date: 1/6/10

SELLER:

ALLIANCE COAL, LLC.

Robert G. Sachse

Robert G. Sachse

Executive Vice President

Date: 12-30-09