

# REDACTED

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050001-EI

December 2, 2003

Florida Power Corporation (FPC), a Progress Energy Company, is requesting proposals for gas supply requirements for 2004-2005 delivered to Florida Gas Transmission (FGT) and Gulfstream Natural Gas System (GNGS) pipelines. Day-ahead flexibility to switch gas supply between FGT and GNGS, either by physical connection to both and/or contract flexibility is desired. FPC will consider baseload, take or release, daily swing deliveries, call options, as well as other alternatives. Deliveries should be made to FPC's primary receipt points, however alternate points will be considered. Please indicate receipt points on your response.

**Volume and Term:**

FGT Package #1: See attached spreadsheet for volume requirements at specific receipt points in Dth/day for supplies starting May 2004 through April 2005. An additional term through April 2006 will also be considered. Daily swing rights and the ability to declare a minimum volume take for the month is desired in this package.

GSNG Package #2: Up to 20,000 Dth/day June 2004 through September 2004. FPC is seeking supplies at each Gulfstream receipt point. FPC will consider, daily swing rights, the ability to declare a minimum volume take for the month, as well as call option proposals.

GSNG Package #3: Up to 20,000 Dth/day, July 2004 through August 2004. FPC is seeking supplies at each Gulfstream receipt point. FPC is requesting a daily call option.

**Primary Receipt Point:** For packages #2 and #3

<u>Pipeline</u>	<u>Receipt Point</u>	<u>DRN</u>
FGT	Transco Citronelle	157553
FGT	Destin Pipeline	241390
GSNG	DIGP Offshore Pipeline	8205164
GSNG	Mobile Bay Processing Plant	8205179
GSNG	ExxonMobil Mary Ann Plant	8205178
GSNG	Williams Mobile Bay Plant	8205171
GSNG	Gulf South Pipeline	8205177
GSNG	Destin Pipeline	8205175

DOCUMENT NUMBER DATE  
01002 JAN 27 8/  
FPSC-COMMISSION CLERK

**Price:** FPC has interest in reviewing Inside FERC with Buyer's election to convert to Gas Daily Midpoint, Fixed, and other pricing scenarios Seller would like to propose to Buyer.

**Nominations:** Pre-scheduled (day ahead of gas flow) and/or intraday (day of gas flow) may be submitted up until nomination deadline.

**Service:** Firm

**Proposals Due:** December 16, 2003, 5:00 PM EPT (4:00 PM CPT)

**Requirements:** GISB / NAESB with FPC

**Submittal:** E-mail and US Mail or Fax.

**Send proposals to:** Ed McCluskey  
Gas Trader, Regulated Commercial Operations  
P.O. Box 1551, PEB10A  
Raleigh, NC 27602-1551  
Telephone: 919-546-5174  
Fax: 919-546-2922  
E-mail: [edward.mccluskey@pgnmail.com](mailto:edward.mccluskey@pgnmail.com)



COMPANY	PGN RATING	LOCATION	TERM		VOLUME				PRICE					
			Start	Termination	MIN DTHS	MAX DTHS	Optionality	Notification	Publication	Location	Adder	Reservation	Rights	

4

[illegible]

CONFIDENTIAL INFORMATION HIGHLIGHTED YELLOW  
Package #3 - RESPONSES - CONFIDENTIAL

[illegible]

5



**COAL SOLICITATION—"A" & "D" COAL  
CRYSTAL RIVER UNITS 1, 2, 4 & 5**

**RFP'S RELEASED 04/12/04**

**EVALUATION WORKPAPERS**

**COPIES**

# PROGRESS FUELS CORPORATION

CR 1 and 2

May 2004

Solicitation

CR 1 Bids by Rail/Water

Supplier	Term	Origin	(000)	Weight	2005	2005	2006	2006	2007	2007	2008	2008	Transp.	Railcar	Purchase Specifications						Unit 45	Utilization	Derate	Cash	Cash	Evaluated	Evaluated	ACTION TAKEN	Notes
			Total	Avg											Ash	Sulfur	Btu	Moisture	Vol	HGI	SO2								
Rail			Tons	Price	Tons	Price	Tons	Price	Tons	Price	Tons	Price	Cost	Cost								Cost/mt	Codes	Cost \$/st	Cost \$/M	Cost \$/st	Cost \$/M		
B&W Resources	05-07	CSX Jellico	720		240		240		240		0	\$0.00			11.50%	1.25%	12,500	7.00%	32.00%	42	2.00		S						
Massey	05	CSX BS	720		720		0		0		0	\$0.00			12.50%	1.26%	12,000	8.00%	31.00%	42	2.10		AS						
Marshall	05-06	CSX Clinchfield	500		250		250		0		0	\$0.00			13.00%	1.31%	12,500	7.00%	29.00%	50	2.10		ASV						
Central App	05-07	CSX BS	720		240		240		240		0	\$0.00			12.00%	1.32%	12,500	8.00%	32.00%	42	2.10		S						
Black Gold	05-07	CSX Harlan	600		120		240		240		0	\$0.00			10.00%	1.34%	12,700	8.00%	31.00%	45	2.10		S						
Horizon	05-07	Evergreen	1500		500		500		500		0	\$0.00			13.00%	1.29%	12,300	8.00%	31.00%	45	2.10		AS						
Massey	05	CSX Kan	720		720		0		0		0	\$0.00			12.50%	1.26%	12,000	8.00%	30.00%	42	2.10		ASV						
Logan&Kanawha	05-07	CSX Kan	1080		360		360		360		0	\$0.00			13.00%	1.00%	12,500	8.00%	30.00%	42	1.60		ASV						
Peabody	05-07	CSX Kan	720		240		240		240		0	\$0.00			13.50%	0.98%	12,200	6.70%	30.00%	40	1.60		ASV						
Horizon	05-07	CSX Haz- Typo	1500		500		500		500		0	\$0.00			13.00%	1.27%	12,100	8.00%	31.00%	42	2.10		AS						
Smokey Mtn	05	CSX Kan	240		240		0		0		0	\$0.00			13.00%	1.26%	12,000	8.00%	31.00%	42	2.10		AS						
		A RailTotal	9020																										
Water																													
Central Coal Co	05-06	Barge-Kanawha	480		240		240		0		0	\$0.00			12.00%	1.00%	12,300	8.00%	32.00%	45	1.63		S						
CMC	05	Colombia-Mobile	200		200		0		0		0	\$0.00			9.20%	0.78%	11,600	12.30%	33.00%	45	1.34		SBM						
CMC	05	Colombia-ECT	400		400		0		0		0	\$0.00			9.20%	0.78%	11,600	12.30%	33.00%	45	1.34		SBM						
CMC	05	Colombia-Mobile	200		200		0		0		0	\$0.00			9.20%	0.79%	11,800	12.30%	33.00%	45	1.34		SM						
CMC	05	Colombia-ECT	400		400		0		0		0	\$0.00			9.20%	0.79%	11,800	12.30%	33.00%	45	1.34		SM						
A Water Total			1680																										

\*estimated in red

CR 45 Economics Base Specifications					
Ash	Sulfur	Btu	Moisture	Vol	HGI
10.00%	1.05%	12,000	8.00%	34.00%	40

SO2 Price

Revised: 5/13/2004 8:48

p.1

Ash	Sulfur	Btu	Moisture	Vol	HGI
10.00%	1.85%	12,000	8.00%	34.00%	40

Total Tons	10700
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7/5/21/06/25/24/

PROGRESS FUELS CORPORATION

CR 1 and 2

May 2004

Solicitation

FALL BIDS

✓ Purchased  
Start up  
operation 2  
? A

Fixed two yrs  
E F

G H I J K

BID BIDS																												
Supplier	Term	Origin	(000) Total Tons	Weight Avg Price	2005 Tons	2005 Price	2006 Tons	2006 Price	2007 Tons	2007 Price	2008 Tons	2008 Price	Transp Cost	Railcar Costs	Purchase Specifications						Utilization	Unit 43 Derate Codes	Cash Cost \$/mt	Cash Cost \$/M	Evaluated Utilized Cost \$/mt	Evaluated Utilized Cost \$/M	ACTION TAKEN	Notes
															Ash	Sulfur	Btu	Moisture	Vol	HGI	SO2							
Massey	05	CSX BS	720		720		0		0		0	\$0.00			12.50%	1.27%	12,100	8.00%	31.00%	42	2.10		AS				New Ridge/Goff	
B&W Resources	05-07	CSX Jellico	720		240		240		240		0	\$0.00			11.50%	1.25%	12,500	7.00%	32.00%	42	2.00		S					
Marshall	05-06	CSX Clinchfield	500		250		250		0		0	\$0.00			13.00%	1.31%	12,500	7.00%	29.00%	50	2.10		ASV				Ad/16 Out	
Massey	05	CSX Kan	720		720		0		0		0	\$0.00			12.50%	1.27%	12,100	8.00%	30.00%	42	2.10		ASV				Bandmill	
Central App	05-07	CSX BS	720		240		240		240		0	\$0.00			12.00%	1.32%	12,500	8.00%	32.00%	42	2.10		S					
Black Gold	05-07	CSX Harlan	600		120		240		240		0	\$0.00			10.00%	1.34%	12,700	8.00%	31.00%	42	2.10		S					
Horizon	05-07	CSX-Evergreen	1500		500		500		500		0	\$0.00			13.00%	1.29%	12,300	8.00%	31.00%	45	2.10		AS				Note reopener 06 and 07	
Central Coal Co	05-06	CSX-Kan	480		240		240		0		0	\$0.00			12.00%	0.99%	12,300	8.00%	32.00%	45	1.60		S				SO2 set to 1.6	
CMC	05	Colombia-Mobile	400		400		0		0		0	\$0.00			9.20%	0.78%	11,600	12.30%	32.00%	45	1.34		SBM					
Logan&Kanawha	05-07	CSX Kan	1080		360		360		360		0	\$0.00			13.00%	1.00%	12,500	8.00%	30.00%	42	1.60		ASV				Snap Creek	
CMC	05	Colombia-ECT	400		400		0		0		0	\$0.00			9.20%	0.78%	11,600	12.30%	32.00%	45	1.34		SBM					
Peabody	05-07	CSX Kan	720		240		240		240		0	\$0.00			13.50%	1.28%	12,200	6.70%	30.00%	40	2.10		ASV				Sulfur Premium @ 1.6	
Horizon	05-07	CSX Haz- Typo	1500		500		500		500		0	\$0.00			13.00%	1.27%	12,100	8.00%	31.00%	42	2.10		AS				reopener 06 and 07	
Smokey Mtn	05	CSX Kan	240		240		0		0		0	\$0.00			13.00%	1.26%	12,000	8.00%	31.00%	42	2.10		AS					

Total Tons 10300

CR 12 Economics Base Specifications					
Ash	Sulfur	Btu	Moisture	Vol	HGI
18.00%	1.05%	12,000	8.00%	34.00%	40

SO2 Price

Revised: 5/14/2004 17:01

		2005	2006
#1 Black Gold Tons		120,000	240,000
\$/Tn			
Deliv \$/mt			
#2 Massey	Tons	720,000	
\$/Tn			
Deliv \$/mt			
#3 B&W Resources	Tons	240,000	240,000
\$/Tn			
Deliv \$/mt			

Note:

Currently discussing w/ Massey 300K add 150 2005 and 150 2006. We are considering this because Conrail has informed us that they will only have 750K for renewal - 1.0 mill.

Additional conversation w/ Conrail indicates they will have 1.0 million for the renewal AS 5/25/04

P.3

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17  
18  
14  
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# PROGRESS FUELS CORPORATION

CR 1 and 2

May 2004

Solicitation

CR 1 Bids by Rail/Water

ALL BIDS by Rail/Water													G										H										I										J										K																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																					
Supplier	Term	Origin	(000) Total Tons	Weight Avg Price	2005 Tons	2005 Price	2006 Tons	2006 Price	2007 Tons	2007 Price	2008 Tons	2008 Price	Transp. Cost	Railcar Costs	Purchase Specifications							Utilization	Unit 45 Derate	Cash Cost \$/st	Cash Cost \$/M	Evaluated Utilized Cost \$/st	Evaluated Utilized Cost \$/M	ACTION TAKEN	Notes																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																													
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Massey	05	CSX BS	720		720		0		0		0	\$0.00			12.50%	1.26%	12,100	8.00%	31.00%	42	2.08		AS																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																			

Total Tons 10700

\*estimated in red

CR 45 Economics Base Specifications					
Ash	Sulfur	Btu	Moisture	Vol	HGI
10.00%	1.05%	12,000	8.00%	34.00%	40

SO2 Price

Revised: 5/13/2004 11:56

Purchased 5/14

Massey (CSX BS)

Tons  
\$

720

Black Gold  
(CSX Harlan)

Tons  
\$

120

240

P.4

CR 1 and 2  
May 2004  
Solicitation  
E F ALL BIDS

G H I J K

Supplier	Term	Origin	Total Tons	Avg Weight	2005	2005	2005	2006	2006	2006	2007	2007	2007	2008	2008	2008	Transp.	Railcar	Ash	Sulfur	Btu	Moisture	Vol	HGI	SO2	Utilization	Unit AS
Central Coal Co	05-06	Barge-Kanawha	480	240	240	0	240	0	0	0	0	0	0	0	0	0	0	0	12.00%	1.00%	12,300	8.00%	32.00%	45	1.63	S	
Massey	05	CSX BS	720	720	0	0	0	0	0	0	0	0	0	0	0	0	0	0	12.50%	1.26%	12,100	8.00%	31.00%	42	2.08	AS	
B&W Resources	05-07	CSX Jettico	720	240	240	0	240	0	0	0	0	0	0	0	0	0	0	0	11.50%	1.25%	12,500	7.00%	32.00%	42	2.00	S	
Marshall	05-06	CSX Clinchfield	500	250	0	0	0	0	0	0	0	0	0	0	0	0	0	0	13.00%	1.31%	12,500	7.00%	29.00%	50	2.10	ASV	
Massey	05	CSX Kan	720	720	0	0	0	0	0	0	0	0	0	0	0	0	0	0	12.50%	1.26%	12,100	8.00%	30.00%	42	2.08	ASV	
Central App	05-07	CSX BS	720	240	240	0	240	0	0	0	0	0	0	0	0	0	0	0	12.00%	1.32%	12,500	8.00%	32.00%	42	2.10	S	
Black Gold	05-07	CSX Hartlan	600	120	240	0	240	0	0	0	0	0	0	0	0	0	0	0	10.00%	1.34%	12,700	8.00%	31.00%	45	2.10	S	
Horizon	05-07	Evergreen	1500	500	500	0	500	0	0	0	0	0	0	0	0	0	0	0	13.00%	1.29%	12,300	8.00%	31.00%	45	2.10	AS	
CMC	05	Colombia-Mobile	200	200	0	0	0	0	0	0	0	0	0	0	0	0	0	0	9.20%	0.78%	11,600	12.30%	33.00%	45	1.34	SBM	
Logan/Kanawha	05-07	CSX Kan	1080	360	360	0	360	0	0	0	0	0	0	0	0	0	0	0	13.00%	1.00%	12,500	8.00%	30.00%	42	1.60	ASV	
CMC	05	Colombia-ECT	400	400	0	0	0	0	0	0	0	0	0	0	0	0	0	0	9.20%	0.78%	11,600	12.30%	33.00%	45	1.34	SBM	
Peabody	05-07	CSX Kan	720	240	240	0	240	0	0	0	0	0	0	0	0	0	0	0	13.50%	0.98%	12,200	6.70%	30.00%	40	1.60	ASV	
Horizon	05-07	CSX Haz-Typo	1500	500	500	0	500	0	0	0	0	0	0	0	0	0	0	0	13.00%	1.27%	12,100	8.00%	31.00%	42	2.10	AS	
CMC	05	Colombia-Mobile	200	200	0	0	0	0	0	0	0	0	0	0	0	0	0	0	9.20%	0.79%	11,800	12.30%	33.00%	45	1.34	SM	
CMC	05	Colombia-ECT	400	400	0	0	0	0	0	0	0	0	0	0	0	0	0	0	9.20%	0.79%	11,800	12.30%	33.00%	45	1.34	SM	
Smokey Mtn	05	CSX Kan	240	240	0	0	0	0	0	0	0	0	0	0	0	0	0	0	13.00%	1.26%	12,000	8.00%	31.00%	42	2.10	AS	

CR 45 Economics Base Specifications	Ash	Sulfur	Btu	Moisture	Vol	HGI
	10.00%	1.05%	12,000	8.00%	34.00%	40

Estimated in red	10.00%	1.05%	12,000	8.00%	34.00%	40
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CR 45 Economics Base Specifications											Estimated in red	
Ash	Sulfur	Btu	Moisture	Vol	HGI							
10.00%	1.05%	12,000	8.00%	34.00%	40							

Total Tons 10700

SO2 Price

17

11/11/2006 09:54 AM

0.5

# PROGRESS FUELS CORPORATION

CR 1 and 2

May 2004

Solicitation

Short List

1 Year Bids

A B C D										E		F		G	H	I						
Supplier	Term	Origin	(000) Total Tons	Weight Avg Price	2005 Tons	2005 Price	Transp. Cost	Railcar Costs	Purchase Specifications						Utilization Cost/mt	Unit 45 Derate Codes	Cash Cost \$/mt	Cash Cost \$/M	Evaluated Utilized Cost \$/mt	Evaluated Utilized Cost \$/M	ACTION TAKEN	Notes
Rail																						
Massey	05	CSX BS	720		720				12.50%	1.26%	12,100	8.00%	31.00%	42	2.08	AS						18 month deal
Marshall	05-06	CSX Clinchfield	250		250				13.00%	1.31%	12,500	7.00%	29.00%	50	2.10	ASV						
Black Gold	05-07	CSX Harlan	120		120				10.00%	1.34%	12,700	8.00%	31.00%	45	2.10	S						
B&W Resources	05-07	CSX Jellico	240		240				11.50%	1.25%	12,500	7.00%	32.00%	42	2.00	S						
Central App	05-07	CSX BS	240		240				12.00%	1.32%	12,500	8.00%	32.00%	42	2.10	S						
Water																						
Central Coal Co	05-06	Barge-Kanawha	240		240				12.00%	1.00%	12,300	8.00%	32.00%	45	1.63	S						

CR 12 Economics Base Specifications

Ash	Sulfur	Btu	Moisture	Vol	HGI
10.00%	1.05%	12,000	8.00%	34.00%	40

\*estimated in red

SO2 Price

Revised: 5/13/2004 11:31

### 1 Year Bids

1902 Price

# PROGRESS FUELS CORPORATION

CR Units 4 and 5

May 2004

Solicitation

ALL BIDS by Rail/Water

Solicitation ALL BIDS by Rail/Water																																		
			(000)	Weight																														
Supplier	Term	Origin	Total Tons	Avg Price	2005 Tons	2005 Price	2006 Tons	2006 Price	2007 Tons	2007 Price	2008 Tons	2008 Price	Transp. Cost	Railcar Costs	Purchase Specifications						Utilization Cost/yt	Unit 45 Derate Codes	Cash Cost \$/st	Cash Cost \$/M	Evaluated Utilized Cost \$/st	Evaluated Utilized Cost \$/M	ACTION TAKEN	Notes						
Rail																																		
Massey	05	Bandmill	720		720		0		0		0				13.00%	0.73%	12,100	8.00%	31.00%	42	1.20		A											
Progress	05-07	Diamond May	1080		360		360		360		0				12.00%	0.75%	12,500	8.00%	32.00%	43	1.20													
Alliance	04-07	MC Mining	900		150		150		600		0				10.00%	0.74%	12,300	9.00%	32.00%	39	1.20		H						06 & 07 reopener					
Total Rail			2700																															
Water																																		
DTE	2005	PRB/Cora	504		504		0		0		0	\$0.00			5.64%	0.30%	8,795	26.70%	31.65%	51	0.68		BM											
Kennecott	05-07	Barge Cahokia	1500		500		500		500		0	\$0.00			4.00%	0.38%	9,350	22.36%	31.00%	45	0.80		BM											
Arch	1/05-12/07	Thunder Basin	1500		500		500		500		0	\$0.00			5.50%	0.30%	8,800	28.00%	30.78%	50	0.68		BMV											
Triton	05	PRB N. Rochelle	1000		1000		0		0		0	\$0.00			5.20%	0.35%	8,800	28.50%	31.50%	63	0.80		BM											
Triton	05-07	PRB-Buckskin	3000		1000		1000		1000		0	\$0.00			5.50%	0.34%	8,400	30.00%	31.00%	65	0.80		BM											
Triton	05-07	PRB N. Rochelle	3000		1000		1000		1000		0	\$0.00			5.20%	0.35%	8,800	28.50%	31.50%	63	0.80		BM											
Peabody	05-07	Antelope	900		300		300		300		0	\$0.00			5.50%	0.27%	8,900	28.00%	30.00%	56	0.61		BMV											
Kennecott	05-07	Barge Cahokia	1000		200		400		400		0	\$0.00			5.00%	0.59%	9,963	13.22%	32.00%	45	1.18		BM											
Oxbow	05-08	Colorado	1550		50		500		500		500				12.00%	0.72%	11,900	9.00%	31.00%	50	1.20		S					ground storage included						
Interocean	07	Colombia-Mobile	1000		0		0		1000		0	\$0.00			5.50%	0.70%	11,700	14.00%	31.00%	43	1.20		BM											
Central	1/05-12/06	Winifred Dock	600		300		300		0		0	\$0.00			12.00%	0.73%	12,300	8.00%	31.00%	42	1.19													
Massey	05	FOB Ceredo	720		720		0		0		0	\$0.00			13.00%	0.73%	12,100	8.00%	31.00%	42	1.20		A											
CMC	05	Colombia-Mobile	200		200		0		0		0	\$0.00			8.30%	0.70%	11,600	12.00%	33.00%	45	1.20		BM											
CMC	05	Colombia-ECT	400		400		0		0		0	\$0.00			8.30%	0.70%	11,600	12.00%	33.00%	45	1.20		BM											
CMC	05	Colombia-Mobile	200		200		0		0		0	\$0.00			8.30%	0.71%	11,800	12.00%	33.00%	45	1.20		SM											
Glencore	2005	Colombia-IMT	150		150		0		0		0	\$0.00			9.00%	0.69%	12,000	10.00%	34.00%	46	1.15							SO2 guaranteed at 0.8						
CMC	05	Colombia-ECT	400		400		0		0		0	\$0.00			8.30%	0.71%	11,800	12.00%	33.00%	45	1.20		SM											
Glencore	2005	Colombia-IMT	150		150		0		0		0	\$0.00			8.00%	0.71%	12,400	9.00%	35.00%	46	1.15													
Guasare	05-07	Pasa Diablo - IMT	990		330		330		330		0	\$0.00			7.00%	0.77%	12,800	8.00%	34.00%	45	1.20		S											
Guasare	05-07	Mina Norte-IMT	700		200		250		250		0	\$0.00			8.00%	0.78%	13,000	8.00%	31.00%	45	1.20													
Total Water			19464																															
Total Tons			22164																															
														CR 45 Economics Base Specifications																				
														Ash	Sulfur	Btu	Moisture	Vol	HGI															
														10.00%	0.70%	12,000	8.00%	31.00%	40															
														*estimated in red																				
														SO2 Price																				
														Revised: 5/13/2004 11:55																				

\*estimated in red

CR 45 Economics Base Specifications					
Ash	Sulfur	Btu	Moisture	Vol	HGI
10.00%	0.70%	12,000	8.00%	31.00%	40

SO2 Price

Revised: 5/13/2004 11:55

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PROGRESS FUELS CORPORATION

CR Units 4 and 5

May 2004

Solicitation

ALL BIDS

4 B C D E F G H I J K L

Supplier	Term	Origin	Total Tons	Avg Price	Weight	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100	2101	2102	2103	2104	2105	2106	2107	2108	2109	2110	2111	2112	2113	2114	2115	2116	2117	2118	2119	2120	2121	2122	2123	2124	2125	2126	2127	2128	2129	2130	2131	2132	2133	2134	2135	2136	2137	2138	2139	2140	2141	2142	2143	2144	2145	2146	2147	2148	2149	2150	2151	2152	2153	2154	2155	2156	2157	2158	2159	2160	2161	2162	2163	2164	2165	2166	2167	2168	2169	2170	2171	2172	2173	2174	2175	2176	2177	2178	2179	2180	2181	2182	2183	2184	2185	2186	2187	2188	2189	2190	2191	2192	2193	2194	2195	2196	2197	2198	2199	2200	2201	2202	2203	2204	2205	2206	2207	2208	2209	2210	2211	2212	2213	2214	2215	2216	2217	2218	2219	2220	2221	2222	2223	2224	2225	2226	2227	2228	2229	2230	2231	2232	2233	2234	2235	2236	2237	2238	2239	2240	2241	2242	2243	2244	2245	2246	2247	2248	2249	2250	2251	2252	2253	2254	2255	2256	2257	2258	2259	2260	2261	2262	2263	2264	2265	2266	2267	2268	2269	2270	2271	2272	2273	2274	2275	2276	2277	2278	2279	2280	2281	2282	2283	2284	2285	2286	2287	2288	2289	2290	2291	2292	2293	2294	2295	2296	2297	2298	2299	2300	2301	2302	2303	2304	2305	2306	2307	2308	2309	2310	2311	2312	2313	2314	2315	2316	2317	2318	2319	2320	2321	2322	2323	2324	2325	2326	2327	2328	2329	2330	2331	2332	2333	2334	2335	2336	2337	2338	2339	2340	2341	2342	2343	2344	2345	2346	2347	2348	2349	2350	2351	2352	2353	2354	2355	2356	2357	2358	2359	2360	2361	2362	2363	2364	2365	2366	2367	2368	2369	2370	2371	2372	2373	2374	2375	2376	2377	2378	2379	2380	2381	2382	2383	2384	2385	2386	2387	2388	2389	2390	2391	2392	2393	2394	2395	2396	2397	2398	2399	2400	2401	2402	2403	2404	2405	2406	2407	2408	2409	2410	2411	2412	2413	2414	2415	2416	2417	2418	2419	2420	2421	2422	2423	2424	2425	2426	2427	2428	2429	2430	2431	2432	2433	2434	2435	2436	2437	2438	2439	2440	2441	2442	2443	2444	2445	2446	2447	2448	2449	2450	2451	2452	2453	2454	2455	2456	2457	2458	2459	2460	2461	2462	2463	2464	2465	2466	2467	2468	2469	2470	2471	2472	2473	2474	2475	2476	2477	2478	2479	2480	2481	2482	2483	2484	2485	2486	2487	2488	2489	2490	2491	2492	2493	2494	2495	2496	2497	2498	2499	2500	2501	2502	2503	2504	2505	2506	2507	2508	2509	2510	2511	2512	2513	2514	2515	2516	2517	2518	2519	2520	2521	2522	2523	2524	2525	2526	2527	2528	2529	2530	2531	2532	2533	2534	2535	2536	2537	2538	2539	2540	2541	2542	2543	2544	2545	2546	2547	2548	2549	2550	2551	2552	2553	2554	2555	2556	2557	2558	2559	2560	2561	2562	2563	2564	2565	2566	2567	2568	2569	2570	2571	2572	2573	2574	2575	2576	2577	2578	2579	2580	2581	2582	2583	2584	2585	2586	2587	2588	2589	2590	2591	2592	2593	2594	2595	2596	2597	2598	2599	2600	2601	2602	2603	2604	2605	2606	2607	2608	2609	2610	2611	2612	2613	2614	2615	2616	2617	2618	2619	2620	2621	2622	2623	2624	2625	2626	2627	2628	2629	2630	2631	2632	2633	2634	2635	2636	2637	2638	2639	2640	2641	2642	2643	2644	2645	2646	2647	2648	2649	2650	2651	2652	2653	2654	2655	2656	2657	2658	2659	2660	2661	2662	2663	2664	2665	2666	2667	2668	2669	2670	2671	2672	2673	2674	2675	2676	2677	2678	2679	2680	2681	2682	2683	2684	2685	2686	2687	2688	2689	2690	2691	2692	2693	2694	2695	2696	2697	2698	2699	2700	2701	2702	2703	2704	2705	2706	2707	2708	2709	2710	2711	2712	2713	2714	2715	2716	2717	2718	2719	2720	2721	2722	2723	2724	2725	2726	2727	2728	2729	2730	2731	2732	2733	2734	2735	2736	2737	2738	2739	2740	2741	2742	2743	2744	2745	2746	2747	2748	2749	2750	2751	2752	2753	2754	2755	2756	2757	2758	2759	2760	2761	2762	2763	2764	2765	2766	2767	2768	2769	2770	2771	2772	2773	2774	2775	2776	2777	2778	2779	2780	2781	2782	2783	2784	2785	2786	2787	2788	2789	2790	2791	2792	2793	2794	2795	2796	2797	2798	2799	2800	2801	2802	2803	2804	2805	2806	2807	2808	2809	2810	2811	2812	2813	2814	2815	2816	2817	2818	2819	2820	2821	2822	2823	2824	2825	2826	2827	2828	2829	2830	2831	2832	2833	2834	2835	2836	2837	2838	2839	2840	2841	2842	2843	2844	2845	2846	2847	2848	2849	2850	2851	2852	2853	2854	2855	2856	2857	2858	2859	2860	2861	2862	2863	2864	2865	2866	2867	2868	2869	2870	2871	2872	2873	2874	2875	2876	2877	2878	2879	2880	2881	2882	2883	2884	2885	2886	2887	2888	2889	2890	2891	2892	2893	2894	2895	2896	2897	2898	2899	2900	2901	2902	2903	2904	2905	2906	2907	2908	2909	2910	2911	2912	2913	2914	2915	2916	2917	2918	2919	2920	2921	2922	2923	2924	2925	2926	2927	2928	2929	2930	2931	2932	2933	2934	2935	2936	2937	2938	2939	2940	2941	2942	2943	2944	2945	2946	2947	2948	2949	2950	2951	2952	2953	2954	2955	2956	2957	2958	2959	2960	2961	2962	2963	2964	2965	2966	2967	2968	2969	2970	2971	2972	2973	2974	2975	2976	2977	2978	2979	2980	2981	2982	2983	2984	2985	2986	2987	2988	2989	2990	2991	2992	2993	2994	2995	2996	2997	2998	2999	3000	3001	3002	3003	3004	3005	3006	3007	3008	3009	3010	3011	3012	3013	3014	3015	3016	3017	3018	3019	3020	3021	3022	3023	3024	3025	3026	3027	3028	3029	3030	3031	3032	3033	3034	3035	3036	3037	3038	3039	3040	3041	3042	3043	3044	3045	3046	3047	3048	3049	3050	3051	3052	3053	3054	3055	3056	3057	3058	3059	3060	3061	3062	3063	3064	3065	3066	3067	3068	3069	3070	3071	3072	3073	3074	3075	3076	3077	3078	3079	3080	3081	3082	3083	3084	3085	3086	3087	3088	3089	3090	3091	3092	3093	3094	3095	3096	3097	3098	3099	3100	3101	3102	3103	3104	3105	3106	3107	3108	3109	3110	3111	3112	3113	3114	3115	3116	3117	3118	3119	3120	3121	3122	3123	3124	3125	3126	3127	3128	3129	3130	3131	3132	3133	3134	3135	3136	3137	3138	3139	3140	3141	3142	3143	3144	3145	3146	3147	3148	3149	3150	3151	3152	3153	3154	3155	3156	3157	3158	3159	3160	3161	3162	3163	3164	3165	3166	3167	3168	3169	3170	3171	3172	3173	3174	3175	3176	3177	3178	3179	3180	3181	3182	3183	3184	3185	3186	3187	3188	3189	3190	3191	3192	3193	3194	3195	3196	3197	3198	3199	3200	3201	3202	3203	3204	3205	3206	3207	3208	3209	3210	3211	3212	3213	3214	3215	3216	3217	3218	3219	3220	3221	3222	3223	3224	3225	3226	3227	3228	3229	3230	3231	3232	3233	3234	3235	3236	3237	3238	3239	3240	3241	3242	3243	3244	3245	3246	3247	3248	3249	3250	3251	3252	3253	3254	3255	3256	3257	3258	3259	3260	3261	3262	3263	3264	3265	3266	3267	3268	3269	3270	3271	3272	3273	3274	3275	3276	3277	3278	3279	3280	3281	3282	3283	3284	3285	3286	3287	3288	3289	3290	3291	3292	3293	3294	3295	3296	3297	3298	3299	3300	3301	3302	3303	3304	3305	3306	3307	3308	3309	3310	3311	3312	3313	3314	3315	3316	3317	3318	3319	3320	3321	3322	3323	3324	3325	3326	3327	3328	3329	3330	3331	3332	3333	3334	3335	3336	3337	3338	3339	3340	3341	3342	3343	3
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PROGRESS FUELS CORPORATION

CR Units 4 and 5

May 2004

Solicitation

ALL BIDS by Rail/Water

			A B C D E F G												H I J K L												ACTION TAKEN	Notes
Supplier	Term	Origin	(000) Total Tons	Weight Avg Price	2005 Tons	2005 Price	2006 Tons	2006 Price	2007 Tons	2007 Price	2008 Tons	2008 Price	Transp. Cost	Railcar Costs	Purchase Specifications						Utilization Cost/mt	Unit 45 Derate Codes	Cash Cost \$/mt	Cash Cost \$/M	Evaluated Utilized Cost \$/mt	Evaluated Utilized Cost \$/M		
Water															Ash	Sulfur	Btu	Moisture	Vol	HGI	SO2							
DTE	2005	PRB/Cora	504		504		0		0		0	\$0.00			5.84%	0.30%	8,800	26.70%	31.65%	51	0.88	BM						Incl ground storage- SO2 prem@0.8
Kennecott	05-07	Barge Cahokia	1500		500		500		500		0	\$0.00			4.00%	0.38%	9,350	22.36%	31.26%	61	0.80	BM						
Arch	1/05-12/07	Thunder Basin	1500		500		500		500		0	\$0.00			5.50%	0.30%	8,800	28.00%	30.78%	50	0.68	BMV						SO2 prem@0.8
Triton	05	PRB N. Rochelle	1000		1000		0		0		0	\$0.00			5.20%	0.35%	8,800	28.50%	31.50%	63	0.80	BM						SO2 prem@0.8
Triton	05-07	PRB-Buckskin	3000		1000		1000		1000		0	\$0.00			5.50%	0.34%	8,400	30.00%	31.00%	65	0.80	BM						SO2 prem@0.8
Triton	05-07	PRB N. Rochelle	3000		1000		1000		1000		0	\$0.00			5.20%	0.35%	8,800	28.50%	31.50%	63	0.80	BM						SO2 prem@0.8
Peabody	05-07	Antelope	900		300		300		300		0	\$0.00			5.50%	0.27%	8,900	28.00%	30.00%	56	0.60	BMV						SO2 prem@0.8
Kennecott	05-07	Barge Cahokia	1000		200		400		400		0	\$0.00			5.00%	0.59%	9,963	13.22%	30.75%	61	1.18	BMV						Check vol on IB Coal
Oxbow	05-08	Colorado	1550		50		500		500		500				12.00%	0.72%	11,900	9.00%	31.00%	50	1.20	S						ground storage included
Interocean	07	Colombia-Mobile	1000		0		0		1000		0	\$0.00			5.50%	0.70%	11,700	14.00%	31.00%	43	1.20	BM						
Central	1/05-12/06	Winifred Dock	600		300		300		0		0	\$0.00			12.00%	0.74%	12,300	8.00%	31.00%	42	1.20							
Massey	05	FOB Ceredo	720		720		0		0		0	\$0.00			13.00%	0.73%	12,100	8.00%	31.00%	42	1.20	A						18 month
Massey	05	Sydney-Ceredo	600		600		0		0		0	\$0.00			12.50%	0.74%	12,300	8.00%	31.00%	42	1.20	A						18 month
CMC	05	Colombia-Mobile	200		200		0		0		0	\$0.00			8.30%	0.71%	11,800	12.00%	33.00%	45	1.20	SM						
Glencore	2005	Colombia-IMT	150		150		0		0		0	\$0.00			8.00%	0.69%	12,000	10.00%	34.00%	46	1.15							SO2 guaranteed at 0.8
CMC	05	Colombia-ECT	200		200		0		0		0	\$0.00			8.30%	0.71%	11,800	12.00%	33.00%	45	1.20	SM						
Glencore	2005	Colombia-IMT	150		150		0		0		0	\$0.00			8.00%	0.75%	12,400	9.00%	35.00%	46	1.20	S						
Guasare	05-07	Pasa Diablo - IMT	990		330		330		330		0	\$0.00			7.00%	0.77%	12,800	8.00%	34.00%	45	1.20							
Guasare	05-07	Mina Norte-IMT	700		200		250		250		0	\$0.00			8.00%	0.78%	13,000	8.00%	31.00%	45	1.20							

Rail

Massey	05	Bandmill	720		720		0		0		0	\$0.00			13.00%	0.73%	12,100	8.00%	31.00%	42	1.20	A						18 month
Progress	05-07	Diamond May	1080		360		360		360		0	\$0.00			12.00%	0.75%	12,500	8.00%	32.00%	43	1.20							
Alliance	05-07	MC Mining	900		150		150		600		0	\$0.00			10.00%	0.74%	12,300	9.00%	32.00%	39	1.20	H						06 & 07 reopener
Massey	05	NS-Sydney	600		600		0		0		0	\$0.00			12.50%	0.74%	12,300	8.00%	31.00%	42	1.20	A						NS Move-NO FREIGHT included

Total Tons 19984

\*Estimated in red

CR 45 Economics Base Specifications				
Ash	Sulfur	Btu	Moisture	Vol
10.00%	0.70%	12,000	8.00%	31.00%
				40

SO2 Price

Revised: 5/14/2004 17:18

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Contact John - 2 yr deal

Spoke Sasha  
+ Fred  
2 yr deal

PROGRESS FUELS CORPORATION  
CR Units 4 and 5  
May 2004  
Solicitation  
Short List

Delivered

			(000)	Weight	B C D				Purchase Specifications							Utilization		Unit 45	# 6		# 4	I		
Supplier	Term	Origin	Total	Avg	2005	2005	Transp.	Railcar								Cost/st	Derate	Cash	Cash	Evaluated	Evaluated			
Rail			Tons	Price	Tons	Price	Cost	Costs	Ash	Sulfur	Btu	Moisture	Vol	HGI	SO2	Codes	Cost \$/st	Cost \$/M	Cost \$/st	Cost \$/M	ACTION TAKEN	Notes		
Massey	05	CSX Kan (Bmill)	720		720				12.00%	0.73%	12,100	8.00%	31.00%	42	1.20	A						18 Month deal		
Progress	05-07	Diamond May	360		360				12.00%	0.75%	12,500	8.00%	32.00%	43	1.20									
Alliance	04-07	MC Mining	150		150				10.00%	0.74%	12,300	9.00%	32.00%	39	1.20	H						06 & 07 reopener		
Water (Central App Only)																								
Central	1/05-12/06	Winifred Dock	300		300				12.00%	0.73%	12,300	8.00%	31.00%	42	1.19									
Massey	05	FOB Ceredo	720		720				13.00%	0.73%	12,100	8.00%	31.00%	42	1.20	A								

CR 45 Economics Base Specifications					
Ash	Sulfur	Btu	Moisture	Vol	HGI
10.00%	0.70%	12,000	8.00%	31.00%	40

\*estimated in red

SO2 Price

Revised: 5/13/2004 11:31

Contact Dave - 2 yr deal

Call Roy re CMC

Purchased 5/14

		2005	2006
<i>Rail</i>		K	L
# Massey (CSX Kan) Tons	720		
Bmill			
Progress (D May) Tons	360		360
Water			
Central Coal Tons	300		300
	1380		660

8  
9  
10  
11  
12  
13 p. 11



# PROGRESS FUELS CORPORATION

CR Units 4 and 5

May 2004

Solicitation

ALL BIDS by Rail/Water

Rail 12.5%  
12300

With fuel  
on or over  
year deal

ALL BIDS by Rail/Water															Purchase Specifications										Utilization		Unit 45		Cash		Cash		Evaporator		Evaporator		ACTION TAKEN		Notes	
Supplier	Term	Origin	(000) Total Tons	Weight Avg Tons	2005 Tons	2005 Price	2006 Tons	2006 Price	2007 Tons	2007 Price	2008 Tons	2008 Price	Transp. Cost	Railcar Costs	Ash	Sulfur	Btu	Moisture	Vol	HGI	SO2	Cost/mt	Codes	Cost \$/mt	Cost \$/mt	Evaporator Utilized Cost \$/mt	Evaporator Utilized Cost \$/mt													
Rail																																								
Massey	05	Bandmill	720		720		0		0		0	\$0.00			13.00%	0.73%	12,100	8.00%	31.00%	42	1.20		A																	
Progress	05-07	Diamond May	1080		360		360		360		0	\$0.00			12.00%	0.75%	12,500	8.00%	32.00%	43	1.20								06 & 07 reopener											
Alliance	04-07	MC Mining	900		150		150		600		0	\$0.00			10.00%	0.74%	12,300	9.00%	32.00%	39	1.20		H																	
		Rail D Total	2700																																					
Water																																								
DTE	2005	PRB/Cora	504		504		0		0		0	\$0.00			5.64%	0.30%	8,795	26.70%	31.65%	51	0.68		BM						ground storage included											
Kennecott	05-07	Barge Cahokia	1500		500		500		500		0	\$0.00			4.00%	0.38%	9,350	22.36%	31.00%	45	0.80		BM																	
Arch	1/05-12/07	Thunder Basin	1500		500		500		500		0	\$0.00			5.50%	0.30%	8,800	28.00%	30.78%	50	0.68		BMV																	
Triton	05	PRB N. Rochelle	1000		1000		0		0		0	\$0.00			5.20%	0.35%	8,800	28.50%	31.50%	63	0.80		BM																	
Triton	05-07	PRB-Buckskin	3000		1000		1000		1000		0	\$0.00			5.50%	0.34%	8,400	30.00%	31.00%	65	0.80		BM						SO2 guaranteed at 0.8											
Triton	05-07	PRB N. Rochelle	3000		1000		1000		1000		0	\$0.00			5.20%	0.35%	8,800	28.50%	31.50%	63	0.80		BM																	
Peabody	05-07	Antelope	900		300		300		300		0	\$0.00			5.50%	0.27%	8,900	28.00%	30.00%	56	0.61		BMV																	
Kennecott	05-07	Barge Cahokia	1000		200		400		400		0	\$0.00			5.00%	0.58%	9,963	13.22%	32.00%	45	1.18		BM																	
Oxbow	05-08	Colorado	1550		50		500		500		500	\$0.00			12.00%	0.72%	11,900	9.00%	31.00%	50	1.20		S																	
InterOcean	07	Colombia-Mobile	1000		0		0		1000		0	\$0.00			5.50%	0.70%	11,700	14.00%	31.00%	43	1.20		BM																	
Central	1/05-12/06	Winifred Dock	600		300		300		0		0	\$0.00			12.00%	0.73%	12,300	8.00%	31.00%	42	1.19																			
Massey	05	FOB Ceredo	720		720		0		0		0	\$0.00			13.00%	0.73%	12,100	8.00%	31.00%	42	1.20		A																	
CMC	05	Colombia-Mobile	200		200		0		0		0	\$0.00			8.30%	0.70%	11,600	12.00%	33.00%	45	1.20		BM																	
CMC	05	Colombia-ECT	400		400		0		0		0	\$0.00			8.30%	0.70%	11,600	12.00%	33.00%	45	1.20		BM																	
CMC	05	Colombia-Mobile	200		200		0		0		0	\$0.00			8.30%	0.71%	11,800	12.00%	33.00%	45	1.20		SM																	
Glencore	2005	Colombia-IMT	150		150		0		0		0	\$0.00			9.00%	0.69%	12,000	10.00%	34.00%	46	1.15																			
CMC	05	Colombia-ECT	400		400		0		0		0	\$0.00			8.30%	0.71%	11,800	12.00%	33.00%	45	1.20		SM																	
Glencore	2005	Colombia-IMT	150		150		0		0		0	\$0.00			8.00%	0.71%	12,400	9.00%	35.00%	46	1.15																			
Guasare	05-07	Pasa Diablo -IMT	990		330		330		330		0	\$0.00			7.00%	0.77%	12,800	8.00%	34.00%	45	1.20		S																	
Guasare	05-07	Mina Norte-IMT	700		200		250		250		0	\$0.00			8.00%	0.78%	13,000	8.00%	31.00%	45	1.20																			

Water D Total 19454

\*estimated in rad

CR 45 Economics Base Specifications				
Ash	Sulfur	Btu	Moisture	Vol
10.00%	0.70%	12,000	8.00%	31.00%
				40

SO2 Price

Revised: 5/13/2004 B:42

Massey 360 Rail  
→ 360 Water  
Progress 360 Rail  
300 Water

25

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## Nymex look-alike

Delivery	Bid - Ask Range	Last	Date
Jun	51.50 53.00	51.75	5-May
Jul	53.50 54.50	51.75	5-May
Q3 04	54.25 55.25	55.25	10-May
Q4 04	54.75 55.75	55.25	10-May
Q1 05	52.50 53.50	53.00 est.	11-May
Q2 05	50.50 51.50	51.00 est.	11-May
Q3 05	47.00 47.50		
CY 05	48.75 49.75	47.25	5-May
CY 06	45.75 46.75	45.50 est.	26-Apr

## CSX-BSK &lt; 1%

Bid - Ask Range	Last	Date
55.50 57.00	56.25	11-May
57.00 58.00		
57.25 58.25	58.10	10-May
57.75 58.75	58.25	11-May
53.75 54.75	54.25	11-May
49.50 50.50	50.00 est.	11-May
47.00 48.00		
49.00 50.00	49.60	12-May
46.50 47.50	est.	

## PRB 8800

Bid - Ask Range	Last	Date
5.85 6.15	6.05	31-Mar
5.95 6.25		
6.00 6.30	6.10	6-May
6.30 6.60	6.40	11-May
6.80 7.10	6.95	11-May
7.05 7.35		
7.25 7.55		
7.10 7.40	7.25	7-May
7.40 7.70	7.55	7-May

## Other Markets - Most Recent Trades

Delivery	Origin	Btu	#SO2	Last	Date
May-Jun	CSX	12500	1.2	57.00	29-Mar
Q3Q4	CSX	12500	1.2		
Q3Q4	NS	12500	1.6	53.00	15-Apr
CY 05	NS	12500	1.6	49.25	11-May
May	NS	12500	1.2	58.65	11-May
May-Jun	Pitt8 Rail	13000	3.0 / 3.4	48.00	7-Apr
Apr May	Pitt8 Rail	13000	4.8 / 5.0	43.00	15-Apr
Q3Q4	PRB 84	8400	0.8	5.00	6-May

## Emissions

SO2	Bid	Ask
Spot	324	328
NCR		
2004	2150	2200
2005	3000	3100
2006	2925	3000
2007	2600	2800
2008	2200	2500

## The Daily Scoreboard

Nymex Barge & other
CY 05 was 49.00 bid
CSX Rail
CY 05 1% trades 49.50 and 49.60
follow market 49.50 / 50.00
Q4 1% 57.00 / 59.50
NS Rail
CY 05 closes in on 49.00 / 49.25
but no trade (at least not that I know of)
Anyway, quite day for the most part but
I am open for business 24/7
(well more like 11/5)

## Additional Market Activity

Delivery	Origin	Btu	#SO2	Mo. Qnty	Bid	Ask
May-Jun	CSX	12500	2.5	20k	52.00	55.00
May	Nyn LAL	12000	1.7	7.75k		52.00
Q3Q4	NS v CSX	12500	1.6	spread	1.20	1.50
Q3Q4	NS	12500	1.6	10k	58.50	
CY 05	NS	12500	1.6	10k	49.00	49.25
CY 05	NS v CSX	12500	1.2 v 1.6	spread	1.60	2.00
Q3	MGA	13000	3.0	10k	47.00	

Vaughn's View of the Market - a perspective provided by United to assist in marking coals to market

## PRB Coal 12-May-04

Origin	Btu	#SO2
BNSF / UP	8800	0.8
BNSF / UP	8400	0.8

Jun	Jul	Q3 04	Q4 04	Q1 05	Q2 05	Q3 05
6.00	6.10	6.15	6.45	6.95	7.20	7.40
5.10	5.10	5.15	5.40	5.85	6.10	6.30

CY 05	CY 06
7.25	7.55
6.15	6.45

trade publications

## CAPP Coal

Origin	Btu	#SO2
BS Rvr	12000	1.2
Nym LAL	12000	1.6

Jun	Jul	Q3 04	Q4 04	Q1 05	Q2 05	Q3 05
55.25	57.00	57.75	58.00	55.50	53.50	49.75
52.25	54.00	54.75	55.25	53.00	51.00	47.25

CY 05	CY 06
51.75	48.25
49.25	46.25

CSX-BSK	Btu	#SO2
CSX-BSK	12500	1.2
CSX-BSK	12500	1.6

Jun	Jul	Q3 04	Q4 04	Q1 05	Q2 05	Q3 05
56.25	57.50	57.75	58.25	54.25	50.00	47.50

51.30	48.90
49.50	47.00

NS-T/K	Btu	#SO2
NS-T/K	12500	1.2
NS-T/K	12500	1.6

Jun	Jul	Q3 04	Q4 04	Q1 05	Q2 05	Q3 05
59.00	60.30	60.55	61.15	56.15	51.90	49.40

51.40	48.90
49.50	47.00

## NAPP Coal

Origin	Btu	#SO2
MGA	13000	3.0 / 3.4
MGA	13000	4.0 / 4.5

Jun	Jul	Q3 04	Q4 04	Q1 05	Q2 05	Q3 05
48.25	48.25	47.00	46.00	41.00	38.00	37.00
45.25	45.25	44.00	43.00	37.50	34.50	33.50

CY 05	CY 06
38.25	37.00
34.75	33.50

Mon Rvr	Btu	#SO2
Mon Rvr	13000	3.8 / 5.0
U. OH Rvr	12200	6.0

Jun	Jul	Q3 04	Q4 04	Q1 05	Q2 05	Q3 05
43.25	43.25	38.50	37.00	32.00	31.00	30.50
30.00	30.00	29.00	29.00	27.00	27.00	27.00

31.00	30.50
27.00	27.00

Origin	Btu	#SO2
L. OH Rvr	12000	2.2
L. OH Rvr	12000	5.0

Jun	Jul	Q3 04	Q4 04	Q1 05	Q2 05	Q3 05
42.00	42.00	42.00	42.00	40.00	40.00	40.00
34.50	34.50	34.50	34.50	31.50	31.50	31.50

CY 05	CY 06
40.00	40.75
31.00	31.75

Jun	Jul	Q3 04	Q4 04	Q1 05	Q2 05	Q3 05
28.00	28.00	28.00	28.00	25.00	25.00	25.00
24.50	24.50	24.50	24.50	21.50	21.50	21.50

CY 05	CY 06
25.00	26.00
21.50	22.50

11300

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## Evolution Express Price Report as of 05/12/04

Generated May 12, 2004, 6:22 pm for: al.pitcher@progressfuels.com  
source: <http://www.evomarkets.com>

### Coal Markets as of 05/12/04

#### PRB8400 prices

term	bid	offer	last	date
Q3'04-Q4'04	\$4.95	\$5.40	\$6.00	1/9/03
Q3'04	\$4.80	\$5.20		
Q4'04	\$5.10	\$5.50		
Cal'05	\$5.80	\$6.40		
Cal'06	\$6.00	\$6.55		

#### PRB8800 prices

term	bid	offer	last	date
May'04	\$5.85	\$6.25		
Q3'04-Q4'04	\$6.15	\$6.50	\$6.40	5/3/04
Q3'04	\$6.00	\$6.25	\$6.10	5/6/04
Q4'04	\$6.35	\$6.70	\$6.40	5/11/04
Cal'05	\$7.10	\$7.30	\$7.25	5/6/04
Cal'06	\$7.40	\$7.80	\$7.70	3/3/04

#### NYMEX prices

term	bid	offer	last	date
Jun'04	\$51.00	\$53.00	\$52.25	
Q3'04-Q4'04	\$54.75	\$56.00	\$55.25	5/10/04
Q3'04	\$54.75	\$56.00	\$53.25	4/27/04
Q4'04	\$54.75	\$56.00	\$52.50	5/3/04
Q1'05-Q2'05	\$50.50	\$52.50	\$52.00	5/11/04
Q1'05	\$52.50	\$54.50	\$52.50	5/4/04
Q2'05	\$48.50	\$50.50		
Q3'05-Q4'05	\$47.00	\$50.00		
Cal'05	\$49.15	\$50.50	\$47.25	5/6/04
Cal'06	\$45.00	\$47.50		

#### CSX <1% prices

term	bid	offer	last	date
May'04-Jun'04	\$55.50	\$57.50	\$54.00	4/20/04
Q3'04-Q4'04	\$57.50	\$58.50	\$58.10	5/6/04
Q3'04	\$57.50	\$58.00	\$57.00	5/6/04
Q4'04	\$58.00	\$58.50	\$58.25	5/12/04
Q1'05-Q2'05	\$51.75	\$53.50	\$52.00	5/12/04
Q1'05	\$54.00	\$54.50	\$54.25	5/12/04
Q2'05	\$50.00	\$52.00	\$50.75	3/23/04
Q3'05-Q4'05	\$46.00	\$48.00		
Cal'05	\$49.30	\$49.75	\$49.60	5/12/04
Cal'06	\$45.00	\$47.00		

#### CSX 1.2# prices

term	bid	offer	last	date
Jun'04-Dec'04	\$57.25	\$59.50		
Cal'05	\$50.00	\$52.50		

#### NS <1% prices

term	bid	offer	last	date
Q3'04-Q4'04	\$58.25	\$59.75	\$53.00	4/15/04
Cal'05	\$48.75	\$49.25	\$49.25	5/12/04
Cal'06	\$45.00	\$48.00		

#### NS 1.2# prices

term	bid	offer	last	date
Q3'04-Q4'04	\$60.00	\$62.50	\$58.00	4/8/04
Cal'05	\$51.00	\$53.00		

#### NAPP coal

term	origin	qty	btu	sso2	ash	bid	offer
May'04-Jun'04	MGA	1 tpm	13000	3.0 (3.4#)		\$46.00	\$50.00

#### CAPP coal

term	origin	qty	btu	sso2	ash	bid	offer
Apr'04-May'04	NS Kenova Thacker	1 tpm	12500	1.5%	11	\$50.00	
Apr'04-May'04	NS Kenova Thacker	1 tpm	12000	1.5%	15		\$46.50

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## > Physical Prices on 05/12/04 :: [\[CLICK HERE FOR SPECS\]](#)

TERM	CIF ARA		SA Low Vol		SA High Vol		Newcastle		Col 11300 Btu	
	BID	OFF	BID	OFF	BID	OFF	BID	OFF	BID	OFF
May'04	\$65.00	\$65.80	\$51.60	\$52.65	\$51.90	\$52.95	\$57.65	\$58.80	\$47.75	\$49.45
Jun'04	\$65.25	\$66.30	\$51.70	\$52.75	\$52.00	\$53.05	\$57.85	\$58.95	\$47.75	\$49.70
Jul'04	\$65.25	\$66.25	\$51.95	\$53.00	\$52.25	\$53.30	\$57.80	\$58.95	\$47.65	\$49.50
Q3'04	\$65.35	\$66.50	\$52.75	\$53.90	\$53.05	\$54.20	\$57.70	\$58.70	\$48.00	\$49.40
Q4'04	\$65.80	\$66.85	\$53.00	\$53.95	\$53.30	\$54.25	\$57.40	\$58.70	\$47.00	\$48.80
Q1'05	\$65.70	\$66.80	\$52.00	\$52.95	\$52.30	\$53.25	\$56.00	\$57.50	\$47.00	\$48.40
Q2'05	\$65.20	\$66.15	\$51.80	\$52.75	\$52.10	\$53.05				
Cal'05	\$64.80	\$65.75	\$51.40	\$52.65	\$51.70	\$52.95			\$46.00	\$47.50
Cal'06	\$59.25	\$60.55								

## > Financial Prices on 05/12/04

TERM	*API #2			*API #4		
	BID	OFF	MID	BID	OFF	MID
May'04	\$65.50	\$66.00	\$65.75	\$52.50	\$53.00	\$52.75
Jun'04	\$66.00	\$66.50	\$66.25	\$53.00	\$53.50	\$53.25
Q3'04	\$67.20	\$68.00	\$67.60	\$54.50	\$55.60	\$55.05
Q4'04	\$67.60	\$68.00	\$67.80	\$55.00	\$55.50	\$55.25
Q1'05	\$67.60	\$68.00	\$67.80	\$55.00	\$55.80	\$55.40
Q2'05	\$67.00	\$67.90	\$67.45	\$54.50	\$55.00	\$54.75
Q3'05	\$65.00	\$65.50	\$65.25			
Q4'05	\$64.00	\$64.50	\$64.25			
Cal'05	\$65.10	\$65.25	\$65.17	\$54.00	\$54.25	\$54.12
Cal'06	\$60.75	\$61.25	\$61.00	\$50.25	\$51.25	\$50.75

## > Exchange Rates on 05/12/04

RATES (USD 1.00)		
USD	1.0000	CHANGE
AUD	1.4402	+0.005
EUR	0.8412	-0.004
GPB	0.5637	-0.006
JPY	113.36	-0.120
ZAR	6.8456	-0.073

\* Radio buttons change report currency.

## > Implied Freights on 05/12/04

TERM	IMPL.PHYS	IMPL.FIN	ACTUAL
May'04	@ \$13.28	@ \$13.00	\$14.00
Q3'04	@ \$12.60	@ \$12.55	\$13.25
Cal'05	@ \$13.25	@ \$11.05	\$12.25

## > Spot freights on 05/12/04

FREIGHT	CAPE	PANAMAX	PRICE
Richards Bay, SA - ARA	150,000		\$14.00
Newcastle, Australia - ARA	130,000		\$28.20
Bolivar, Colombia - ARA	150,000		\$15.40



➤ Implied Volatility on 05/12/04

PHYSICAL	I.VOL	FINANCIAL	BID	OFFER
FOB RBCT	23.50%	*API #2	28.00%	34.00%
FOB BOL	18.50%	*API #4	24.00%	30.00%
FOB NEWC	23.50%			
CIF ARA	34.00%			

Qinhuangdao, China - ARA	130,000	\$24.30
Kalimantan, Indonesia - ARA	150,000	\$23.30
Murmansk, Russia - ARA	65,000	\$18.55
Gdansk, Poland - ARA	65,000	\$15.40
Bolivar, Colombia - Mobile, US	65,000	\$11.05
Bolivar, Colombia - Baltimore, US	65,000	\$12.05

➤ Intl Stock Levels (Mt) on 05/12/04

➤ Prompt Oil on 05/12/04

PRODUCT	11 May 04 WEEK 20	04 May 04 WEEK 19	28 Apr 04 WEEK 18	20 Apr 04 WEEK 17	14 Apr 04 WEEK 16	06 Apr 04 WEEK 15	30 Mar 04 WEEK 14
ARA	3.38	3.36	3.37	3.35	3.30	3.25	3.30
RBCT	2.68	1.99	2.24	2.20	2.20	2.00	2.10
Newc	0.79	0.66	0.73	0.74	0.74	0.90	0.68

OIL	VAL
IPE Brent	\$37.64
Nymex WTI	\$40.40

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PROGRESS FUELS CORPORATION

CR 1 & 2

May 2004

Solicitation

ALL BIDS

ALL BIDS																														
Supplier	Term	Origin	(000) Total Tons	Weight Avg Price	2005 Tons	2005 Price	2006 Tons	2006 Price	2007 Tons	2007 Price	2008 Tons	2008 Price	2009 Tons	2009 Price	Transp. Cost	Railcar Costs	Purchase Specifications						Utilization	Unit 45 Derate Codes	Cash Cost \$/st	Cash Cost \$/M	Evaluated Utilized Cost \$/st	Evaluated Utilized Cost \$/M	ACTION TAKEN	Notes
																	Ash	Sulfur	Btu	Moisture	Vol	HGI	SO2							
Black Gold	05-07	CSX Harlan	600		120		240		240		0	\$0.00					10.00%	1.34%	12,700	8.00%	31.00%	45	2.10							
B&W Resources	05-07	CSX Jellico	720		240		240		240		0	\$0.00					11.50%	1.25%	12,500	7.00%	32.00%	42	2.00							
Central App	05-07	CSX BS	720		240		240		240		0	\$0.00					12.00%	1.32%	12,500	8.00%	32.00%	42	2.10							
Central Coal Co	05-06	Barge-Kanawha	480		240		240		0		0	\$0.00					12.00%	1.00%	12,300	8.00%	32.00%	45	1.63							
CMC	05	Colombia-ECT	400		400		0		0		0	\$0.00					9.20%	0.79%	11,800	12.30%	33.00%	45	1.34							
CMC	05	Colombia-Mobile	200		200		0		0		0	\$0.00					9.20%	0.79%	11,800	12.30%	33.00%	45	1.34							
CMC	05	Colombia-ECT	400		400		0		0		0	\$0.00					9.20%	0.78%	11,600	12.30%	33.00%	45	1.34							
CMC	05	Colombia-Mobile	200		200		0		0		0	\$0.00					9.20%	0.78%	11,600	12.30%	33.00%	45	1.34							
Horizon	05-07	Evergreen	1500		500		500		500		0	\$0.00					13.00%	1.29%	12,300	8.00%	31.00%	45	2.10							
Horizon	05-07	CSX Haz- Typo	1500		500		500		500		0	\$0.00					13.00%	1.27%	12,100	8.00%	31.00%	42	2.10							
Logan&Kanawha	05-07	CSX Kan	1080		360		360		360		0	\$0.00					13.00%	1.00%	12,500	8.00%	30.00%	42	1.60							
Marshall	05-06	CSX Clinchfield	500		250		250		0		0	\$0.00					13.00%	1.31%	12,500	7.00%	29.00%	50	2.10							
Massey	05	CSX Kan	720		720		0		0		0	\$0.00					12.50%	1.26%	12,000	8.00%	30.00%	42	2.10							
Massey	05	CSX BS	720		720		0		0		0	\$0.00					12.50%	1.26%	12,000	8.00%	31.00%	42	2.10							
Peabody	05-07	CSX Kan	720		240		240		240		0	\$0.00					13.50%	0.98%	12,200	6.70%	30.00%	40	1.60							
Smokey Mtn	05	CSX Kan	240		240		0		0		0	\$0.00					13.00%	1.26%	12,000	8.00%	31.00%	42	2.10							
#VALUE!																														
CR 45 Economics Base Specifications																														
Ash Sulfur Btu Moisture Vol HGI																														
10.00% 1.85% 12,000 8.00% 34.00% 40																														
502 Price																														
Revised: 5/12/2004 19:43																														

Bankruptcy  
Not Re-opened  
throughout the  
industry

Trans cost needed  
reopener 06 and 07  
Snap Creek  
Apex 3

Specs way off Sulfur Premium!!

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PROGRESS FUELS CORPORATION

CR Units 4 + 5

May 2004

Solicitation

ALL BIDS

K J H I

Supplier	Term	Origin	Total Tons	Avg Price	Weight	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100	2101	2102	2103	2104	2105	2106	2107	2108	2109	2110	2111	2112	2113	2114	2115	2116	2117	2118	2119	2120	2121	2122	2123	2124	2125	2126	2127	2128	2129	2130	2131	2132	2133	2134	2135	2136	2137	2138	2139	2140	2141	2142	2143	2144	2145	2146	2147	2148	2149	2150	2151	2152	2153	2154	2155	2156	2157	2158	2159	2160	2161	2162	2163	2164	2165	2166	2167	2168	2169	2170	2171	2172	2173	2174	2175	2176	2177	2178	2179	2180	2181	2182	2183	2184	2185	2186	2187	2188	2189	2190	2191	2192	2193	2194	2195	2196	2197	2198	2199	2200	2201	2202	2203	2204	2205	2206	2207	2208	2209	2210	2211	2212	2213	2214	2215	2216	2217	2218	2219	2220	2221	2222	2223	2224	2225	2226	2227	2228	2229	2230	2231	2232	2233	2234	2235	2236	2237	2238	2239	2240	2241	2242	2243	2244	2245	2246	2247	2248	2249	2250	2251	2252	2253	2254	2255	2256	2257	2258	2259	2260	2261	2262	2263	2264	2265	2266	2267	2268	2269	2270	2271	2272	2273	2274	2275	2276	2277	2278	2279	2280	2281	2282	2283	2284	2285	2286	2287	2288	2289	2290	2291	2292	2293	2294	2295	2296	2297	2298	2299	2300	2301	2302	2303	2304	2305	2306	2307	2308	2309	2310	2311	2312	2313	2314	2315	2316	2317	2318	2319	2320	2321	2322	2323	2324	2325	2326	2327	2328	2329	2330	2331	2332	2333	2334	2335	2336	2337	2338	2339	2340	2341	2342	2343	2344	2345	2346	2347	2348	2349	2350	2351	2352	2353	2354	2355	2356	2357	2358	2359	2360	2361	2362	2363	2364	2365	2366	2367	2368	2369	2370	2371	2372	2373	2374	2375	2376	2377	2378	2379	2380	2381	2382	2383	2384	2385	2386	2387	2388	2389	2390	2391	2392	2393	2394	2395	2396	2397	2398	2399	2400	2401	2402	2403	2404	2405	2406	2407	2408	2409	2410	2411	2412	2413	2414	2415	2416	2417	2418	2419	2420	2421	2422	2423	2424	2425	2426	2427	2428	2429	2430	2431	2432	2433	2434	2435	2436	2437	2438	2439	2440	2441	2442	2443	2444	2445	2446	2447	2448	2449	2450	2451	2452	2453	2454	2455	2456	2457	2458	2459	2460	2461	2462	2463	2464	2465	2466	2467	2468	2469	2470	2471	2472	2473	2474	2475	2476	2477	2478	2479	2480	2481	2482	2483	2484	2485	2486	2487	2488	2489	2490	2491	2492	2493	2494	2495	2496	2497	2498	2499	2500	2501	2502	2503	2504	2505	2506	2507	2508	2509	2510	2511	2512	2513	2514	2515	2516	2517	2518	2519	2520	2521	2522	2523	2524	2525	2526	2527	2528	2529	2530	2531	2532	2533	2534	2535	2536	2537	2538	2539	2540	2541	2542	2543	2544	2545	2546	2547	2548	2549	2550	2551	2552	2553	2554	2555	2556	2557	2558	2559	2560	2561	2562	2563	2564	2565	2566	2567	2568	2569	2570	2571	2572	2573	2574	2575	2576	2577	2578	2579	2580	2581	2582	2583	2584	2585	2586	2587	2588	2589	2590	2591	2592	2593	2594	2595	2596	2597	2598	2599	2600	2601	2602	2603	2604	2605	2606	2607	2608	2609	2610	2611	2612	2613	2614	2615	2616	2617	2618	2619	2620	2621	2622	2623	2624	2625	2626	2627	2628	2629	2630	2631	2632	2633	2634	2635	2636	2637	2638	2639	2640	2641	2642	2643	2644	2645	2646	2647	2648	2649	2650	2651	2652	2653	2654	2655	2656	2657	2658	2659	2660	2661	2662	2663	2664	2665	2666	2667	2668	2669	2670	2671	2672	2673	2674	2675	2676	2677	2678	2679	2680	2681	2682	2683	2684	2685	2686	2687	2688	2689	2690	2691	2692	2693	2694	2695	2696	2697	2698	2699	2700	2701	2702	2703	2704	2705	2706	2707	2708	2709	2710	2711	2712	2713	2714	2715	2716	2717	2718	2719	2720	2721	2722	2723	2724	2725	2726	2727	2728	2729	2730	2731	2732	2733	2734	2735	2736	2737	2738	2739	2740	2741	2742	2743	2744	2745	2746	2747	2748	2749	2750	2751	2752	2753	2754	2755	2756	2757	2758	2759	2760	2761	2762	2763	2764	2765	2766	2767	2768	2769	2770	2771	2772	2773	2774	2775	2776	2777	2778	2779	2780	2781	2782	2783	2784	2785	2786	2787	2788	2789	2790	2791	2792	2793	2794	2795	2796	2797	2798	2799	2800	2801	2802	2803	2804	2805	2806	2807	2808	2809	2810	2811	2812	2813	2814	2815	2816	2817	2818	2819	2820	2821	2822	2823	2824	2825	2826	2827	2828	2829	2830	2831	2832	2833	2834	2835	2836	2837	2838	2839	2840	2841	2842	2843	2844	2845	2846	2847	2848	2849	2850	2851	2852	2853	2854	2855	2856	2857	2858	2859	2860	2861	2862	2863	2864	2865	2866	2867	2868	2869	2870	2871	2872	2873	2874	2875	2876	2877	2878	2879	2880	2881	2882	2883	2884	2885	2886	2887	2888	2889	2890	2891	2892	2893	2894	2895	2896	2897	2898	2899	2900	2901	2902	2903	2904	2905	2906	2907	2908	2909	2910	2911	2912	2913	2914	2915	2916	2917	2918	2919	2920	2921	2922	2923	2924	2925	2926	2927	2928	2929	2930	2931	2932	2933	2934	2935	2936	2937	2938	2939	2940	2941	2942	2943	2944	2945	2946	2947	2948	2949	2950	2951	2952	2953	2954	2955	2956	2957	2958	2959	2960	2961	2962	2963	2964	2965	2966	2967	2968	2969	2970	2971	2972	2973	2974	2975	2976	2977	2978	2979	2980	2981	2982	2983	2984	2985	2986	2987	2988	2989	2990	2991	2992	2993	2994	2995	2996	2997	2998	2999	3000	3001	30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**PROGRESS FUELS CORPORATION**

***Potential Purchases from 2005 - 2007 RFP***

Coal Type	Coal Type/Mode	Supplier	2005			2006			2007		
			Open Total	Percentage Closed	Open	Open Total	Percentage Closed	Open	Open Total	Percentage Closed	Open
"A"	Rail	Massey	720.0			360			-		
		Black Gold	120.0			240					
		Open	286.0			1,455.0			2,473.0		
			1,126.0	74.6%	25.4%	1,455.0	0.0%	100.0%	2,473.0	0.0%	100.0%
"A"	Water	Central	240.0								
		Open	240.0	100.0%	0.0%		0.0%	100.0%	-	0.0%	100.0%
"D"	Rail	Massey	360.0			360					
		Progress	360.0			1,223.0			1,733.0		
		Open		83.6%	16.4%	1,223.0	0.0%	100.0%	1,733.0	0.0%	100.0%
"D"	Water	Massey	360.0								
		Central	300.0			650.0			2,300.0		
		Open		100.0%	0.0%	650.0	0.0%	100.0%	2,300.0	0.0%	100.0%
			2,887.0	85.2%	14.8%	3,328.0	0.0%	100.0%	6,506.0	0.0%	100.0%

Rail	Committed	1,560.0									
	Open	427.0				2,678.0			4,206.0		
		1,987.0	78.5%	21.5%		2,678.0	0.0%	100.0%	4,206.0	0.0%	100.0%
Water	Committed	900.0									
	Open					650.0			2,300.0		
		900.0	100.0%	0.0%		650.0	0.0%	100.0%	2,300.0	0.0%	100.0%
		2,887.0	85.2%	14.8%		3,328.0	0.0%	100.0%	6,506.0	0.0%	100.0%

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4#5  
ATMASSEY  
360 W  
360 R  
Progress  
360 R  
CENTRAL  
300 W  
660

1#2  
ATMASSEY  
720 R  
BLACK GOLD  
120 R  
CENTRAL  
240 W

2000\$

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PROGRESS FUELS CORPORATION  
Potential Purchases from 2005 - 2007 RFP

Coal Type	Coal Type/Mode	Supplier	2005			2006			2007		
			Open Total	Percentage Closed	Open	Open Total	Percentage Closed	Open	Open Total	Percentage Closed	Open
"A"	Rail	Massey Black Gold Open	720.0								
			120.0								
			286.0			1,455.0			2,473.0		
			1,126.0	74.6%	25.4%	1,455.0	0.0%	100.0%	2,473.0	0.0%	100.0%
"A"	Water	Central Open	240.0								
			240.0	100.0%	0.0%		0.0%	100.0%		0.0%	100.0%
"D"	Rail	Massey Progress Open	360.0								
			360.0								
			141.0			1,223.0			1,733.0		
			861.0	83.6%	16.4%	1,223.0	0.0%	100.0%	1,733.0	0.0%	100.0%
"D"	Water	Massey Progress Open	360.0								
			300.0								
			-			650.0			2,300.0		
			660.0	100.0%	0.0%	650.0	0.0%	100.0%	2,300.0	0.0%	100.0%
			2,887.0	85.2%	14.8%	3,328.0	0.0%	100.0%	6,506.0	0.0%	100.0%
	Rail	Committed Open	1,560.0								
427.0					2,678.0			4,206.0			
1,987.0			78.5%	21.5%	2,678.0	0.0%	100.0%	4,206.0	0.0%	100.0%	
	Water	Committed Open	900.0								
			900.0	100.0%	0.0%	650.0	0.0%	100.0%	2,300.0	0.0%	100.0%
			900.0	100.0%	0.0%	650.0	0.0%	100.0%	2,300.0	0.0%	100.0%
			2,887.0	85.2%	14.8%	3,328.0	0.0%	100.0%	6,506.0	0.0%	100.0%

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PROGRESS FUELS CORPORATION

Potential Purchases

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Coal Type	Coal Type/Mode	Supplier	2005			2006			2007					
			Open Total	Open 80%	Open 20%	Open Total	80%	20%	Open Total	80%	20%			
"A"	Rail	Massey Black Gold Open	720.0											
			120.0											
			286.0	228.8	57.2	1,455.0	1,164.0	291.0	2,473.0	1,978.4	494.6			
			1,126.0	228.8	57.2	1,455.0	1,164.0	291.0	2,473.0	1,978.4	494.6			
"A"	Water	Central Open	240.0											
			-	-	-	-	-	-	-	-	-			
			240.0	-	-	-	-	-	-	-	-			
"D"	Rail	Massey Progress Open	360.0											
			360.0											
			141.0	112.8	28.2	1,223.0	978.4	244.6	1,733.0	1,386.4	346.6			
			861.0	112.8	28.2	1,223.0	978.4	244.6	1,733.0	1,386.4	346.6			
"D"	Water	Massey Progress Open	360.0											
			300.0											
			-	-	-	650.0	520.0	130.0	2,300.0	1,840.0	460.0			
			660.0	-	-	650.0	520.0	130.0	2,300.0	1,840.0	460.0			
						2,887.0	341.6	85.4	3,328.0	2,662.4	665.6	6,506.0	5,204.8	1,301.2
	Rail	Committed Open	1,560.0	-	-									
427.0			341.6	85.4	2,678.0	2,142.4	535.6	4,206.0	3,364.8	841.2				
1,987.0			341.6	85.4	2,678.0	2,142.4	535.6	4,206.0	3,364.8	841.2				
	Water	Committed Open	900.0	-	-	-	-	-	-	-	-			
-			-	-	650.0	520.0	130.0	2,300.0	1,840.0	460.0				
900.0			-	-	650.0	520.0	130.0	2,300.0	1,840.0	460.0				
2,887.0			341.6	85.4	3,328.0	2,662.4	665.6	6,506.0	5,204.8	1,301.2				

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**PROGRESS FUELS CORPORATION**  
Potential Purchases From  
2005-2007 RFP

<u>Coal Type</u>	<u>Transportation Mode</u>	<u>2005</u>			<u>2006</u>			<u>2007</u>		
		<u>Open Total</u>	<u>80%</u>	<u>20%</u>	<u>Open Total</u>	<u>80%</u>	<u>20%</u>	<u>Open Total</u>	<u>80%</u>	<u>20%</u>
"A"	Rail	1,126.0	900.8	225.2	1,455.0	1,164.0	291.0	2,473.0	1,978.4	494.6
"A"	Water (1)	240.0	240.0	-				-	-	-
"D"	Rail	1,061.0	848.8	212.2	1,223.0	978.4	244.6	1,733.0	1,386.4	346.6
"D"	Water	<u>460.0</u>	<u>368.0</u>	<u>92.0</u>	<u>650.0</u>	<u>520.0</u>	<u>130.0</u>	<u>2,300.0</u>	<u>1,840.0</u>	<u>460.0</u>
		<u>2,887.0</u>	<u>2,357.6</u>	<u>529.4</u>	<u>3,328.0</u>	<u>2,662.4</u>	<u>665.6</u>	<u>6,506.0</u>	<u>5,204.8</u>	<u>1,301.2</u>

(1) RFP Results Central Coal

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**PROGRESS FUELS CORPORATION**  
**Potential Purchases From**  
**2005-2007 RFP**

Coal Type	Transportation Mode	2005			2006			2007		
		Open Total	<del>80%</del>	<del>20%</del>	Open Total	80%	20%	Open Total	80%	20%
"A"	Rail	1,126.0	900.8	225.2	1,455.0	1,164.0	291.0	2,473.0	1,978.4	494.6
"A"	Water (1)	240.0	240.0	-	-	-	-	-	-	-
"D"	Rail 861	1,061.0	848.8	212.2	1,223.0	978.4	244.6	1,733.0	1,386.4	346.6
"D"	Water 660	460.0	368.0	92.0	650.0	520.0	130.0	2,300.0	1,840.0	460.0
		<u>2,887.0</u>	<u>2,357.6</u>	<u>529.4</u>	<u>3,328.0</u>	<u>2,662.4</u>	<u>665.6</u>	<u>6,506.0</u>	<u>5,204.8</u>	<u>1,301.2</u>

(1) RFP Results Central Coal

**CONFIDENTIAL**  
**PROGRESS FUELS CORPORATION**  
Potential Purchases From  
2005-2007 RFP

Coal Type	Transportation Mode	2005			2006			2007		
		<u>Open Total</u>	<u>80%</u>	<u>20%</u>	<u>Open Total</u>	<u>80%</u>	<u>20%</u>	<u>Open Total</u>	<u>80%</u>	<u>20%</u>
"A"	Rail	1,126.0	900.8	225.2	1,455.0	1,164.0	291.0	2,473.0	1,978.4	494.6
"A"	Water (1)	240.0	240.0					-	-	-
"D"	Rail	1,061.0	848.8	212.2	1,223.0	978.4	244.6	1,733.0	1,386.4	346.6
"D"	Water	460.0	368.0	92.0	650.0	520.0	130.0	2,300.0	1,840.0	460.0
		<u>2,887.0</u>	<u>2,357.6</u>	<u>529.4</u>	<u>3,328.0</u>	<u>2,662.4</u>	<u>665.6</u>	<u>6,506.0</u>	<u>5,204.8</u>	<u>1,301.2</u>

(1) RFP Results Central Coal

**Coal**

as of March 31, 2004

**PEC**

	2Q04	3Q04	4Q04	2005	2006	2007	2008 <sup>1</sup>	2009	2010	2011	2012	2013
Projected Burn (Tons)												
Under Contract (Tons)												
Open (Tons)	-	-										
Target Inventory (Days)	-											
% Hedged Current				0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
% Hedge as of 1/1/05 (projected)												
Embedded Delivered Cost of Current Contracts (\$/ton)												
Projected Delivered Cost of Potential Contracts (\$/ton)												
Estimated Average Delivered Cost (\$/ton)												
Budgeted Cost (\$/ton)												

**PEF**

Projected Burn (Tons)	1,625	1,785	1,522	6,737	6,778	6,506	6,528	6,860
Under Contract (Tons)	1,625	1,785	1,512	3,850	3,450	-	-	-
Open (Tons)	-	-	63	2,887	3,328	6,506	6,528	6,860
Target Inventory (Days)	45	45	45	45	45	45	45	45
% Hedged Current	100.00%	100.00%	99.34%	57.15%	50.90%	0.00%	0.00%	0.00%
% Hedge as of 1/1/05 (projected)	100.00%	100.00%	100.00%	80.00%	80.00%	<50.00%		
Embedded Delivered Cost of Current Contracts (\$/ton)								
Projected Delivered Cost of Potential Contracts (\$/ton)								
Estimated Average Delivered Cost (\$/ton)								
Budgeted Cost (\$/ton)								

**TOTAL**

Projected Burn (Tons)								
Under Contract (Tons)								
Open (Tons)								
% Hedged Current								



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**PROGRESS FUELS CORPORATION**

Potential Purchases from 2005 - 2007 RFP

Coal Type	Coal Type/Mode	Supplier	2005			2006			2007		
			Open Total	Percentage Closed	Open	Open Total	Percentage Closed	Open	Open Total	Percentage Closed	Open
"A"	Rail	Massey Black Gold Open	720.0								
			120.0								
			526.0			1,455.0			2,473.0		
			1,366.0	61.5%	38.5%	1,455.0	0.0%	100.0%	2,473.0	0.0%	100.0%
"D"	Rail	Massey Progress Open	360.0								
			360.0								
			101.0			1,223.0			1,733.0		
			821.0	87.7%	12.3%	1,223.0	0.0%	100.0%	1,733.0	0.0%	100.0%
"D"	Water	Massey Central Open	360.0								
			300.0								
			40.0			650.0			2,300.0		
			700.0	94.3%	5.7%	650.0	0.0%	100.0%	2,300.0	0.0%	100.0%
			2,887.0	76.9%	23.1%	3,328.0	0.0%	100.0%	6,506.0	0.0%	100.0%
	Rail	Committed	1,560.0								
		Open	627.0			2,678.0			4,206.0		
			2,187.0	71.3%	28.7%	2,678.0	0.0%	100.0%	4,206.0	0.0%	100.0%
	Water	Committed	660.0								
		Open	40.0			650.0			2,300.0		
			700.0	94.3%	5.7%	650.0	0.0%	100.0%	2,300.0	0.0%	100.0%
			2,887.0	76.9%	23.1%	3,328.0	0.0%	100.0%	6,506.0	0.0%	100.0%

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**PROGRESS FUELS CORPORATION**

**Potential Purchases from 2005 - 2007 RFP**

Coal Type	Coal Type/Mode	Supplier	2005			2006			2007		
			Open Total	Percentage Closed	Open	Open Total	Percentage Closed	Open	Open Total	Percentage Closed	Open
"A"	Rail	Massey Black Gold Open	720.0								
			120.0								
			526.0			1,455.0			2,473.0		
			1,366.0	61.5%	38.5%	1,455.0	0.0%	100.0%	2,473.0	0.0%	100.0%
"D"	Rail	Massey Progress Open	360.0								
			360.0								
			101.0			1,223.0			1,733.0		
			821.0	87.7%	12.3%	1,223.0	0.0%	100.0%	1,733.0	0.0%	100.0%
"D"	Water	Massey Central Open	360.0								
			300.0								
			40.0			650.0			2,300.0		
			700.0	94.3%	5.7%	650.0	0.0%	100.0%	2,300.0	0.0%	100.0%
			2,887.0	76.9%	23.1%	3,328.0	0.0%	100.0%	6,506.0	0.0%	100.0%
	Rail	Committed Open	1,560.0						-		
			627.0			2,678.0			4,206.0		
			2,187.0	71.3%	28.7%	2,678.0	0.0%	100.0%	4,206.0	0.0%	100.0%
	Water	Committed Open	660.0								
			40.0			650.0			2,300.0		
			700.0	94.3%	5.7%	650.0	0.0%	100.0%	2,300.0	0.0%	100.0%
			2,887.0	76.9%	23.1%	3,328.0	0.0%	100.0%	6,506.0	0.0%	100.0%

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**PROGRESS FUELS CORPORATION**

**Potential Purchases**

<b><u>Coal Type</u></b>	<b><u>Transportation Mode</u></b>	<b><u>2005</u></b>			<b><u>2006</u></b>			<b><u>2007</u></b>		
		<b><u>Open Total</u></b>	<b><u>80%</u></b>	<b><u>20%</u></b>	<b><u>Open Total</u></b>	<b><u>80%</u></b>	<b><u>20%</u></b>	<b><u>Open Total</u></b>	<b><u>80%</u></b>	<b><u>20%</u></b>
"A"	Rail	1,366.0	1,092.8	273.2	1,455.0	1,164.0	291.0	2,473.0	1,978.4	494.6
"D"	Rail	821.0	656.8	164.2	1,223.0	978.4	244.6	1,733.0	1,386.4	346.6
"D"	Water	700.0	560.0	140.0	650.0	520.0	130.0	2,300.0	1,840.0	460.0
		<u>2,887.0</u>	<u>2,309.6</u>	<u>577.4</u>	<u>3,328.0</u>	<u>2,662.4</u>	<u>665.6</u>	<u>6,506.0</u>	<u>5,204.8</u>	<u>1,301.2</u>

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**PROGRESS FUELS CORPORATION**

**Potential Purchases from 2005 - 2007 RFP**

Coal Type	Coal Type/Mode	Supplier	2005			2006			2007		
			Open Total	Percentage Closed	Open	Open Total	Percentage Closed	Open	Open Total	Percentage Closed	Open
"A"	Rail	Massey	720.0			-					
		Black Gold	120.0			240.0					
		Open	526.0			1,215.0			2,473.0		
			1,366.0	61.5%	38.5%	1,455.0	16.5%	83.5%	2,473.0	0.0%	100.0%
"D"	Rail	Massey	360.0			-					
		Progress	360.0			360.0			1,733.0		
		Open	101.0			863.0			1,733.0		
			821.0	87.7%	12.3%	1,223.0	29.4%	70.6%	1,733.0	0.0%	100.0%
"D"	Water	Massey	360.0			-			-		
		Central	300.0			300.0					
		Open	40.0			650.0			2,300.0		
			700.0	94.3%	5.7%	650.0	46.2%	53.8%	2,300.0	0.0%	100.0%
			2,887.0	76.9%	23.1%	3,328.0	27.0%	73.0%	6,506.0	0.0%	100.0%
	Rail	Committed	1,560.0			600.0			-		
		Open	627.0			2,078.0			4,206.0		
			2,187.0	71.3%	28.7%	2,678.0	22.4%	77.6%	4,206.0	0.0%	100.0%
	Water	Committed	660.0								
		Open	40.0			650.0			2,300.0		
			700.0	94.3%	5.7%	650.0	0.0%	100.0%	2,300.0	0.0%	100.0%
			2,887.0	76.9%	23.1%	3,328.0	18.0%	82.0%	6,506.0	0.0%	100.0%

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CR Units 1, 2, 4 and 5  
May 2004  
Solicitation  
PURCHASES

**May 2004  
Solicitation  
PURCHASES**

5 6 7 8 9 ±

Supplier	Coal Type	Term	Origin	1000 Tons	Weight Tons	2003 Tons	2004 Tons	2005 Tons	2006 Tons	2007 Tons	2008 Tons	2009 Tons	2010 Tons	2011 Tons	2012 Tons	2013 Tons	2014 Tons	2015 Tons	2016 Tons	2017 Tons	2018 Tons	2019 Tons	2020 Tons	2021 Tons	2022 Tons	2023 Tons	2024 Tons	2025 Tons	2026 Tons	2027 Tons	2028 Tons	2029 Tons	2030 Tons	2031 Tons	2032 Tons	2033 Tons	2034 Tons	2035 Tons	2036 Tons	2037 Tons	2038 Tons	2039 Tons	2040 Tons	2041 Tons	2042 Tons	2043 Tons	2044 Tons	2045 Tons	2046 Tons	2047 Tons	2048 Tons	2049 Tons	2050 Tons	2051 Tons	2052 Tons	2053 Tons	2054 Tons	2055 Tons	2056 Tons	2057 Tons	2058 Tons	2059 Tons	2060 Tons	2061 Tons	2062 Tons	2063 Tons	2064 Tons	2065 Tons	2066 Tons	2067 Tons	2068 Tons	2069 Tons	2070 Tons	2071 Tons	2072 Tons	2073 Tons	2074 Tons	2075 Tons	2076 Tons	2077 Tons	2078 Tons	2079 Tons	2080 Tons	2081 Tons	2082 Tons	2083 Tons	2084 Tons	2085 Tons	2086 Tons	2087 Tons	2088 Tons	2089 Tons	2090 Tons	2091 Tons	2092 Tons	2093 Tons	2094 Tons	2095 Tons	2096 Tons	2097 Tons	2098 Tons	2099 Tons	2100 Tons	2101 Tons	2102 Tons	2103 Tons	2104 Tons	2105 Tons	2106 Tons	2107 Tons	2108 Tons	2109 Tons	2110 Tons	2111 Tons	2112 Tons	2113 Tons	2114 Tons	2115 Tons	2116 Tons	2117 Tons	2118 Tons	2119 Tons	2120 Tons	2121 Tons	2122 Tons	2123 Tons	2124 Tons	2125 Tons	2126 Tons	2127 Tons	2128 Tons	2129 Tons	2130 Tons	2131 Tons	2132 Tons	2133 Tons	2134 Tons	2135 Tons	2136 Tons	2137 Tons	2138 Tons	2139 Tons	2140 Tons	2141 Tons	2142 Tons	2143 Tons	2144 Tons	2145 Tons	2146 Tons	2147 Tons	2148 Tons	2149 Tons	2150 Tons	2151 Tons	2152 Tons	2153 Tons	2154 Tons	2155 Tons	2156 Tons	2157 Tons	2158 Tons	2159 Tons	2160 Tons	2161 Tons	2162 Tons	2163 Tons	2164 Tons	2165 Tons	2166 Tons	2167 Tons	2168 Tons	2169 Tons	2170 Tons	2171 Tons	2172 Tons	2173 Tons	2174 Tons	2175 Tons	2176 Tons	2177 Tons	2178 Tons	2179 Tons	2180 Tons	2181 Tons	2182 Tons	2183 Tons	2184 Tons	2185 Tons	2186 Tons	2187 Tons	2188 Tons	2189 Tons	2190 Tons	2191 Tons	2192 Tons	2193 Tons	2194 Tons	2195 Tons	2196 Tons	2197 Tons	2198 Tons	2199 Tons	2200 Tons	2201 Tons	2202 Tons	2203 Tons	2204 Tons	2205 Tons	2206 Tons	2207 Tons	2208 Tons	2209 Tons	2210 Tons	2211 Tons	2212 Tons	2213 Tons	2214 Tons	2215 Tons	2216 Tons	2217 Tons	2218 Tons	2219 Tons	2220 Tons	2221 Tons	2222 Tons	2223 Tons	2224 Tons	2225 Tons	2226 Tons	2227 Tons	2228 Tons	2229 Tons	2230 Tons	2231 Tons	2232 Tons	2233 Tons	2234 Tons	2235 Tons	2236 Tons	2237 Tons	2238 Tons	2239 Tons	2240 Tons	2241 Tons	2242 Tons	2243 Tons	2244 Tons	2245 Tons	2246 Tons	2247 Tons	2248 Tons	2249 Tons	2250 Tons	2251 Tons	2252 Tons	2253 Tons	2254 Tons	2255 Tons	2256 Tons	2257 Tons	2258 Tons	2259 Tons	2260 Tons	2261 Tons	2262 Tons	2263 Tons	2264 Tons	2265 Tons	2266 Tons	2267 Tons	2268 Tons	2269 Tons	2270 Tons	2271 Tons	2272 Tons	2273 Tons	2274 Tons	2275 Tons	2276 Tons	2277 Tons	2278 Tons	2279 Tons	2280 Tons	2281 Tons	2282 Tons	2283 Tons	2284 Tons	2285 Tons	2286 Tons	2287 Tons	2288 Tons	2289 Tons	2290 Tons	2291 Tons	2292 Tons	2293 Tons	2294 Tons	2295 Tons	2296 Tons	2297 Tons	2298 Tons	2299 Tons	2300 Tons	2301 Tons	2302 Tons	2303 Tons	2304 Tons	2305 Tons	2306 Tons	2307 Tons	2308 Tons	2309 Tons	2310 Tons	2311 Tons	2312 Tons	2313
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**ALL BIDS**

Revised: 5/20/2004 11:25

# PROGRESS FUELS CORPORATION

CR Units 4 and 5

May 2004

Solicitation  
ALL BIDS by Rail/Water

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Rail																											
Massey	05	Bandmill	720		720		0		0		0	\$0.00		\$2.00	13.00%	0.73%	12,100	8.00%	31.00%	42	1.20	A					18 month
Progress	05-07	Diamond May	1080		360		360		360		0	\$0.00		\$2.00	12.00%	0.75%	12,500	8.00%	32.00%	43	1.20						
Alliance	05-07	MC Mining	990		150		150		600		0	\$0.00		\$2.00	10.00%	0.74%	12,300	8.00%	32.00%	39	1.20	H					06 & 07 reopener
Massey	05	NS-Sydney	600		600		0		0		0	\$0.00		\$2.00	12.50%	0.74%	12,300	8.00%	31.00%	42	1.20	A					NS Move-NO FREIGHT included

CR 45 Economics Base Specifications				
Ash	Sulfur	Btu	Moisture	Vol
10.00%	0.70%	12,000	8.00%	31.00%
				40

Total Tons 19984

\*estimated in red

SO2 Price

Revised: 5/20/2004 11:25

p.34

# PROGRESS FUELS CORPORATION

CR 1 and 2

May 2004

Solicitation

ALL BIDS

ALL BIDS													PURCHASE SPECIFICATIONS										UTILIZATION		UNIT 45		CASH		CASH		EVALUATED		EVALUATED		ACTION TAKEN		NOTES	
Supplier	Term	Origin	Total Tons	Avg Price	2005 Tons	2005 Price	2006 Tons	2006 Price	2007 Tons	2007 Price	2008 Tons	2008 Price	Transp Cost	Railcar Costs	Ash	Sulfur	Btu	Moisture	Vol	HGI	SO2	Cost/st	Derate Codes	Cost \$/st	Cost \$/M	Cost \$/st	Cost \$/M											
Massey	05	CSX BS	720		720		0		0		0	\$0.00			12.50%	1.27%	12,100	8.00%	31.00%	42	2.10		AS									New Ridge/Golf						
B&W Resources	05-07	CSX Jellico	720		240		240		240		0	\$0.00			11.50%	1.25%	12,500	7.00%	32.00%	42	2.00		S															
Marshall	05-06	CSX Clinchfield	500		250		250		0		0	\$0.00			13.00%	1.31%	12,500	7.00%	29.00%	50	2.10		ASV															
Massey	05	CSX Kan	720		720		0		0		0	\$0.00			12.50%	1.27%	12,100	8.00%	30.00%	42	2.10		ASV									Bandmill						
Central App	05-07	CSX BS	720		240		240		240		0	\$0.00			12.00%	1.32%	12,500	8.00%	32.00%	42	2.10		S															
Black Gold	05-07	CSX Hartan	600		120		240		240		0	\$0.00			10.00%	1.34%	12,700	8.00%	31.00%	42	2.10		S															
Horizon	05-07	CSX-Evergreen	1500		500		500		500		0	\$0.00			13.00%	1.29%	12,300	8.00%	31.00%	45	2.10		AS									Note reopener 06 and 07						
Central Coal Co	05-06	CSX-Kan	480		240		240		0		0	\$0.00			12.00%	0.99%	12,300	8.00%	32.00%	45	1.60		S									SO2 set to 1.6						
CMC	05	Colombia-Mobile	400		400		0		0		0	\$0.00			9.20%	0.78%	11,600	12.30%	32.00%	45	1.34		SBM															
Logan&Kanawha	05-07	CSX Kan	1080		360		360		360		0	\$0.00			13.00%	1.00%	12,500	8.00%	30.00%	42	1.60		ASV									Snap Creek						
CMC	05	Colombia-ECT	400		400		0		0		0	\$0.00			9.20%	0.78%	11,600	12.30%	32.00%	45	1.34		SBM															
Peabody	05-07	CSX Kan	720		240		240		240		0	\$0.00			13.50%	1.28%	12,200	6.70%	30.00%	40	2.10		ASV									Sulfur Premium @ 1.6						
Horizon	05-07	CSX Haz- Typo	1500		500		500		500		0	\$0.00			13.00%	1.27%	12,100	8.00%	31.00%	42	2.10		AS									reopener 06 and 07						
Smokey Mtn	05	CSX Kan	240		240		0		0		0	\$0.00			13.00%	1.26%	12,000	8.00%	31.00%	42	2.10		AS															

Total Tons10300

CR 12 Economics Base Specifications

Ash	Sulfur	Btu	Moisture	Vol	HGI
10.00%	1.05%	12,000	8.00%	34.00%	40

SO2 Price

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Total Tons 10300

\*estimated in red

CR 12 Economics Base Specifications					
Ash	Sulfur	Btu	Moisture	Vol	HGI
10.00%	1.05%	12,000	8.00%	34.00%	40

SO2 Price

Revised: 5/20/2004 11:25





COAL SOLICITATION—"A" & "D" COAL  
CRYSTAL RIVER 1, 2, 4 & 5

RFP'S RELEASED 04/12/04

CONTRACTS AWARDED

COPIES

XC: AWP  
RFP  
FML  
HSK  
CAL  
THH  
VHM  
DHD  
VICKY HICKS  
AMY FUTRELL  
ORIG. TO CF

AGREEMENT FOR  
THE SALE AND PURCHASE OF COAL  
BETWEEN  
PROGRESS FUELS CORPORATION  
AND  
B&W RESOURCES, INC.

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# AGREEMENT FOR THE SALE AND PURCHASE OF COAL

This AGREEMENT (hereinafter the "Agreement") is made and entered into as of the 7th day of June, 2004, between PROGRESS FUELS CORPORATION, a Florida corporation, 200 Central Avenue, One Progress Plaza, St. Petersburg, Florida, 33701 (hereinafter "PURCHASER") and B&W RESOURCES, INC. a Kentucky corporation, 637 Morton Boulevard, Hazard, Kentucky, 41701 (hereinafter "SELLER"),

WHEREAS, PURCHASER does supply coal to Progress Energy Florida, Inc., a Florida corporation (hereinafter "PEF"), under a purchase and sale agreement for use as fuel at PEF's Crystal River Units No. 1 and No. 2 near Red Level, Citrus County, Florida (hereinafter "PEF's generating units"); and

WHEREAS, PURCHASER desires to purchase and SELLER desires to mine and sell coal for use as fuel in PEF's generating units;

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties hereto as herein stated and intending to be legally bound, PURCHASER and SELLER agree as follows:

1.01 Mutual Obligations. SELLER agrees to mine, sell and deliver to PURCHASER, and PURCHASER agrees to buy from SELLER, coal of the quality and in the quantities and on the terms and conditions, set forth below.

**2.01 SELLER'S Reserves and Preparations for Selling Coal.** SELLER represents and warrants that SELLER owns or leases the Coal Property. SELLER further represents and warrants that the Coal Property contains economically recoverable coal of a quality and in quantities which, under present mining laws, practices, governmental rules and regulations will be sufficient to satisfy all the requirements of this Agreement during the entire term of this Agreement. SELLER agrees and warrants that it will immediately proceed to mine coal from the Coal Property and provide loading facilities capable of loading at the rate required to comply with this Agreement, all on such a schedule as to put SELLER in position to commence its sales and deliveries of coal to PURCHASER in accordance with the further provisions hereof. SELLER hereby expressly dedicates to PURCHASER sufficient reserves of coal meeting the quality specifications hereof and lying on or in the Coal Property so as to fulfill the quantity specifications hereof. SELLER shall not ship any coal hereunder mined from any source other than the Coal Property without the prior written approval of PURCHASER.

**3.01 Quantity.** During each calendar year during the term hereof, the quantity of coal to be delivered hereunder shall be 240,000 tons, prorated for any partial calendar year. Coal to be supplied under this Agreement shall be substantially from the Coal Property, however Seller may supplement the same type coal from purchased sources.

**4.01 Term.** The term of this Agreement will commence on January 1, 2005, and will continue in effect for a period of twenty-four (24) months.

**5.01 Base Price.** The base price per ton of coal, f.o.b. SELLER'S mine loading site, (hereinafter "base price") shall be fixed at \$ [REDACTED] per ton, adjusted monthly for the quality of coal in accordance with the formula and procedures set out in Appendix A hereto, during the term of this Agreement.

6.01 Billing and Payment. SELLER shall invoice PURCHASER for each coal shipment delivered to PURCHASER during the month at the base price as shown in Section 5.01 hereof. Each invoice shall be paid by PURCHASER within twenty (20) days of the date of the invoice or fifteen (15) days from receipt of the invoice, whichever is later. Adjustments under Appendix A shall be adjusted as a credit or debit on future payments as a retroactive adjustment on the next invoice following the calculation date. A statement showing the basis for the adjustment shall accompany said invoice.

7.01 Delivery and Title. Delivery shall commence during January 2005. Time is of the essence. Delivery will be at PURCHASER'S option as provided in Section 7.02, in railroad cars or trucks f.o.b. the Coal Property and will be so scheduled as to permit loading in unit train lots in accordance with the terms of the applicable contract or tariff (as defined hereinafter). PURCHASER represents that it will supply transportation equipment as required for delivery. Delivery shall be in approximately equal monthly installments wherever possible; however, PURCHASER retains the right to alter monthly shipping schedules on a reasonable basis to meet monthly burn requirements at PEF's Generating Units and to conform to PURCHASER'S unit train and river barge tonnage requirements. Title to the coal and risk of loss thereof shall transfer to PURCHASER at the time the trains or trucks are completely loaded and have been released by SELLER.

7.02 Shipment: Applicable Contract or Tariff. It is currently contemplated that coal sold hereunder will be shipped by rail from SELLER'S unit train loading facilities at Resource, Kentucky, to destinations specified by PURCHASER. Seller may ship from other locations, with prior approval from PURCHASER, so long as any freight differential is paid by Seller. Notwithstanding the foregoing, PURCHASER shall have the option to ship the coal by truck or rail to river docks for



movement on the American inland waterway system. Coal for shipment by river from a single origin shall be scheduled in shipments to meet PURCHASER'S river barge requirements, not to exceed 22,500 tons for loading into fifteen (15) barge unit tows.

Unless waived in writing by PURCHASER (as may be done in the case of river shipments), SELLER will provide, at its own expense, off-mainline rail trackage sufficient for efficient and dependable loading of unit trains at or near the mine loading site or at another mutually acceptable location in accordance with schedules set by PURCHASER. SELLER shall operate such loading facilities twenty-four (24) hours per day, seven (7) days per week, if and as needed, regardless of mine holidays or vacation periods, and shall fully load unit trains comprised of approximately ninety (90) one-hundred (100) ton cars within four (4) hours of their arrival (minimum weight 9,600 tons per 90-car unit train or 107.0 minimum tons per car) at such loading facilities or in accordance with the applicable contract or tariff for shipments hereunder. SELLER shall load each car at least to the minimum tonnage requirements of the railroad as defined in the CSXT-8200 Series Tariff in effect at the time shipments are made. "Arrival" shall be deemed to have occurred when the SELLER is notified by the CSX trainmaster that a train is **available** for loading. Requests by the SELLER to the CSX to "hold" trains will not allow SELLER to avoid charges referenced in Appendix B.

In no event shall SELLER load a car in excess of the maximum weight limitation per car as currently allowed by the railroad over the route of movement. If a car is found to be loaded in excess of the maximum weight limitation, the provision and charges published in Section 3, Item 3000, Tariff ICC CSXT-8200-Series, including supplements thereto or reissues thereof, will apply; and SELLER shall be responsible for such charges.

Shipment of coal under this Agreement (other than by truck) shall be made in accordance with the contract which PURCHASER has negotiated with the railroad or in the absence thereof the applicable tariff (herein called the "applicable contract or tariff"). SELLER acknowledges receipt of same and expressly assumes the obligations imposed on the consignor under the

applicable contract or tariff, and SELLER agrees to load unit trains in a manner and at an effective rate sufficient to load the quantities of coal scheduled for delivery under this Agreement and sufficient to qualify PURCHASER for the applicable contract or tariff without demurrage, car detention, dead freight or other penalties or charges; provided, however, that PURCHASER provides transportation equipment on a regularly scheduled basis sufficient to enable SELLER to fulfill the terms of this Agreement. SELLER agrees and warrants that no agreement of SELLER providing for the joint use of surface facilities will interfere with or impair SELLER'S obligations as set forth in this Agreement. The provisions of Sections 7.04 and 7.05 of this Agreement shall not be deemed to limit or modify any of SELLER'S obligations or PURCHASER'S rights hereunder.

If the applicable contract or tariff is amended, supplemented or replaced, subsequent shipments of coal shall be made by SELLER in accordance with the terms of the applicable contract or tariff as amended, supplemented or replaced. Notwithstanding anything in this Agreement to the contrary, if the applicable contract or tariff as amended, supplemented or replaced imposes more costly car-loading terms, conditions or duties on SELLER than those specifically assumed by SELLER under this Agreement, PURCHASER shall pay SELLER, as a direct result of the imposition of such additional costly car-loading terms, conditions or duties on SELLER, reasonable additional per ton charges. However, if in the opinion of PURCHASER, these charges are excessive, both PURCHASER and SELLER will meet to mutually agree upon a method to handle the excessive charges. If the parties are unsuccessful in reaching an agreement, PURCHASER may, at its sole discretion, terminate the Agreement. Payments shall begin within thirty (30) days after receipt from SELLER of a written statement itemizing such costs (which may include SELLER'S additional costs for labor, materials, amortization of capital items or a combination of these) and showing facts necessary to permit PURCHASER to verify such costs.

**7.03 Freight Charges.** Subject to reimbursement provided by Sections 7.04 and 7.05, PURCHASER shall pay all freight and other charges imposed by the applicable tariff.

7.04 Excess Loading Costs Chargeable to SELLER. If SELLER fails to satisfy the loading requirements of the applicable tariff and such failure is not excused pursuant to force majeure as provided in Section 10.01 hereof or the applicable tariff, SELLER shall pay PURCHASER or railroad any resulting car detention penalties, demurrage, crew charges or charges for cars not timely loaded to marked capacity which PURCHASER is required to pay under the applicable tariff. In addition, SELLER shall pay PURCHASER reasonable lost railcar utilization charges for failure to timely and fully load and/or time lost to unload overloaded railcars of PURCHASER. Examples of these charges are listed in Appendix B.

7.05 Excess Freight Costs Chargeable to SELLER. If SELLER fails to have available sufficient coal to satisfy the quantity requirements of Section 3.01 on the regularly scheduled basis referred to in Section 7.01 and thereby fails to satisfy the tonnage requirements of the applicable contract or tariff (dead freight, volume incentive threshold, annual volume guarantee) and such failure is not excused pursuant to force majeure as provided in Section 11.01 hereof, SELLER shall pay PURCHASER any resulting freight charges which PURCHASER is required by such contract or tariff to pay in excess of the amount of such charges that would have been payable with respect to the coal actually shipped had tonnage requirements been met. In the event locomotives and train crew are released without a unit train of loaded cars being released to the railroad, detention charges, which include charges for locomotives, if any, will cease at the time of notification of such release. When a train crew and locomotives are again required by SELLER for service, a charge of [REDACTED], as adjusted by the railroad, will be assessed by the railroad and paid by SELLER and the detention and free time provisions will again be applicable upon the arrival of locomotives and crew at the mine loading site.

7.06 Payment of Excess Costs to PURCHASER. Any payments required by Sections 7.04 and 7.05 above shall be promptly paid on receipt by SELLER of a written statement from PURCHASER itemizing such charges and showing facts necessary to permit SELLER to verify such charges. At either party's election, such charges may be credited against amounts then owed by PURCHASER to SELLER hereunder.

7.07 Freeze Proofing. When required by the river transfer terminal, a PURCHASER approved freeze proofing material will be applied by SELLER at a cost of [REDACTED] per pint per ton to PURCHASER. Freeze proofing will not typically be required on direct rail shipments. SELLER shall be advised by PURCHASER as to amounts of freeze proofing required on an "as needed" basis.

8.01 Weighing. The net weight of coal sold and delivered hereunder shall be determined by SELLER'S certified scales (if available) at origin for unit train shipments or, if the origin scales are inoperable or are not certified, PURCHASER may order weighing by the carrying railroad over certified scales or may use the average of the net weights of the five (5) prior unit trains. Notwithstanding the above, at PURCHASER'S option, weight may be determined by certified scale at discharge point.

8.02 Sampling and Analysis.

A. Sampling. Sampling of coal subject to this Agreement shall be performed on each shipment with an automatic sampling system by a third party employed by PURCHASER at the mine or, if SELLER is unable to obtain samples in conformance with the specifications of ASTM Standards, except for deviations agreed to in writing by PURCHASER and SELLER, then the samples will be obtained at PEF's Crystal River power plant. In case of any failure of the automatic

sampler, trainloads may be hand-sampled in accordance with ASTM 4915 or by other mutually agreed to method. The cost of sampling coals shall be for the account of PURCHASER.

The SELLER shall perform or cause to be performed bias/performance tests on mechanical sampling systems at two-year intervals. PURCHASER shall be furnished bias test reports performed within two (2) years of commencement of shipments. PURCHASER has the right to perform or cause to be performed bias/performance tests at any time during the period that this Agreement is in effect at PURCHASER'S cost.

A minimum of four sub-samples shall be divided from the shipment sample according to ASTM Standard D 2013. The fourth sub-sample shall be placed in a suitable container and sent to PURCHASER. The third sub-sample shall be placed in a suitable container and saved for SELLER'S disposition only. The second sub-sample shall be placed in a suitable container and retained for thirty (30) days as a check sample. The first sub-sample, which is called the laboratory sample, shall be used for analyses as specified in the following paragraphs. Appropriate additional splits shall be retained for additional tests as needed.

**B. Air Drying.** The laboratory sample shall be air-dried according to ASTM Standards D 2013 and D 3302, except that modified procedures may be employed by mutual agreement. The air-dried sample shall then be prepared for further analyses.

**C. Analyses to be Made.** The analyses to be made according to methods described in the applicable standards are as follows:

- Moisture, in weight percentage
- Ash Content, in weight percentage
- Calorific Value, in Btu's per pound
- Sulfur, in weight percentage
- Volatile, in weight percentage
- Grindability, in Hardgrove Index units
- Ash Fusion, in degrees Fahrenheit
- Pyritic Sulfur, in weight percentage
- Screen Analysis, in weight percentage (separate sampling required)

**D. Acceptance of Results.** The results of the third party sampling and analysis of the laboratory sample shall be accepted as the quality and characteristics of the coal delivered

hereunder in the trainloads represented by such samples and the same shall be accepted as the monthly analysis for the trainloads delivered during such month; provided, however, that if either party, within thirty (30) days, questions the correctness of the original analysis made on the laboratory sample, it shall have the right to have the check sample analyzed by a commercial testing laboratory mutually selected by SELLER and PURCHASER and said laboratory shall use methods approved by ASTM or other mutually acceptable procedures. The results obtained on the check sample will be accepted as the quality and characteristics of the lot of coal involved. The party questioning the correctness of the original analyses shall pay the cost of such analyses. The price for the coal represented by such samples shall be adjusted in accordance with the provisions of this Agreement and any amounts due shall be paid in accordance with Section 6 hereof.

PURCHASER and SELLER shall have the right to have a representative present at any and all times to observe said sampling and analyses and to take a reasonable number of samples.

**8.03 Quality Reports.** Notice of the quality of coal delivered hereunder shall be given to PURCHASER and SELLER as soon as practical following the loading of coal at origin.

**9.01 Coal Specifications.** Coal delivered hereunder shall be a homogenous coal, crushed to two inches (2") by zero inches (0") in size with no intermediate sizes removed. The coal shall be prepared so as to be free from excess quantities of bone, slate, shale, fire clay, wood, metal, rock, loose clay, and other mine impurities as determined by PURCHASER and shall have a temperature below 131° Fahrenheit, and shall have the following specifications per shipment on an "as-received" basis:



SPECIFICATION	TYPICAL	REJECT
Moisture	7.0%	>7.0%
Ash	10.0%	>11.5%
Sulfur	2.0 LB/SO <sub>2</sub> per Million Btu	<1.5 LB/SO <sub>2</sub> per Million Btu >2.1 LB/SO <sub>2</sub> per Million Btu
Volatile	34.0%	<32.0%
Ash Fusion - Softening (H=W), Reducing	2700°F	<2600°F
Grindability	42 HGI	<42 HGI
Calorific Value	12,500 Btu/LB	<12,500 Btu/LB 12,250
Fines (-1/4")	40%	>45%

All shipments shall be free of metal. SELLER shall provide magnets and metal detectors or other suitable equipment as required to satisfy this requirement. Inclusion of metal in coal shipments, if continued, shall be grounds for immediate termination of this Agreement or rejection of shipment.

**9.02 Coal Specifications Deficiencies.** For purposes of this Agreement, a "shipment" shall mean the quantity actually received in any unit train load or, in the event barge transportation is utilized, each barge loaded. If the coal delivered hereunder in any single shipment fails to meet any of the specifications set out in Section 9.01 other than sulfur content, PURCHASER shall have each of the following options to be exercised in its sole discretion:

(1) PURCHASER may notify SELLER that PURCHASER will accept such coal subject to and in accordance with the provisions set forth in this Agreement including Appendix A; provided, however, that PURCHASER'S exercise of this option shall in no way constitute a waiver of PURCHASER'S right at any time thereafter to exercise any of the other options set forth herein with respect to subsequent deliveries of coal hereunder; or

(2) PURCHASER will have the option to reject any shipment which exceeds any of the minimum/maximum specifications listed in 9.01, and PURCHASER may notify SELLER to suspend further deliveries of coal hereunder until SELLER demonstrates to PURCHASER'S

satisfaction that it can deliver coal that will conform on a per shipment basis to the specifications set forth in Section 9.01; provided, however, that PURCHASER'S exercise of this option shall in no way constitute a waiver of PURCHASER'S right at any time thereafter to exercise any of the other options set forth herein with respect to subsequent deliveries of coal hereunder. If SELLER fails to make the above demonstration to PURCHASER'S satisfaction within thirty (30) days after notice by PURCHASER, PURCHASER shall have the right to terminate or cancel this Agreement and, in addition, pursue every other remedy provided by law or equity; and

(3) No premiums shall be paid on coals that fail to meet Section 9.01 specifications.

**9.03 Sulfur Content Warranty.** SELLER warrants and represents that the average total sulfur content of each shipment shall not contain more than 2.1 LB of sulfur dioxide per million Btu's heat input (the "calculated sulfur limit").


In the event SELLER delivers to PURCHASER any shipment of coal with the sulfur content greater than 1.80 LB SO<sub>2</sub> MMBtu, but less than 2.1 LB SO<sub>2</sub> MMBtu, PURCHASER shall pay SELLER the Base Price indicated in Section 5.01.

In the event SELLER delivers to PURCHASER any shipment of coal with a total sulfur content of 1.80 LB SO<sub>2</sub> MMBtu or below, PURCHASER shall pay a sulfur premium of [REDACTED] [REDACTED] per ton.

In the event SELLER delivers to PURCHASER any shipment of coal with a total sulfur content in excess of the calculated sulfur limits set forth above, the following shall apply:

(1) If PURCHASER is able to use such coal by blending directly with other coal from the active stockpile so that the blended coal shall not exceed 2.1 LB of sulfur dioxide per million Btu's, PURCHASER shall accept such coal and the price of the coal delivered in such shipment shall be reduced from the invoice price PURCHASER would otherwise have been required to pay for such coal under this Agreement by the amount of PURCHASER'S cost of blending such coal determined by the following adjustment:



Sulfur Adjustment =  percent (I)

Where:

I - Invoice price which would apply excluding the sulfur adjustment.

Such adjusted price shall become the price for purposes of applying any adjustments provided in Appendix A.

(2) If PURCHASER rejects any shipment under 9.02 or is unable to use such coal under any circumstances because the burning of such coal will cause PURCHASER'S buyer's generating unit or units to have emissions that exceed 2.1 LB of sulfur dioxide per million Btu's of heat input, PURCHASER may reject such shipment without payment and SELLER shall be obligated to pay PURCHASER'S costs involved in transporting such coal from the point of SELLER'S delivery to the PURCHASER'S buyer's unit, the cost of disposing of such rejected shipment of coal and any other reasonable costs of disposition incurred, including PURCHASER'S railcar utilization costs and cost of transportation of such coal from PURCHASER'S buyer's unit to the point of disposition. If PURCHASER rejects a shipment from SELLER under the provisions of this paragraph, PURCHASER and SELLER shall meet promptly thereafter to see what reasonable steps may be taken on the part of both parties to allow this Agreement to continue. If PURCHASER and SELLER fail to reach agreement within thirty (30) days as to what steps can be taken to correct the situation, then PURCHASER shall have the right to terminate this agreement by giving notice of termination to SELLER and, in addition, pursue every other remedy provided by law or equity.

SELLER shall be permitted to have a representative present to observe tests conducted by PURCHASER'S buyer of burning in PURCHASER'S buyer's facilities, and to observe sampling, analysis and tests conducted to determine the content of flue gases resulting from the burning of such coal. PURCHASER shall also make available to SELLER at reasonable

times the results of such tests and analysis, as well as charts and other information resulting from the monitoring of stack gas emissions.

**10.01 Force Majeure.** As used herein, the term "force majeure" shall mean any event beyond the control and without fault or negligence of the party affected thereby and which, by the exercise of reasonable diligence or the incurring of reasonable expense, such party is unable to prevent or overcome, regardless of whether such event was foreseeable, including, without limitation, act of God, act of public authorities (including courts and commissions of competent jurisdiction), act of the public enemy, insurrection, riot, labor dispute, labor or material shortage, fire, explosion, flood, breakdown of or damage to plant equipment or facilities (including emergency outages of equipment or facilities to make repairs to avoid breakdowns thereof or damage thereto), interruption to transportation or transportation delay, river freeze-up, embargo, order or act of civil or military authority, legislative, regulatory, judicial rule or order adopted, amended or newly interpreted subsequent to the date of this Agreement and any other event of a similar or dissimilar nature which wholly or partially prevents the mining, hauling, processing or loading of coal by SELLER or the receiving, transporting, handling, storing, and/or delivering by PURCHASER'S carrier thereof or the accepting, handling, utilizing and/or unloading thereof by PURCHASER or PURCHASER'S intended buyer, PEF.

In the event performance of SELLER'S obligations hereunder or PURCHASER'S obligations hereunder is made impossible, impractical or illegal by reason of force majeure (other than obligations to pay or expend money for or in connection with the performance of the transactions contemplated by this Agreement) and such party promptly gives to each other party hereto written notice of the details thereof, then the obligations of the parties hereto shall be totally excused to the extent made necessary by such force majeure and during its continuance; provided, however, that such party giving such notice shall use its best efforts to eliminate such force majeure to the extent economically feasible to do so and with a minimum of delay. Any

deficiencies in deliveries of coal hereunder as a result of force majeure shall not be made up except by mutual agreement. In the event force majeure results in a partial reduction in the total quantity of coal SELLER is obligated to deliver hereunder, the quantity of coal SELLER shall be obligated to deliver to PURCHASER hereunder during the continuance of such force majeure shall be limited to the amount of coal required to be delivered during such period but for this section multiplied by a fraction, the denominator of which is the production capacity of the Coal Property immediately prior to such force majeure and the numerator of which is the production capacity of the Coal Property during the continuance of such force majeure.

In the event that restrictions are imposed during the term of this Agreement by governmental bodies, agencies, entities, officials or courts which preclude or restrict PEF from burning coal of the specifications hereunder, such restriction shall be deemed to be an event of force majeure under this Agreement unless its effect can be avoided in a lawful manner and will not, in PEF's sole judgment, result in unreasonable expense to PEF, the obligations of the parties hereto shall be totally excused during the continuance of such force majeure.

**11.01 Audit.** SELLER agrees to maintain books, records, documents and other evidences pertaining to the costs of producing, mining, handling or loading of coal under this Agreement (herein collectively called the "records") to the extent and in such detail as will properly reflect all items of whatever nature for which payment, reimbursement or adjustment in base price of coal is claimed under the provisions of this Agreement. Upon the request of PURCHASER, SELLER shall make available at SELLER'S office any and all said records along with related correspondence, receipts, vouchers and memoranda pertaining to this Agreement for inspection, audit or reproduction by any authorized representative of PURCHASER. SELLER shall preserve all such records with respect to each shipment of coal for a period of twenty-four (24) months after final payment for such shipment, during which time PURCHASER shall complete any audit it may desire; provided, however, such time limitation shall not apply in cases whereby material

misrepresentation, fraud or similar circumstances are claimed. The applicable records shall be preserved until audit is completed or, should there otherwise be questions raised regarding such recording, until agreement with regard to same is reached.

**11.02 Mine Access Rights.** SELLER shall at all times carry out its mining operations consistent with obligations to meet the production and delivery schedule as provided herein. PURCHASER shall have the right from time to time during the term of this Agreement to arrange for geologists, consultants and engineers (PURCHASER'S "agents"), as well as PURCHASER'S own employees, to visit the mine at PURCHASER'S expense and risk, so long as it does not unreasonably interfere with SELLER'S operations. PURCHASER and its agents shall have access to the mine and to any and all data related to SELLER'S mining plans and reserves used to produce the quantity and quality of coal required by this Agreement.

**12.01 Waiver.** The failure of either party to insist on strict performance of any provisions of this Agreement or to take advantage of any right hereunder shall not be construed as a waiver or relinquishment of such provision or right but the same shall continue and remain in full force and effect.

**12.02 Remedies Cumulative.** Remedies provided under this Agreement shall be cumulative and in addition to other remedies provided by law.

**13.01 Cure of Default.** Except as otherwise expressly provided in this Agreement, no default of either party to this Agreement in the performance of any of its covenants or obligations hereunder, which, except for this provision, would be the legal basis for cancellation or termination of this Agreement by the other party hereto, shall give or result in such a right unless and until the party committing such default shall fail to correct the default but in no event later than within thirty

(30) days after written notice of claim of such default is given to such defaulting party by the other party hereto.

**14.01 Attorney's Fees.** In the event either party should default under the terms hereof or fail to perform any of the terms and conditions of this Agreement and a party employs an attorney to protect its interest and obtains a judgment in court or through arbitration in its favor, then the cost of such reasonable attorney's fee shall be and will form a portion of such judgment and shall be included in such judgment.

**15.01 Indemnification.** SELLER shall indemnify, defend and hold PURCHASER harmless from and against any claim, demand, loss, damage or injury caused by or resulting from any act or omission, whether negligent or otherwise, of SELLER. PURCHASER shall indemnify, defend and hold SELLER harmless from and against any claim, demand, loss, damage or injury caused by or resulting from any act or omission, whether negligent or otherwise, of PURCHASER. However, notwithstanding the above, neither party assumes any responsibility for damage or injury to officers, agents or employees of the other party.

**15.02 Environment, Health, and Safety.**

**A. Compliance and Indemnification.** SELLER shall comply with all applicable EHS laws and shall indemnify PURCHASER against any EHS claims and costs arising from SELLER'S performance under this Agreement.

**B. Audits.** PURCHASER may audit SELLER'S EHS compliance. Within thirty (30) days of PURCHASER'S request, SELLER shall deliver to PURCHASER (1) all records regarding (a) SELLER'S actual or alleged violations of EHS laws and (b) EHS claims asserted against SELLER, in each case in the five year period preceding PURCHASER'S request and (2) any

executed consent form(s) necessary for PURCHASER to obtain from regulatory agencies and other third parties information regarding SELLER'S EHS compliance.

**D. Definitions (as used in this Agreement).**

1. **Claim** means administrative, regulatory or judicial action, suite, dispute, liability, judgment, penalty, damages, directive, order or claim.

2. **EHS** means relating to the management of any material or the protection of human health, public safety, occupational/mine safety and health, the environment or natural resources.

3. **Indemnify** means to indemnify, defend, and reimburse the indemnitee and its successors and assigns on an after-tax basis.

4. **Law** means any binding authority, demand, or permitting requirement issued by a legislative, judicial, or executive governmental body.

5. **Manage or management, with respect to any material**, means the manufacture, disturbance, generation, use, transportation, emission, discharge, treatment, storage, disposal, release, or threatened release thereof.

**16.01 Notice of Problem.** Whenever either party hereto encounters or discovers or reasonably anticipates any problem which could delay or prevent performance of this Agreement, such party shall immediately notify in writing the other party of all relevant circumstances and any remedial steps being taken.

**17.01 Independent Contractor.** The parties recognize and agree that SELLER is not an agent or employee of PURCHASER but is independent of any managerial or other control or direction by PURCHASER in its work hereunder and is free to perform, by such means and in such manner as SELLER may choose, all work in pursuance of commitments hereunder.

18.01 Binding Effect. This Agreement shall bind and inure to the benefit of the parties and their successors and assigns under Section 5.03 hereof. This Agreement shall not create any rights or remedies in any entity not a part hereto.

19.01 Assignments. Neither party may assign nor transfer this Agreement nor any rights nor obligations hereunder without the prior written consent of the other party hereto. Such assignment shall not be unreasonably withheld.

20.01 Partial Dispute. Should any bona fide dispute involving the price of coal hereunder extend only to a portion of any amount claimed due hereunder, the undisputed portion shall be paid as and when due. Should it later be determined that additional payments are due from PURCHASER to SELLER, such amount shall be paid together with interest from the date payment was due as provided herein at the prime rate for preferred customers on loans not to exceed thirty (30) days as from time to time quoted by the Morgan Guaranty Trust Company of New York, New York, during pendency of the dispute.

21.01 Captions. The captions to sections hereof are for convenience only and shall not be considered in construing the intent of the parties.

22.01 Applicable Law and Venue. All questions relating to execution, construction, performance, termination or breach of this Agreement shall be resolved under the laws of the State of Florida without regard to the choice of law provisions thereof. In the event of any lawsuit filed hereunder, the parties hereto authorize venue in Pinellas County, Florida, and/or the federal court district encompassing said county.

23.01 Conflict of Interest Policy. PURCHASER has adopted a conflict of interest policy, applicable to all its full-time employees (hereafter "Employee"), and intended to ensure that all business activities of PURCHASER will be conducted in a manner so as to avoid any conflict of interest or appearance of a conflict.

SELLER agrees to conduct its activities in support of said conflict of interest policy, specifically as follows:

(a) SELLER shall promptly disclose to PURCHASER the existence of any material financial interest in SELLER held, at any time during the term of this Agreement, by any Employee or member of an Employee's immediate family. The holding of publicly traded securities in SELLER need not be disclosed unless the Employee is directly or indirectly involved in dealing with the SELLER.

(b) SELLER shall not accept on its own behalf the service or employment in any capacity (such as director, officer, employee, representative or consultant) of any Employee, unless such service or employment is specifically authorized by the President or Board of Directors of PURCHASER.

(c) SELLER shall not offer to any Employee or member of an Employee's immediate family any gifts of more than token value, special preference loans, lavish entertainment or other substantial favors.

Breach of this provision by SELLER shall constitute a material breach of this Agreement; and in the event thereof, PURCHASER shall have the right to terminate this Agreement and pursue any and all other remedies at law or equity.

24.01 Entire Agreement. This instrument contains the entire agreement between the parties and there are no representations, understandings or agreements, oral or written, which are not included herein. This Agreement cannot be changed except by duly authorized representatives of both parties in writing. It is understood that PURCHASER or SELLER from time



to time in the administration of this Agreement may issue and transmit each to the other documents designated as "Purchase Orders" and "Change Orders;" these documents serve instructional or accounting functions only and are not amendments to or constructions of this Agreement.

**25.01 Confidentiality.** Each party hereto recognizes that this Agreement contains confidential commercial information, the public disclosure of all or any part of which could be damaging to the parties hereto. Accordingly, each party hereto agrees not to disclose any of the terms or provisions of this Agreement to any person or persons not a part hereto, except for affiliated corporations or unincorporated divisions of the parties hereto, without the prior consent in writing thereto of the other party hereto, which consent shall not be unreasonably withheld, except to the extent such party is legally compelled to make such disclosure pursuant to applicable law or to the extent such disclosure is reasonably necessary in connection with any regulatory, administrative or other legal proceeding in which such party, or any such affiliated corporation or unincorporated division, is involved. When disclosure is made within the terms of the above mentioned exceptions, such disclosure shall be made only to the extent reasonably necessary. It is further understood and agreed that whenever any such information is disclosed by any party hereto in accordance with the above mentioned exceptions, such party will advise each person to whom disclosure is made of the confidential nature of the information disclosed and, except for routine regulatory reporting by PURCHASER, provide written notice of such disclosure, in advance thereof, if possible, to the other party to this Agreement.

**26.01 Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their authorized officers, all as of the date and year first above written.

WITNESS:

Roberta A. Ott  
Mary J. Rudenst

WITNESS:

J. M. Sine  
Annmarie

PROGRESS FUELS CORPORATION

BY: [Signature]

Vice President—Coal Procurement

Date Executed: 6/7/04

B&W RESOURCES, INC.

BY: [Signature]

President

Date Executed: 6/8/04

## APPENDIX A

### Adjustments for Calorific Value

Base price is based upon Subject Coal having weighted average calorific value of 12,500 Btu's per pound avoirdupois ("Pound"), "as received" at the point of weighing referred to in Section 8.01. The Base Price shall be subject to adjustment each month in accordance with the following provisions in order to compensate for variations in the calorific value of the Coal delivered during that month, with the result of such adjustment being taken into account in determining the price to be paid for the Coal received during that month. Price adjustments shall be calculated on a per-shipment basis and totaled for the month.

1. The variation of any given month shall be ascertained by comparing the per shipment calorific value of the Coal delivered and accepted that month with the calorific value of 12,500 Btu's per Pound.
2. If the calorific value in any shipment is greater than or less than 12,500 Btu's per Pound, the adjustment to be made therefor shall be computed on the basis of the following formula:

$$\frac{(\text{Actual Btu's Per Pound} - \text{Guaranteed Btu's Per Pound}) \div \text{Guaranteed Btu's Per Pound}}{\text{X Base Price}} = \text{Cents Per Ton (FOB Mine) (Premium if positive—penalty if negative.)}$$

**PENALTIES WILL RECEIVE A MULTIPLIER OF 1.5.**

Shipments that do not meet one or more contract minimum or maximum specifications will be excluded from the premium calculations.

### Adjustments for Ash Content

Base price is based upon Subject Coal having weighted average ash content of ten percent (11.5%) maximum "as received" at the point of weighing referred to in Section 2.01. The Base Price shall be subject to the following deductions:

ASH CONTENT	AMOUNT TO BE DEDUCTED FROM BASE PRICE
11.5% to 12.0%	██████ of the Base Price per 1% over to the nearest 0.1%
Greater Than 12.0%	██████ of the Base Price per 1% over to the nearest 0.1%

1  
2

## APPENDIX B

### Railroad and Railcar Detention Costs

#### A. RAILROAD CHARGES:

1. Detention: As published in Tariff ICC CSXT-8200-Series, including supplements thereto and re-issues thereof.
2. Dead Freight: Actual railroad charges.
3. Crew Change: [REDACTED] per change, subject to periodic adjustment by the railroad. 1

#### B. PFC RAILCAR CHARGES:

1. Lost Utilization Charges: Sum of a. and b. below.
  - a. Delay of Train = [REDACTED] per car per day of delay. 2
  - b. Failure to Fully Load Cars =  $((9,600 \div 90 \times AC) - AW) \times [REDACTED] = P\$$  3

Where: AC = actual number railcars  
AW = actual weight of trains  
P\$ = penalty in dollars

XC: AWP  
RFP  
FHL  
HJK  
CAL  
THH  
VMM  
LHD  
ABF  
Vicky Hicks

AGREEMENT FOR  
THE SALE AND PURCHASE OF COAL  
BETWEEN  
PROGRESS FUELS CORPORATION  
AND  
MASSEY UTILITY SALES COMPANY

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[illegible]

# AGREEMENT FOR THE SALE AND PURCHASE OF COAL

This AGREEMENT (hereinafter the "Agreement") is made and entered into as of the 8<sup>th</sup> day of September, 2004, between PROGRESS FUELS CORPORATION, a Florida corporation, 200 Central Avenue, One Progress Plaza, St. Petersburg, Florida, 33701 (hereinafter "PURCHASER") and MASSEY UTILITY SALES COMPANY, a Virginia corporation, Four North Forth Street, Richmond, Virginia 23219 (hereinafter "SELLER"),

WHEREAS, PURCHASER does supply coal to Progress Energy Florida, Inc., a Florida corporation (hereinafter "PEF"), under a purchase and sale agreement for use as fuel at PEF's Crystal River Units No. 1 and No. 2 near Red Level, Citrus County, Florida (hereinafter "PEF's generating units"); and

WHEREAS, PURCHASER desires to purchase and SELLER desires to mine and sell coal for use as fuel in PEF's generating units;

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties hereto as herein stated and intending to be legally bound, PURCHASER and SELLER agree as follows:

**1.01 Mutual Obligations.** SELLER agrees to mine, sell and deliver to PURCHASER, and PURCHASER agrees to buy from SELLER, coal of the quality and in the quantities and on the terms and conditions, set forth below.

**2.01 SELLER'S Reserves and Preparations for Selling Coal.** SELLER represents and warrants that SELLER'S affiliates own, lease or otherwise controls coal properties. SELLER



further represents and warrants that the coal properties contains economically recoverable coal of a quality and in quantities which, under present mining laws, practices, governmental rules and regulations will be sufficient to satisfy all the requirements of this Agreement during the entire term of this Agreement. SELLER agrees and warrants that it will mine coal from the coal property and that it has loading facilities, described in Exhibit "A", attached hereto and made a part hereof, capable of loading at the rate required to comply with this Agreement. SELLER hereby expressly dedicates to PURCHASER sufficient reserves of coal meeting the quality specifications hereof and lying on or in the coal properties so as to fulfill the quantity specifications hereof. SELLER shall not ship any coal from sources other than those identified in Exhibit A without the prior written consent of PURCHASER which consent shall not be unreasonably withheld.

**3.01 Quantity.** During each calendar year during the term hereof, the quantity of coal to be delivered hereunder shall be 720,000 tons +/- 5,000 tons or approximately 60,000 tons per calendar month, prorated for any partial calendar year

**4.01 Term.** The initial term ("Initial Term") of this Agreement will commence on January 1, 2005, and will continue in effect for a period of twelve (12) months. On or before October 1, 2005, the parties shall negotiate in good faith to extend this Agreement for an additional term of twelve (12) months. If the parties, for any reason, are unable to reach agreement for a new Base Price for calendar year 2006 by November 1, 2005, then this Agreement shall extend an additional six (6) months at the Base Price in effect on December 31, 2005 in effect and expire June 30, 2006.

**5.01 Base Price.** The base price per ton of coal, (hereinafter "Base Price") f.o.b. SELLER'S mine loading site, shall be [REDACTED] per ton, f.o.b. railcar, adjusted monthly for the quality of coal in accordance with the formula and procedures set out in Appendix A hereto, during the initial term of this Agreement. The Base Price during any extended term shall be as negotiated as provided in Section 4.01 above. The mine loading site shall be the point of delivery ("Delivery

Point"). The Base Price includes as of the effective date of this Agreement all applicable taxes and fees imposed by a governmental body upon the mining, production, loading and delivery of coal hereunder including, but not limited to severance taxes, reclamation fees or Black Lung taxes. PURCHASER shall be responsible for and shall pay the sales or use tax, if any, imposed on the sale and transfer of the coal to PURCHASER.

If the parties are unable to agree to a new Base Price for coal sold f.o.b. railcar at the Delivery Point for calendar year 2006 by November 1, 2005, then the Base Price in effect on December 31, 2005, shall be in effect from January 1, 2005 through June 30, 2006.

**5.02 Governmental Impositions.** The parties also recognize that, during the continuance of this Agreement, legislative or regulatory bodies or the courts may adopt laws, regulations, policies and/or restrictions or a change in interpretation of enforcement which impact PURCHASER'S costs and which make it impossible or economically impractical for PURCHASER to utilize in PEF's Generating Units this or like kind and quality of coal which thereafter would be delivered hereunder. If, as a result of the increased costs associated with the adoption of such laws, regulations, policies or restrictions, or change in interpretation or enforcement, PURCHASER decides that it will be impossible or economically impractical for PURCHASER to utilize in PEF's Generating Units coal which would be delivered hereunder, PURCHASER shall so notify SELLER and thereupon PURCHASER and SELLER shall promptly consider whether corrective actions can be taken in the mining and preparation of the coal at the mine and/or in the handling and utilization of the coal at PEF's Generating Units; and if, in PURCHASER's reasonable judgment, such actions will, without unreasonable expense to PURCHASER, make it impossible and economically impractical for PURCHASER to so utilize coal which thereafter would be delivered hereunder without violating any applicable law, regulation, policy or restriction, PURCHASER shall have the right, upon thirty (30) days prior notice to SELLER, to terminate this Agreement without further obligation hereunder on the part of either party; provided, however, that, if the impracticality of PURCHASER's utilizing the coal

is only on economical grounds, SELLER may, at its option, prevent such termination by agreeing to reimburse PURCHASER for such expense.

The parties recognize that, during the continuance of this Agreement, legislative or regulatory bodies or the courts may adopt laws, regulations, policies and/or restrictions or change in interpretation or enforcement which impact SELLER's mining cost ("Governmental Impositions"). Adjustment to the Base Price may be made for changes in SELLER's costs occasioned by increased Governmental Imposition arising on or after the date first above written. SELLER shall give prompt notice to PURCHASER of any such costs increased by reason of a change of Governmental Imposition. PURCHASER shall accept such increase to the Base Price in effect for aggregate increases, for the term of the Agreement or any extensions thereof, not greater than [REDACTED] per ton. If the aggregate of all Governmental Impositions increases the Base Price then in effect by more than [REDACTED] per ton, PURCHASER shall have the option (to be exercised within thirty (30) days of notice of the increased Governmental Obligation) of accepting or refusing such increased Governmental Obligation to the extent in the aggregate such is greater than [REDACTED] per ton. If PURCHASER refuses such Governmental Imposition increase, SELLER shall have the option (to be exercised within thirty (30) days of PURCHASER's election to refuse such increase), to absorb the portion of the aggregate Governmental Imposition exceeding [REDACTED] per ton or terminate this Agreement with respect to coal not yet delivered and SELLER shall have no further obligation to PURCHASER hereunder except for those arising from shipments prior to the date of termination of this Agreement.

**6.01 Billing and Payment.** SELLER shall invoice PURCHASER in writing which may be sent by fax to PURCHASER for the coal delivered to PURCHASER on a train by train basis at the base price as presented in Section 5.01 hereof. Each invoice shall be paid by PURCHASER within ten (10) days from receipt of the invoice, by electronic wire transfer. Adjustments under Appendix

A shall be separately stated and invoiced monthly. A statement showing the basis for the adjustment shall accompany said invoice.

**7.01 Delivery and Title.** Delivery shall commence during January, 2005. Delivery will be in railroad cars f.o.b. SELLER'S mine loading site and will be so scheduled as to permit loading in unit train lots in accordance with the terms of the applicable contract or tariff. PURCHASER represents that it will supply transportation equipment as required for direct delivery to PEF and that transportation of coal after delivery is the responsibility of PURCHASER. Delivery shall be in approximately equal monthly quantities wherever possible. However, PURCHASER and SELLER each shall have the right to alter monthly shipping schedules on a reasonable basis if agreed to by the other. Title to the coal and risk of loss thereof shall transfer to PURCHASER at the time the coal enters the railcar.

**7.02 Shipment; Applicable Contract or Tariff.** It is currently contemplated that coal sold hereunder will be shipped by rail from SELLER'S unit train loading facilities at Goff, Kentucky or at other approved locations set forth in Exhibit A attached hereto and made a part hereof to destinations specified by PURCHASER. PURCHASER shall notify SELLER by the 15<sup>th</sup> of the month the loading schedule for the following month. Seller shall notify PURCHASER of the loading facilities by the 25<sup>th</sup> of the month prior to the month of shipments. Once an individual train loading is scheduled, the schedule may be revised only through the mutual agreement of PURCHASER and SELLER.

SELLER shall operate its approved rail loading facilities twenty-four (24) hours per day, seven (7) days per week and shall load unit trains comprised of approximately ninety (90) one-hundred (100) ton cars within four (4) hours of their arrival (minimum weight 98 percent of marked car capacity). "Arrival" shall be deemed to have occurred when the railcars are placed at SELLER'S loadout.

In no event shall SELLER load a car in excess of the maximum weight limitation per car as currently allowed by the railroad over the route of movement. If a car is found to be loaded in excess of the maximum weight limitation, the provision and charges published in Section 3, Item 3000, Tariff ICC CSXT-8200-Series, as it exists on the effective date of this Agreement; SELLER shall be responsible for such charges based on SELLER'S batch weight scale weight.

Notwithstanding anything in this Agreement to the contrary, if the applicable contract or tariff as amended, supplemented or replaced imposes more costly car-loading terms, conditions or duties on SELLER than those specifically assumed by SELLER under this Agreement, PURCHASER shall pay SELLER, as a direct result of the imposition of such additional costly car-loading terms, conditions or duties on SELLER, reasonable additional per ton charges. Payments shall begin within thirty (30) days after receipt from SELLER of a written statement itemizing such costs (which may include SELLER'S additional costs for labor, materials, amortization of capital items or a combination of these) and showing facts necessary to permit PURCHASER to verify such costs. If PURCHASER elects not to pay SELLER such additional costs, SELLER shall have the right either to absorb such increased costs or terminate this Agreement and Seller shall have no further obligation to Purchaser hereunder except for those arising from shipments prior to the date of termination of this Agreement.

**7.03 Freight Charges.** For f.o.b. railcar at the Delivery Point shipments, subject to reimbursement provided by Sections 7.04 and 7.05, PURCHASER shall pay all freight and other charges imposed by the applicable tariff.

**7.04 Excess Loading Costs Chargeable to SELLER.** For f.o.b. Railcar at the Delivery Point shipments, if SELLER fails to satisfy the loading requirements of the applicable tariff and such failure is not excused pursuant to force majeure as provided in Section 10.01 hereof or the applicable tariff, SELLER shall pay railroad any resulting car detention penalties, demurrage, crew charges or charges for cars not timely loaded to 98 percent of marked capacity which

PURCHASER is required to pay under the applicable tariff as it exists on the effective date of this Agreement.

**7.05 Freeze Proofing.** When required, a PURCHASER approved freeze proofing material will be applied by SELLER. For such freeze proofing application, PURCHASER shall pay SELLER'S actual cost for the freeze proofing material applied plus [REDACTED], per ton of coal to which the material is applied. Freeze proofing will not typically be required on direct rail shipments. PURCHASER shall advise SELLER on an "as needed" basis of the amount and frequency needed.

**7.06 Delivery Short Falls.** In the event Seller shall fail to deliver, or Buyer shall fail to accept delivery of, any shipment(s), the missed shipment(s) shall be re-scheduled on a ratable basis over the remainder of the calendar year during which the shipment(s) was missed. If at the end of the term of this Agreement, not all missed shipment(s) have been rescheduled, and delivered, such remaining missed shipment(s) shall be rescheduled and delivered during the twelve (12) months following the end of the term of this Agreement.

**8.01 Weighing.** The net weight of coal sold and delivered hereunder shall be determined by SELLER'S certified scales (if available) at origin for unit train shipments or, if the origin scales are inoperable or are not certified, by the certified scales at PURCHASER's Crystal River facility (if available), or if the Crystal River scales are not available then by the carrying railroad over certified railroad scales, the cost of which shall be borne by PURCHASER. If SELLER's scales and the Crystal River scales are unavailable and if the railroad is unable to weigh the shipped coal, the average weight of the five (5) trains most recently shipped by SELLER to PURCHASER shall be used for billing purposes.

## 8.02 Sampling and Analysis.

A. Sampling. Analysis of the samples of coal subject to this Agreement shall be performed on each shipment based on samples taken by SELLER'S automatic sampling system at the mine by a third party employed by PURCHASER and approved by SELLER at the mine or, transloading facility in conformance with the specifications of ASTM Standards, except for deviations agreed to in writing by PURCHASER and SELLER. In case of any failure of the automatic sampler, at the mine, the coal shall be sampled using the automatic sampling system at PURCHASER's Crystal River facility, and if the Crystal River sampling system is inoperable, trainloads may be hand-sampled at the load out in accordance with ASTM 4915 or by other mutually agreed to method. The cost of sampling coals shall be for the account of PURCHASER.

The SELLER shall perform or cause to be performed bias/performance tests on mechanical sampling systems at two-year intervals. PURCHASER shall be furnished bias test reports performed within two (2) years of commencement of shipments. PURCHASER has the right to perform or cause to be performed bias/performance tests at any time during the period that this Agreement is in effect at PURCHASER'S cost.

A minimum of four sub-samples shall be divided from the shipment sample according to ASTM Standard D 2013. The fourth sub-sample shall be placed in a suitable container and sent to PURCHASER. The third sub-sample shall be placed in a suitable container and saved for SELLER'S disposition only. The second sub-sample shall be placed in a suitable container and retained for thirty (30) days as a check sample. The first sub-sample, which is called the laboratory sample, shall be used for analyses as specified in the following paragraphs. Appropriate additional splits shall be retained for additional tests as needed.

B. Air Drying. The laboratory sample shall be air-dried according to ASTM Standards D 2013 and D 3302, except that modified procedures may be employed by mutual agreement. The air-dried sample shall then be prepared for further analyses.

C. Analyses to be Made. The analyses to be made according to methods described in the applicable standards are as follows:

Moisture, in weight percentage  
Ash Content, in weight percentage  
Calorific Value, in Btu's per pound  
Sulfur, in weight percentage  
Volatile, in weight percentage  
Grindability, in Hardgrove Index units  
Ash Fusion, in degrees Fahrenheit  
Pyritic Sulfur, in weight percentage  
Screen Analysis, in weight percentage (separate sampling required)

D. **Acceptance of Results.** The results of the third party sampling and analysis of the laboratory sample shall be accepted as the quality and characteristics of the coal delivered hereunder in the trainloads represented by such samples and the same shall be accepted as the monthly analysis for the trainloads or barges delivered during such month; provided, however, that if either party, within thirty (30) days, questions the correctness of the original analysis made on the laboratory sample, it shall have the right to have the check sample analyzed by a commercial testing laboratory mutually selected by SELLER and PURCHASER and said laboratory shall use methods approved by ASTM or other mutually acceptable procedures. The results obtained on the check sample will be accepted as the quality and characteristics of the lot of coal involved. The party questioning the correctness of the original analyses shall pay the cost of such analyses. The price for the coal represented by such samples shall be adjusted in accordance with the provisions of this Agreement and any amounts due shall be paid in accordance with Section 6 hereof.

PURCHASER and SELLER shall have the right to have a representative present at any and all times to observe said sampling and analyses and to take a reasonable number of samples.

8.03 **Quality Reports.** Notice of the quality of coal delivered hereunder shall be given to PURCHASER and SELLER as soon as practical following the loading of coal at the Delivery Point.

9.01 **Coal Specifications.** Coal delivered hereunder shall be a homogenous coal, crushed to two inches (2") by zero inches (0"). The coal shall be prepared so as to be substantially free from quantities of bone, slate, shale, fire clay, wood, metal, rock, loose clay, and other mine



impurities as determined by PURCHASER, and shall have the following specifications per shipment on an "as-received" basis:

<b>SPECIFICATION</b>	<b>GUARANTEED</b>	<b>REJECT</b>
Moisture	7.0%	>8.5%
Ash	12.00%	>12.5%
Sulfur	2.10 LB/SO <sub>2</sub> per Million Btu	>2.20LB/SO <sub>2</sub> per Million Btu
Pyritic Sulfur*	<0.2%	>0.2%
Volatile	31.0 %	<30.0%
Ash Fusion - Softening (H=W), Reducing	2500°F	<2500°F
Grindability	43 HGI	<40 HGI
Calorific Value	12,100 Btu/LB	<11,900 Btu/LB
Fines (-1/4")	48%	>55%

\*If SELLER determines in its reasonable opinion that it is unable to meet the specification parameter for pyritic sulfurs, SELLER and PURCHASER will meet to determine what actions are necessary to resolve the issue.

SELLER will provide, as necessary magnets and metal detectors or other suitable equipment at the loading facilities.

**9.02 Coal Specifications Deficiencies.** For purposes of this Agreement, a "shipment" shall mean the quantity actually received in any unit train load or, in the event barge transportation is utilized, each barge loaded. If the coal delivered hereunder in any single shipment fails to meet any of the specifications set out in Section 9.01 other than sulfur content, PURCHASER shall have each of the following options to be exercised in its sole discretion:

(1) PURCHASER may notify SELLER that PURCHASER will accept such coal subject to and in accordance with the provisions set forth in this Agreement including Appendix A; provided, however, that PURCHASER'S exercise of this option shall in no way constitute a waiver of PURCHASER'S right at any time thereafter to exercise any of the other options set forth herein with respect to subsequent deliveries of coal hereunder; or

(2) PURCHASER will have the option to reject any shipment which exceeds any of the minimum/maximum specifications listed in 9.01, and PURCHASER may notify SELLER to

suspend further deliveries of coal hereunder until SELLER demonstrates to PURCHASER'S satisfaction that it can deliver coal that will conform on a per shipment basis to the specifications set forth in Section 9.01; provided, however, that PURCHASER'S exercise of this option shall in no way constitute a waiver of PURCHASER'S right at any time thereafter to exercise any of the other options set forth herein with respect to subsequent deliveries of coal hereunder. If SELLER fails to make the above demonstration to PURCHASER'S reasonable satisfaction within thirty (30) days after notice by PURCHASER, PURCHASER shall have the right to terminate or cancel this Agreement.

**9.03 Sulfur Content Warranty.** SELLER warrants and represents that the average total sulfur content of each shipment shall not contain more than 2.10 LB of sulfur dioxide per million Btu's heat input (the "calculated sulfur limit").

In the event SELLER delivers to PURCHASER any shipment of coal with a total sulfur content in excess of the calculated sulfur limits set forth above, the following shall apply:

(1) If PURCHASER is able to use such coal by blending directly with other coal from the active stockpile so that the blended coal shall not exceed 2.10 LB of sulfur dioxide per million Btu's, PURCHASER shall accept such coal and the price of the coal delivered in such shipment shall be reduced from the invoice price PURCHASER would otherwise have been required to pay for such coal under this Agreement by the amount of PURCHASER'S cost of blending such coal determined by the following adjustment:

**Penalty**

Sulfur Adjustment = [REDACTED] the F.O.B. Mine Price

Such adjusted price shall become the price for purposes of applying any adjustments provided in Appendix A.

(2) If PURCHASER rejects any shipment under 9.02 or is unable to use such coal under any circumstances because the burning of such coal will cause PURCHASER'S buyer's generating unit or units to have emissions that exceed 2.10 LB of sulfur dioxide per million Btu's of

heat input, PURCHASER may reject such shipment without payment and SELLER shall be obligated to pay PURCHASER'S costs involved in transporting such coal from the point of SELLER'S delivery to the PURCHASER'S buyer's unit, the cost of disposing of such rejected shipment of coal and any other reasonable costs of disposition incurred, including PURCHASER'S railcar utilization costs and cost of transportation of such coal from PURCHASER'S buyer's unit to the point of disposition. If PURCHASER rejects a shipment from SELLER under the provisions of this paragraph, PURCHASER and SELLER shall meet promptly thereafter to see what reasonable steps may be taken on the part of both parties to allow this Agreement to continue. If PURCHASER and SELLER fail to reach agreement within thirty (30) days as to what steps can be taken to correct the situation, then PURCHASER shall have the right to terminate this agreement by giving notice of termination to SELLER.

**10.01 Force Majeure.** As used herein, the term "force majeure" shall mean any event beyond the control and without fault or negligence of the party affected thereby and which, by the exercise of reasonable diligence or the incurring of reasonable expense, such party is unable to prevent or overcome, regardless of whether such event was foreseeable, including, without limitation, act of God, act of public authorities (including courts and commissions of competent jurisdiction), act of the public enemy, insurrection, riot, labor dispute, labor or material shortage, fire, explosion, flood, breakdown of or damage to plant equipment or facilities (including emergency outages of equipment or facilities to make repairs to avoid breakdowns thereof or damage thereto), faults in coal seams, other geological anomalies beyond what is normally encountered within a respective coal seam, interruption to transportation or transportation delay, river freeze-up, embargo, order or act of civil or military authority, legislative, regulatory, judicial rule or order adopted, amended or newly interpreted subsequent to the date of this Agreement and any other event of a similar or dissimilar nature which wholly or partially prevents the mining, hauling, processing or loading of coal by SELLER or the receiving, transporting, handling, storing, and/or

delivering by PURCHASER'S carrier thereof or the accepting, handling, utilizing and/or unloading thereof by PURCHASER or PURCHASER'S intended buyer, PEF.

In the event performance of SELLER'S obligations hereunder or PURCHASER'S obligations hereunder is made impossible, impractical or illegal by reason of force majeure (other than obligations to pay or expend money for or in connection with the performance of the transactions contemplated by this Agreement) and such party promptly gives to each other party hereto written notice of the details thereof, then the obligations of the parties hereto shall be totally excused to the extent made necessary by such force majeure and during its continuance; provided, however, that such party giving such notice shall use its all reasonable efforts to eliminate such force majeure to the extent economically feasible to do so and with a minimum of delay. Any deficiencies in deliveries of coal hereunder as a result of force majeure shall not be made up except at the mutual agreement of PURCHASER and SELLER. In the event force majeure results in a partial reduction in the total quantity of coal SELLER is obligated to deliver hereunder, the quantity of coal SELLER shall be obligated to deliver to PURCHASER hereunder during the continuance of such force majeure shall be limited to the amount of coal required to be delivered during such period but for this section multiplied by a fraction, the denominator of which is the production of the coal property or properties which provided coal sold under this Agreement in the three (3) month period ending just prior to the force majeure, or shorter period if the force majeure occurs within the initial three (3) months of the term of this Agreement immediately prior to such force majeure and the numerator of which is the production of such coal property or properties during the continuance of such force majeure.

In the event that restrictions are imposed during the term of this Agreement by governmental bodies, agencies, entities, officials or courts which preclude or restrict PEF from burning coal of the specifications hereunder, such restriction shall be deemed to be an event of force majeure under this Agreement unless PURCHASER and SELLER mutually agree that its effect can be avoided in a lawful and reasonable manner, the obligations of the parties hereto shall be totally excused during the continuance of such force majeure.

**11.01 Audit.** SELLER agrees to maintain books, records, documents and other evidences pertaining to the amounts invoiced by SELLER under this Agreement (herein collectively called the "records") to the extent and in such detail as will properly reflect all items of whatever nature for which payment, reimbursement or adjustment in Base Price of coal is claimed under the provisions of this Agreement. Upon the request of PURCHASER, SELLER shall make available at SELLER'S office said records along with related correspondence, receipts, vouchers and memoranda pertaining to amounts invoiced under this Agreement for inspection, audit or reproduction by any authorized representative of PURCHASER. SELLER shall preserve all such records with respect to each shipment of coal for a period of twelve (12) months after final payment for such shipment, during which time PURCHASER shall complete any audit it may desire. The applicable records shall be preserved until audit is completed or, should there otherwise be questions raised regarding such recording, until agreement with regard to same is reached.

**11.02 Mine Access Rights.** SELLER shall at all times carry out its mining operations consistent with obligations to meet the production and delivery schedule as provided herein. Upon prior notification to SELLER, PURCHASER shall have the right from time to time during the term of this Agreement to arrange for geologists, consultants and engineers (PURCHASER'S "agents"), as well as PURCHASER'S own employees, to visit the mine at PURCHASER'S expense and risk, so long as it does not unreasonably interfere with SELLER'S operations. PURCHASER and its agents shall have access to the mine and to SELLER'S mining plans and reserves used to produce the quantity and quality of coal required by this Agreement.

**12.01 Waiver.** The failure of either party to insist on strict performance of any provisions of this Agreement or to take advantage of any right hereunder shall not be construed as a waiver or relinquishment of such provision or right but the same shall continue and remain in full force and effect.

**13.01 Cure of Default.** Except as otherwise expressly provided in this Agreement, no default of either party to this Agreement in the performance of any of its covenants or obligations hereunder, which, except for this provision, would be the legal basis for cancellation or termination of this Agreement by the other party hereto, shall give or result in such a right unless and until the party committing such default shall fail to correct the default but in no event later than within thirty (30) days after written notice of claim of such default is given to such defaulting party by the other party hereto.

**14.01 Attorney's Fees.** In the event either party should fail to pay to the other any amount due and payable under this Agreement and a party employs an attorney to collect and recover such amounts and obtains a judgment in court or through arbitration in its favor, then the cost of such reasonable attorney's fee shall be and will form a portion of such judgment and shall be included in such judgment.

**15.01 Indemnification.** SELLER shall indemnify, defend and hold PURCHASER harmless from and against any claim, demand, loss, damage or injury caused by or resulting from any act or omission, whether negligent or otherwise, of SELLER. PURCHASER shall indemnify, defend and hold SELLER harmless from and against any claim, demand, loss, damage or injury caused by or resulting from any act or omission, whether negligent or otherwise, of PURCHASER. However, notwithstanding the above, neither party assumes any responsibility for damage or injury to officers, agents or employees of the other party.

**15.02 Default, Remedies and Damages.**

A. **Default.** An event of default ("Event of Default") with respect to a party (the "Defaulting Party") shall mean any of the following: (i) the failure of Defaulting Party to pay when due any required payment and such failure is not remedied within three (3) business days after

written notice thereof (provided the payment is not subject to a good faith dispute, in which event such good faith dispute shall not relieve a party's obligation to timely pay such portion of a payment that is not in dispute); (ii) the failure of the Defaulting Party to comply with its other material obligations under this Agreement, and (b) events that are otherwise specifically covered in this Section 15.02 as a separate Event of Default) and such failure continues uncured for ten (10) business days after written notice thereof, provided that if it shall be impracticable or impossible to remedy such failure within such ten (10) business day period, the cure period shall be extended for an additional period reasonably necessary to remedy such failure subject to the condition that during the additional period, the Defaulting Party shall be diligently pursuing a remedy for the failure; (iii) the Defaulting Party shall be subject to a bankruptcy proceeding under the United States Bankruptcy Code; (iv) any representation or warranty made by a party herein shall prove to be untrue in any material respect when made.

B. Remedies. If an Event of Default occurs with respect to a Defaulting Party at any time during the Term of this Agreement, the other party ("Non-Defaulting Party") may, in its sole discretion, do any or all of the following: (i) by not more than twenty (20) days written notice to the Defaulting Party specifying the relevant Event of Default, establish a date (which date shall not be earlier than the date that such notice is effective) as an early termination date ("Early Termination Date") on which this Agreement will terminate, (ii) withhold any payments due in respect of this terminated Agreement (hereinafter referred to as "Terminated Agreement"); however, the payment arising prior to the event of default shall be completed if the Defaulting Party has already performed under the Agreement (iii) suspend performance under this Agreement, and/or (iv) exercise such other remedies as may be provided in this Agreement.

If an Early Termination Date is established, the Non-Defaulting Party shall in good faith calculate its damages in accordance with the terms of Section 15.02D of this Agreement. Notwithstanding any provision to the contrary contained in this Agreement, the Non-Defaulting Party may withhold any payment otherwise owed to the Defaulting Party hereunder, until the Non-Defaulting Party receives confirmation satisfactory to it in its reasonable discretion that (i)



all amounts due and payable as of the Early Termination Date by the Defaulting Party under this Agreement or otherwise with the Non-Defaulting Party have been fully and finally paid, and (ii) all other obligations of any kind whatsoever of the Defaulting Party to make any payments to the Non-Defaulting Party under this Agreement or otherwise which are due and payable as of the Early Termination Date have been fully and finally performed.

NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, WHETHER BASED ON BREACH OF CONTRACT, NEGLIGENCE OR OTHER LEGAL THEORY. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURE OF DAMAGES PROVIDED IN THIS SECTION 15.02 SATISFY THE ESSENTIAL PURPOSES HEREOF AND ARE THE EXCLUSIVE REMEDY FOR DEFAULT BY A PARTY. ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

C. Damages. Unless excused by Force Majeure or the PURCHASER'S failure to perform, if the SELLER fails to deliver all or part of the quantity of coal to be delivered hereunder, the SELLER shall pay the PURCHASER for each ton of such deficiency (the "Deficiency") an amount equal to the positive difference, if any, obtained by subtracting the Base Price for the Deficiency from the Replacement Price. "Replacement Price" means the price at which the PURCHASER, acting in a commercially reasonable manner, purchases substitute coal for the Deficiency or, absent such a purchase, the market price for such quantity of coal f.o.b. the Delivery Point or Alternate Delivery Point as the case may be, as determined by the PURCHASER in a commercially reasonable manner. It is expressly agreed that the PURCHASER shall not be required to enter into a replacement purchase and sale of coal in order to determine Replacement Price.

Unless excused by Force Majeure or the SELLER'S failure to perform, if the PURCHASER fails to accept all or any part of the quantity of coal to be delivered hereunder, the PURCHASER shall pay the SELLER for each ton of the Deficiency an amount equal to the



positive difference, if any, obtained by subtracting the Sales Price from the Base Price. "Sales Price" means the price at which the SELLER, acting in a commercially reasonable manner, resells (if at all) the Deficiency or, absent such a sale, the market price for such quantity of coal f.o.b. the Delivery Point or Alternate Delivery Point as the case may be, as determined by the SELLER in a commercially reasonable manner. It is expressly agreed that the SELLER shall not be required to enter into a replacement purchase and sale of coal in order to determine the Sales Price. Each party hereby stipulates that the payment obligations set forth in this Section 15.02 are reasonable in light of the anticipated harm and the difficulty of estimation or calculation of actual damages and each party hereby waives the right to contest such payments as an unreasonable penalty or otherwise. The remedy set forth in this Section 15.02 shall be the sole and exclusive remedy of the aggrieved party for the failure of the other to deliver or accept, as the case may be, the quantity of coal specified herein, and all other damages and remedies are hereby waived as to such failure(s).

**16.01 NO WARRANTIES.** SELLER MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, CONCERNING THE SUITABILITY OF COAL DELIVERED HEREUNDER FOR USE IN PURCHASER'S FACILITIES INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**17.01 Independent Contractor.** The parties recognize and agree that SELLER is not an agent or employee of PURCHASER but is independent of any managerial or other control or direction by PURCHASER in its work hereunder and is free to perform, by such means and in such manner as SELLER may choose, all work in pursuance of commitments hereunder.

**18.01 Binding Effect.** This Agreement shall bind and inure to the benefit of the parties and their successors and assigns under Section 5.03 hereof. This Agreement shall not create any rights or remedies in any entity not a part hereto.

19.01 Assignments. Neither party may assign nor transfer this Agreement nor any rights nor obligations hereunder without the prior written consent of the other party hereto which consent shall not be unreasonably withheld; provided, however, SELLER or PURCHASER may assign this Agreement to any parent, subsidiary or affiliate or assign this Agreement for financing purposes without consent of the other party providing satisfactory guarantees are provided.

20.01 Partial Dispute. Should any bona fide dispute involving the price of coal hereunder extend only to a portion of any amount claimed due hereunder, the undisputed portion shall be paid as and when due. Should it later be determined that additional payments are due from PURCHASER to SELLER, such amount shall be paid together with interest from the date payment was due as provided herein at the prime rate for preferred customers on loans not to exceed thirty (30) days as from time to time quoted by the Morgan Guaranty Trust Company of New York, New York, during pendency of the dispute.

21.01 Captions. The captions to sections hereof are for convenience only and shall not be considered in construing the intent of the parties.

22.01 Applicable Law and Venue. All questions relating to execution, construction, performance, termination or breach of this Agreement shall be resolved under the laws of the State of Delaware without regard to the choice of law provisions thereof. In the event of any lawsuit filed hereunder, the parties hereto authorize venue in New York City, New York, and/or the federal court district encompassing said city.

23.01 Conflict of Interest Policy. PURCHASER has adopted a conflict of interest policy, applicable to all its full-time employees, and intended to ensure that all business activities of

PURCHASER will be conducted in a manner so as to avoid any conflict of interest or appearance of a conflict.

SELLER and PURCHASER agree to conduct their activities in support of said conflict of interest policy, specifically as follows:

(a) Either shall promptly disclose to the other the existence of any material financial interest held in the other, at any time during the term of this Agreement, by any employee or member of an Employee's immediate family. The holding of publicly traded securities in the other need not be disclosed unless the employee is directly or indirectly involved in dealing with the other.

(b) Either shall not accept on its own behalf the service or employment in any capacity (such as director, officer, employee, representative or consultant) of any of the other's employee, unless such service or employment is specifically authorized by the President or Board of Directors of the other.

(c) Either shall not offer to any of the other's employee or member of an employee's immediate family any gifts of more than token value, special preference loans, lavish entertainment or other substantial favors.

**24.01 Entire Agreement.** This instrument contains the entire agreement between the parties and there are no representations, understandings or agreements, oral or written, which are not included herein. This Agreement cannot be changed except by duly authorized representatives of both parties in writing. It is understood that PURCHASER or SELLER from time to time in the administration of this Agreement may issue and transmit each to the other documents designated as "Purchase Orders" and "Change Orders;" these documents serve instructional or accounting functions only and are not amendments to or constructions of this Agreement.

**25.01 Confidentiality.** Each party hereto recognizes that this Agreement contains confidential commercial information, the public disclosure of all or any part of which could be

damaging to the parties hereto. Accordingly, each party hereto agrees not to disclose any of the terms or provisions of this Agreement to any person or persons not a part hereto, except for affiliated entities of the parties hereto, without the prior consent in writing thereto of the other party hereto, which consent shall not be unreasonably withheld, except to the extent such party is legally compelled to make such disclosure pursuant to applicable law or to the extent such disclosure is reasonably necessary in connection with any regulatory, administrative or other legal proceeding in which such party, or any such affiliated corporation or unincorporated division, is involved. When disclosure is made within the terms of the above mentioned exceptions, such disclosure shall be made only to the extent reasonably necessary. It is further understood and agreed that whenever any such information is disclosed by any party hereto in accordance with the above mentioned exceptions, such party will advise each person to whom disclosure is made of the confidential nature of the information disclosed and, except for routine regulatory reporting by PURCHASER, provide written notice of such disclosure, in advance thereof, if possible, to the other party to this Agreement.

**26.01 Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their authorized officers, all as of the date and year first above written.

WITNESS:

Roberta Q. Cuth  
Garry J. Kuderer

WITNESS:

Kelly Bell

**PROGRESS FUELS CORPORATION**

BY: [Signature]  
Vice President—Coal Procurement  
Date Executed: 9/8/04

**MASSEY UTILITY SALES COMPANY**

BY: [Signature]  
Senior Vice President  
Date Executed: 9/9/04

## EXHIBIT A

### Approved Locations

#### Approved Sources – CSX Rail Direct

RR	Resource Group	Railroad Mine Name	Railroad Mine Number	Railroad Shipping Point	Batch Weigh	Type Loadout	OPSL Number	Railroad Freight District	County
CSXT	Bandmill Coal Corp.	MacBeth	82733	Hutchinson, W.V.	Y	4	CSXT-65810	Logan	Logan
CSXT	Elk Run Coal Co.	Crystal River	82231	Sylvester, W.V.	Y	4	CSXT-64837	Kanawha	Boone
CSXT	Endurance	Ashley Kay	81993	Ashley Kay, W.V.	N	4	CSXT-65115	Kanawha	Logan
CSXT	Feats	Feats	81016	Feats, W.V.	N	4	CSXT-65615	Kanawha	Logan
SXT	Omar Mining Co.	Chesterfield	82034	Holbrook, W.V.	N	4	CSXT-65220	Kanawha	Boone
CSXT	New Ridge Mining Co	New Ridge	84191	Goff, KY	Y	4	CSXT-67467	Big Sandy	Pike
CSXT	Stirrat Coal Co.	Stirrat	82693	Stirrat, W.V.	N	4	CSXT-65610	Logan	Logan

## APPENDIX A

### Adjustments for Calorific Value

Base price is based upon Subject Coal having weighted average calorific value of 12,100 Btu's per pound avoirdupois ("Pound"), "as received" at the point of weighing referred to in Section 8.01. The Delivered Price shall be subject to adjustment each month in accordance with the following provisions in order to compensate for variations in the calorific value of the Coal delivered during that month, with the result of such adjustment being taken into account in determining the price to be paid for the Coal received during that month. Price adjustments shall be calculated on a per-shipment basis and totaled for the month.

1. The variation of any given month shall be ascertained by comparing the per shipment calorific value of the Coal delivered and accepted that month with the calorific value of 12,200 Btu's per Pound.
2. If the calorific value in any shipment is greater than or less than 12,200 Btu's per Pound, the adjustment to be made therefor shall be computed on the basis of the following formula:

$$(\text{Actual Btu's Per Pound} - \text{Guaranteed Btu's Per Pound}) \div \text{Guaranteed Btu's Per Pound} \times \text{Delivered Price} = \text{Cents Per Ton (FOB Mine) (Premium if positive—penalty if negative.)}$$

Shipments that do not meet one or more contract minimum or maximum specifications will be excluded from premium calculations.

### Adjustments for Ash Content

Base price is based upon Subject Coal having weighted average ash content of twelve percent (12%) maximum "as received" at the point of weighing referred to in Section 2.01. The Base Price shall be subject to the following deductions:

ASH CONTENT	PENALTY
>13%	of the Base Price per 1% ash to the nearest 0.1%

ASH CONTENT	PREMIUM
<11.0%	1.0% to then nearest 0.1%

## APPENDIX B

### Railroad and Railcar Demurrage/Detention Costs

#### A. RAILROAD CHARGES:

1. Detention: As published in Tariff ICC CSXT-8200-Series as in existence on the effective date of this Agreement.
2. Dead Freight: Actual railroad charges unless railcars loaded to 95 percent capacity (non-batch weigh) or 98 percent from batch weigh.
3. Crew Change: [REDACTED] per change, as in existence on the effective date of the Agreement.

FIRST AMENDMENT  
TO THE AGREEMENT FOR THE SALE AND PURCHASE OF COAL  
BETWEEN  
PROGRESS FUELS CORPORATION  
AND  
SEQUOIA ENERGY, LLC

XC: ADP  
RFP  
FHL  
HJR  
CAL  
THH  
VHM  
DMD  
ABF  
VICKY HICKS

THIS FIRST AMENDMENT (hereinafter "First Amendment") to the Agreement for the Purchase and Sale of Coal dated July 8, 2004, (hereinafter the "Agreement"), is entered into as of the 15<sup>th</sup> day of July, 2004, with an effective date of January 1, 2005, by and between PROGRESS FUELS CORPORATION, a Florida corporation (hereinafter "Purchaser") and SEQUOIA ENERGY, LLC., a Kentucky corporation (hereinafter "Seller").

WHEREAS, Purchaser and Seller desire to include additional language covering governmental impositions to the existing terms and conditions of its Agreement;

NOW, THEREFORE, in consideration of the foregoing, Purchaser and Seller agree as follows:

A new Section 5.02, Governmental Impositions, is added to the Agreement as follows:

**5.02 Governmental Impositions.** The parties also recognize that, during the continuance of this Agreement, legislative or regulatory bodies or the courts may adopt laws, regulations, or policies which impact Purchaser's costs and which make it impossible or economically impractical for Purchaser to utilize in PEF's Generating Units this or like kind and quality of coal which thereafter would be delivered hereunder. If, as a result of the increased costs associated with the adoption of such laws, regulations, or policies, Purchaser decides that it will be impossible or economically impractical for Purchaser to utilize in PEF's Generating Units coal which would be delivered hereunder, Purchaser shall so notify Seller and thereupon Purchaser and Seller shall promptly consider whether corrective actions can be taken in the mining and preparation of the coal at the mine and/or in the handling and utilization of the coal at PEF's Generating Units; and if, in Purchaser's judgment, such actions will, without unreasonable expense to Purchaser, make it impossible and economically impractical for Purchaser to so utilize coal which thereafter would be delivered hereunder without violating any applicable law, regulation or policy, Purchaser shall have the right, upon six (6) month's prior notice to Seller, to terminate this Agreement without further obligation hereunder on the part of either party; provided, however, that, if the impracticality of Purchaser's utilizing the coal is only on economical grounds, Seller may, at its option, prevent such termination by agreeing to reimburse Purchaser for such expense to the extent that Purchaser deems such expense to be reasonable.

The parties recognize that, during the continuance of this Agreement, legislative or regulatory bodies or the courts may adopt laws, regulations, or policies which impact Seller's mining cost and which will make it impossible or economically impractical for Seller to continue delivery hereunder. If, as a result of the increased costs associated with the adoption of such laws, regulations, or policies, Seller decides that it will be impossible or economically impractical for Seller to continue delivery hereunder, Seller shall so notify Purchaser and thereupon Seller and Purchaser shall promptly consider whether corrective actions can be taken in the mining and preparation of the coal at the mine and/or in the handling and utilization of the coal at PEF's Generating Units; and if, in Seller's judgment, such actions will, without unreasonable expense to Seller, make it impossible and economically impractical for Seller to continue to deliver coal



hereunder without violating any applicable law, regulation, policy or restriction, Seller shall have the right, upon six (6) month's prior notice to Purchaser, to terminate this Agreement without further obligation hereunder on the part of either party; provided, however, that if the impracticality of Seller's continuing to deliver coal hereunder is only on economical grounds, Purchaser may, at its option, prevent such termination by agreeing to reimburse Seller for such expense to the extent that Seller deems such expense to be unreasonable.

In all other respects, Purchaser and Seller hereby ratify and reaffirm the Agreement as herein amended.

IN WITNESS WHEREOF, each party has caused this First Amendment to be executed on its behalf by its proper officer thereunto duly authorized, all effective as of the day and year first above written.

WITNESS:

Roberta Q. Ott  
F. Muhl Loh

PROGRESS FUELS CORPORATION

BY:

[Signature]  
Vice President, Coal Procurement

Date Executed: 7/15/04

WITNESS:

Sam Henderson  
Jim Fall

SEQUOIA ENERGY, LLC

BY:

Stanley R. Ditty  
President

Date Executed: August 19, 2004  
Managing Member

XC: AWP  
RFP  
FML  
MSK  
CAL  
TMM  
VMM  
DHD  
ABF  
Vicky Hicks

AGREEMENT FOR  
THE SALE AND PURCHASE OF COAL  
BETWEEN  
PROGRESS FUELS CORPORATION  
AND  
SEQUOIA ENERGY, LLC

# INDEX

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2.01	<b>Seller's Reserves</b> and Preparations for Selling Coal
3.01	Quantity
4.01	Term
5.01	Base Price
6.01	Billing and Payment
7.01	<b>Delivery and Title</b>
7.02	<b>Shipment; Applicable Contract or Tariff</b>
7.03	Freight Charges
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7.05	Excess Freight Costs Chargeable to Seller
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15.02	Environment, Health, and Safety
16.01	<b>Notice of Problem</b>
17.01	Independent Contractor
18.01	Binding Effect

[illegible]

# AGREEMENT FOR THE SALE AND PURCHASE OF COAL

This AGREEMENT (hereinafter the "Agreement") is made and entered into as of the 8<sup>th</sup> day of July, 2004, between PROGRESS FUELS CORPORATION, a Florida corporation, 200 Central Avenue, One Progress Plaza, St. Petersburg, Florida, 33701 (hereinafter "PURCHASER") and SEQUOIA ENERGY, LLC, a Kentucky corporation, North 19th<sup>th</sup> Street Extension, Middlesboro, Kentucky, 40965 (hereinafter "SELLER"),

WHEREAS, PURCHASER does supply coal to Progress Energy Florida, Inc., a Florida corporation (hereinafter "PEF"), under a purchase and sale agreement for use as fuel at PEF's Crystal River Units No. 1 and No. 2 near Red Level, Citrus County, Florida (hereinafter "PEF's generating units"); and

WHEREAS, PURCHASER desires to purchase and SELLER desires to mine and sell coal for use as fuel in PEF's generating units;

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties hereto as herein stated and intending to be legally bound, PURCHASER and SELLER agree as follows:

**1.01 Mutual Obligations.** SELLER agrees to mine, sell and deliver to PURCHASER, and PURCHASER agrees to buy from SELLER, coal of the quality and in the quantities and on the terms and conditions, set forth below.

**2.01 SELLER'S Reserves and Preparations for Selling Coal.** SELLER represents and warrants that SELLER owns or leases the Coal Property. SELLER further represents and warrants that the Coal Property contains economically recoverable coal of a quality and in quantities which, under present mining laws, practices, governmental rules and regulations will be sufficient to satisfy all the requirements of this Agreement during the entire term of this Agreement. SELLER agrees and warrants that it will immediately proceed to mine coal from the Coal Property and provide loading facilities capable of loading at the rate required to comply with this Agreement, all on such a schedule as to put SELLER in position to commence its sales and deliveries of coal to PURCHASER in accordance with the further provisions hereof. SELLER hereby expressly dedicates to PURCHASER sufficient reserves of coal meeting the quality specifications hereof and lying on or in the Coal Property so as to fulfill the quantity specifications hereof. SELLER shall not ship any coal hereunder mined from any source other than the Coal Property without the prior written approval of PURCHASER.

**3.01 Quantity.** During calendar year 2005, the quantity of coal to be delivered hereunder shall be 120,000 net tons. During calendar year 2006, the quantity of coal to be delivered hereunder shall be 240,000 net tons.

**4.01 Term.** The term of this Agreement will commence on January 1, 2005, and will continue in effect for a period of twenty-four (24) months. This Agreement will expire on December 31, 2006.

**5.01 Base Price.** The base price per ton of coal, f.o.b. SELLER'S mine loading site, (hereinafter "base price") shall be [REDACTED] per ton fixed for the term of this Agreement, adjusted monthly for the quality of coal in accordance with the formula and procedures set out in Appendix A hereto, during the term of this Agreement.

**6.01 Billing and Payment.** SELLER shall invoice PURCHASER monthly for the coal delivered to PURCHASER during the preceding month at the base price as shown in Section 5.01 hereof. Each invoice shall be paid by PURCHASER within twenty (20) days of the date of the invoice or fifteen (15) days from receipt of the invoice, whichever is later. Adjustments under Appendix A shall be separately stated and if not calculated in time for preparation of the monthly invoice may be stated as a retroactive adjustment on the monthly invoice next following the calculation date. A statement showing the basis for the adjustment shall accompany said invoice.

**7.01 Delivery and Title.** Delivery shall commence during January 2005. Time is of the essence. Delivery will be at PURCHASER'S option as provided in Section 7.02, in railroad cars or trucks f.o.b. the Coal Property and will be so scheduled as to permit loading in unit train lots in accordance with the terms of the applicable contract or tariff (as defined hereinafter). PURCHASER represents that it will supply transportation equipment as required for delivery. Delivery shall be in approximately equal monthly installments wherever possible; however, PURCHASER retains the right to alter monthly shipping schedules on a reasonable basis to meet monthly burn requirements at PEF's Generating Units and to conform to PURCHASER'S unit train and river barge tonnage requirements. Title to the coal and risk of loss thereof shall transfer to PURCHASER at the time the trains or trucks are completely loaded and have been released by SELLER.

**7.02 Shipment; Applicable Contract or Tariff.** It is currently contemplated that coal sold hereunder will be shipped by rail from SELLER'S unit train loading facilities at Bardo, Kentucky, to destinations specified by PURCHASER. Notwithstanding the foregoing, PURCHASER shall have the option to ship the coal by truck or rail to river docks for movement on the American inland waterway system. Coal for shipment by river from a single origin shall be scheduled in shipments

to meet PURCHASER'S river barge requirements, not to exceed 22,500 tons for loading into fifteen (15) barge unit tows.

Unless waived in writing by PURCHASER (as may be done in the case of river shipments), SELLER will provide, at its own expense, off-mainline rail trackage sufficient for efficient and dependable loading of unit trains at or near the mine loading site or at another mutually acceptable location in accordance with schedules set by PURCHASER. SELLER shall operate such loading facilities twenty-four (24) hours per day, seven (7) days per week, if and as needed, regardless of mine holidays or vacation periods, and shall fully load unit trains comprised of approximately ninety (90) one-hundred (100) ton cars within four (4) hours of their arrival (minimum weight 9,600 tons per 90-car unit train or 107.0 minimum tons per car) at such loading facilities or in accordance with the applicable contract or tariff for shipments hereunder. SELLER shall load each car at least to the minimum tonnage requirements of the railroad as defined in the CSXT-8200 Series Tariff in effect at the time shipments are made. "Arrival" shall be deemed to have occurred when the SELLER is notified by the CSX trainmaster that a train is **available** for loading. Requests by the SELLER to the CSX to "hold" trains will not allow SELLER to avoid charges referenced in Appendix B.

In no event shall SELLER load a car in excess of the maximum weight limitation per car as currently allowed by the railroad over the route of movement. If a car is found to be loaded in excess of the maximum weight limitation, the provision and charges published in Section 3, Item 3000, Tariff ICC CSXT-8200-Series, including supplements thereto or reissues thereof, will apply; and SELLER shall be responsible for such charges.

Shipment of coal under this Agreement (other than by truck) shall be made in accordance with the contract which PURCHASER has negotiated with the railroad or in the absence thereof the applicable tariff (herein called the "applicable contract or tariff"). SELLER acknowledges receipt of same and expressly assumes the obligations imposed on the consignor under the applicable contract or tariff, and SELLER agrees to load unit trains in a manner and at an effective



rate sufficient to load the quantities of coal scheduled for delivery under this Agreement and sufficient to qualify PURCHASER for the applicable contract or tariff without demurrage, car detention, dead freight or other penalties or charges; provided, however, that PURCHASER provides transportation equipment on a regularly scheduled basis sufficient to enable SELLER to fulfill the terms of this Agreement. SELLER agrees and warrants that no agreement of SELLER providing for the joint use of surface facilities will interfere with or impair SELLER'S obligations as set forth in this Agreement. The provisions of Sections 7.04 and 7.05 of this Agreement shall not be deemed to limit or modify any of SELLER'S obligations or PURCHASER'S rights hereunder.

If the applicable contract or tariff is amended, supplemented or replaced, subsequent shipments of coal shall be made by SELLER in accordance with the terms of the applicable contract or tariff as amended, supplemented or replaced in so much as Seller's loading facility is capable of loading shipments in accordance with the amended, supplemented or replaced agreement. Notwithstanding anything in this Agreement to the contrary, if the applicable contract or tariff as amended, supplemented or replaced imposes more costly car-loading terms, conditions or duties on SELLER than those specifically assumed by SELLER under this Agreement, PURCHASER either shall pay SELLER, as a direct result of the imposition of such additional costly car-loading terms, conditions or duties on SELLER, reasonable additional per ton charges or, at PURCHASER'S sole discretion, may terminate the Agreement. Payments shall begin within thirty (30) days after receipt from SELLER of a written statement itemizing such costs (which may include SELLER'S additional costs for labor, materials, amortization of capital items or a combination of these) and showing facts necessary to permit PURCHASER to verify such costs.

**7.03 Freight Charges.** Subject to reimbursement provided by Sections 7.04 and 7.05, PURCHASER shall pay all freight and other charges imposed by the applicable tariff.

**7.04 Excess Loading Costs Chargeable to SELLER.** If SELLER fails to satisfy the loading requirements of the applicable tariff and such failure is not excused pursuant to force majeure as provided in Section 10.01 hereof or the applicable tariff, SELLER shall pay PURCHASER or railroad any resulting car detention penalties, demurrage, crew charges or charges for cars not timely loaded to marked capacity which PURCHASER is required to pay under the applicable tariff. In addition, SELLER shall pay PURCHASER reasonable lost railcar utilization charges for failure to timely and fully load and/or time lost to unload overloaded railcars of PURCHASER. Examples of these charges are listed in Appendix B.

**7.05 Excess Freight Costs Chargeable to SELLER.** If SELLER fails to have available sufficient coal to satisfy the quantity requirements of Section 3.01 on the regularly scheduled basis referred to in Section 7.01 and thereby fails to satisfy the tonnage requirements of the applicable contract or tariff (dead freight, volume incentive threshold, annual volume guarantee) and such failure is not excused pursuant to force majeure as provided in Section 11.01 hereof, SELLER shall pay PURCHASER any resulting freight charges which PURCHASER is required by such contract or tariff to pay in excess of the amount of such charges that would have been payable with respect to the coal actually shipped had tonnage requirements been met. In the event locomotives and train crew are released without a unit train of loaded cars being released to the railroad, detention charges, which include charges for locomotives, if any, will cease at the time of notification of such release. When a train crew and locomotives are again required by SELLER for service, a charge of [REDACTED], as adjusted by the railroad, will be assessed by the railroad and paid by SELLER and the detention and free time provisions will again be applicable upon the arrival of locomotives and crew at the mine loading site.

**7.06 Payment of Excess Costs to PURCHASER.** Any payments required by Sections 7.04 and 7.05 above shall be promptly paid on receipt by SELLER of a written statement from

PURCHASER itemizing such charges and showing facts necessary to permit SELLER to verify such charges. At either party's election, such charges may be credited against amounts then owed by PURCHASER to SELLER hereunder.

**7.07 Freeze Proofing.** When required by the river transfer terminal, a PURCHASER approved freeze proofing material will be applied by SELLER. The price of the application to PURCHASER will be determined on a case-by-case basis, but shall not exceed seller's cost. Freeze proofing will not typically be required on direct rail shipments. SELLER shall be advised by PURCHASER as to amounts of freeze proofing required on an "as needed" basis.

**8.01 Weighing.** The net weight of coal sold and delivered hereunder shall be determined by SELLER'S certified scales (if available) at origin for unit train shipments or, if the origin scales are inoperable or are not certified, PURCHASER may order weighing by the carrying railroad over certified scales or may use the average of the net weights of the five (5) prior unit trains. Notwithstanding the above, at PURCHASER'S option, weight may be determined by certified scale at discharge point in the event Seller's certified scales are unavailable.

**8.02 Sampling and Analysis.**

**A. Sampling.** Sampling of coal subject to this Agreement shall be performed on each shipment with an automatic sampling system by a third party employed by PURCHASER at the mine or at PEF's Crystal River power plant in conformance with the specifications of ASTM Standards, except for deviations agreed to in writing by PURCHASER and SELLER. In case of any failure of the automatic sampler, trainloads may be hand-sampled in accordance with ASTM 4915 or by other mutually agreed to method. The cost of sampling coals shall be for the account of PURCHASER.

The SELLER shall perform or cause to be performed bias/performance tests on mechanical sampling systems at two-year intervals. PURCHASER shall be furnished bias test reports performed within two (2) years of commencement of shipments. PURCHASER has the right to perform or cause to be performed bias/performance tests at any time during the period that this Agreement is in effect at PURCHASER'S cost.

A minimum of four sub-samples shall be divided from the shipment sample according to ASTM Standard D 2013. The fourth sub-sample shall be placed in a suitable container and sent to PURCHASER. The third sub-sample shall be placed in a suitable container and saved for SELLER'S disposition only. The second sub-sample shall be placed in a suitable container and retained for thirty (30) days as a check sample. The first sub-sample, which is called the laboratory sample, shall be used for analyses as specified in the following paragraphs. Appropriate additional splits shall be retained for additional tests as needed.

B. Air Drying. The laboratory sample shall be air-dried according to ASTM Standards D 2013 and D 3302, except that modified procedures may be employed by mutual agreement. The air-dried sample shall then be prepared for further analyses.

C. Analyses to be Made. The analyses to be made according to methods described in the applicable standards are as follows:

- Moisture, in weight percentage
- Ash Content, in weight percentage
- Calorific Value, in Btu's per pound
- Sulfur, in weight percentage
- Volatile, in weight percentage
- Grindability, in Hardgrove Index units
- Ash Fusion, in degrees Fahrenheit
- Pyritic Sulfur, in weight percentage
- Screen Analysis, in weight percentage (separate sampling required)

D. Acceptance of Results. The results of the third party sampling and analysis of the laboratory sample shall be accepted as the quality and characteristics of the coal delivered hereunder in the trainloads represented by such samples and the same shall be accepted as the monthly analysis for the trainloads delivered during such month; provided, however, that if either

party, within thirty (30) days, questions the correctness of the original analysis made on the laboratory sample, it shall have the right to have the check sample analyzed by a commercial testing laboratory mutually selected by SELLER and PURCHASER and said laboratory shall use methods approved by ASTM or other mutually acceptable procedures. The results obtained on the check sample will be accepted as the quality and characteristics of the lot of coal involved. The party questioning the correctness of the original analyses shall pay the cost of such analyses. The price for the coal represented by such samples shall be adjusted in accordance with the provisions of this Agreement and any amounts due shall be paid in accordance with Section 6 hereof.

PURCHASER and SELLER shall have the right to have a representative present at any and all times to observe said sampling and analyses and to take a reasonable number of samples.

**8.03 Quality Reports.** Notice of the quality of coal delivered hereunder shall be given to PURCHASER and SELLER as soon as practical following the loading of coal at origin.

**9.01 Coal Specifications.** Coal delivered hereunder shall be a homogenous coal, crushed to two inches (2") by zero inches (0") in size with no intermediate sizes removed. The coal shall be prepared so as to be free from excess quantities of bone, slate, shale, fire clay, wood, metal, rock, loose clay, and other mine impurities as determined by PURCHASER and shall have a temperature below 131° Fahrenheit, and shall have the following specifications per shipment on an "as-received" basis:

<b>SPECIFICATION</b>	<b>TYPICAL</b>	<b>REJECT</b>
Moisture	6.0%	>8.0%
Ash	8.0%	>12%
Sulfur	1.7 LB/SO <sub>2</sub> per Million Btu	<1.5 LB/SO <sub>2</sub> per Million Btu >2.1 LB/SO <sub>2</sub> per Million Btu
Volatile	34.0%	<31.0%
Ash Fusion - Softening (H=W), Reducing	2700°F	<2500°F
Grindability	44 HGI	<40 HGI
Calorific Value	13,000 Btu/LB	<12,500 Btu/LB
Fines (-1/4")	40%	>50%

All shipments shall be free of metal. SELLER shall provide magnets and metal detectors or other suitable equipment as required to satisfy this requirement. Inclusion of metal in coal shipments, if continued, shall be grounds for immediate termination of this Agreement or rejection of shipment.

**9.02 Coal Specifications Deficiencies.** For purposes of this Agreement, a "shipment" shall mean the quantity actually received in any unit train load or, in the event barge transportation is utilized, each barge loaded. If the coal delivered hereunder in any single shipment fails to meet any of the specifications set out in Section 9.01 other than sulfur content, PURCHASER shall have each of the following options to be exercised in its sole discretion:

(1) PURCHASER may notify SELLER that PURCHASER will accept such coal subject to and in accordance with the provisions set forth in this Agreement including Appendix A; provided, however, that PURCHASER'S exercise of this option shall in no way constitute a waiver of PURCHASER'S right at any time thereafter to exercise any of the other options set forth herein with respect to subsequent deliveries of coal hereunder; or

(2) PURCHASER will have the option to reject any shipment which exceeds any of the reject specifications listed in 9.01, and PURCHASER may notify SELLER to suspend further deliveries of coal hereunder until SELLER demonstrates to PURCHASER'S satisfaction that it can

deliver coal that will conform on a per shipment basis to the specifications set forth in Section 9.01; provided, however, that PURCHASER'S exercise of this option shall in no way constitute a waiver of PURCHASER'S right at any time thereafter to exercise any of the other options set forth herein with respect to subsequent deliveries of coal hereunder. If SELLER fails to make the above demonstration to PURCHASER'S satisfaction within thirty (30) days after notice by PURCHASER, PURCHASER shall have the right to terminate or cancel this Agreement and, in addition, pursue every other remedy provided by law or equity; and

**9.03 Sulfur Content Warranty.** SELLER warrants and represents that the average total sulfur content of each shipment shall not contain more than 2.1 LB of sulfur dioxide per million Btu's heat input (the "calculated sulfur limit").

In the event SELLER delivers to PURCHASER any shipment of coal with a total sulfur content or a pyritic sulfur content in excess of the calculated sulfur limits set forth above, the following shall apply:

(1) If PURCHASER is able to use such coal by blending directly with other coal from the active stockpile so that the blended coal shall not exceed 2.1 LB of sulfur dioxide per million Btu's, PURCHASER shall accept such coal and the price of the coal delivered in such shipment shall be reduced from the invoice price PURCHASER would otherwise have been required to pay for such coal under this Agreement by the amount of PURCHASER'S cost of blending such coal determined by the following adjustment:

$$\text{Sulfur Adjustment} = \text{percent (I)}$$

Where:

I - Invoice price which would apply excluding the sulfur adjustment.

Such adjusted price shall become the price for purposes of applying any adjustments provided in Appendix A.

(2) If PURCHASER rejects any shipment under 9.02 or is unable to use such coal under any circumstances because the burning of such coal will cause PURCHASER'S buyer's generating unit or units to have emissions that exceed 2.1 LB of sulfur dioxide per million Btu's of heat input, PURCHASER may reject such shipment without payment and SELLER shall be obligated to pay PURCHASER'S costs involved in transporting such coal from the point of SELLER'S delivery to the PURCHASER'S buyer's unit, the cost of disposing of such rejected shipment of coal and any other reasonable costs of disposition incurred, including PURCHASER'S railcar utilization costs and cost of transportation of such coal from PURCHASER'S buyer's unit to the point of disposition. If PURCHASER rejects a shipment from SELLER under the provisions of this paragraph, PURCHASER and SELLER shall meet promptly thereafter to see what reasonable steps may be taken on the part of both parties to allow this Agreement to continue. If PURCHASER and SELLER fail to reach agreement within thirty (30) days as to what steps can be taken to correct the situation, then PURCHASER shall have the right to terminate this agreement by giving notice of termination to SELLER and, in addition, pursue every other remedy provided by law or equity.

SELLER shall be permitted to have a representative present to observe tests conducted by PURCHASER'S buyer of burning in PURCHASER'S buyer's facilities, and to observe sampling, analysis and tests conducted to determine the content of flue gases resulting from the burning of such coal. PURCHASER shall also make available to SELLER at reasonable times the results of such tests and analysis, as well as charts and other information resulting from the monitoring of stack gas emissions.

**10.01 Force Majeure.** As used herein, the term "force majeure" shall mean any event beyond the control and without fault or negligence of the party affected thereby and which, by the



exercise of reasonable diligence or the incurring of reasonable expense, such party is unable to prevent or overcome, regardless of whether such event was foreseeable, including, without limitation, act of God, act of public authorities (including courts and commissions of competent jurisdiction), act of the public enemy, insurrection, riot, labor dispute, labor or material shortage, fire, explosion, flood, breakdown of or damage to plant equipment or facilities (including emergency outages of equipment or facilities to make repairs to avoid breakdowns thereof or damage thereto), interruption to transportation or transportation delay, river freeze-up, embargo, order or act of civil or military authority, legislative, regulatory, judicial rule or order adopted, amended or newly interpreted subsequent to the date of this Agreement and any other event of a similar or dissimilar nature which wholly or partially prevents the mining, hauling, processing or loading of coal by SELLER or the receiving, transporting, handling, storing, and/or delivering by PURCHASER'S carrier thereof or the accepting, handling, utilizing and/or unloading thereof by PURCHASER or PURCHASER'S intended buyer, PEF.

In the event performance of SELLER'S obligations hereunder or PURCHASER'S obligations hereunder is made impossible, impractical or illegal by reason of force majeure (other than obligations to pay or expend money for or in connection with the performance of the transactions contemplated by this Agreement) and such party promptly gives to each other party hereto written notice of the details thereof, then the obligations of the parties hereto shall be totally excused to the extent made necessary by such force majeure and during its continuance; provided, however, that such party giving such notice shall use its best efforts to eliminate such force majeure to the extent economically feasible to do so and with a minimum of delay. Any deficiencies in deliveries of coal hereunder as a result of force majeure shall not be made up except at the sole discretion of the PURCHASER in accordance with a mutually agreeable shipping schedule. In the event force majeure results in a partial reduction in the total quantity of coal SELLER is obligated to deliver hereunder, the quantity of coal SELLER shall be obligated to deliver to PURCHASER hereunder during the continuance of such force majeure shall be limited to

the amount of coal required to be delivered during such period but for this section multiplied by a fraction, the denominator of which is the production capacity of the Coal Property immediately prior to such force majeure and the numerator of which is the production capacity of the Coal Property during the continuance of such force majeure.

In the event that restrictions are imposed during the term of this Agreement by governmental bodies, agencies, entities, officials or courts which preclude or restrict PEF from burning coal of the specifications hereunder, such restriction shall be deemed to be an event of force majeure under this Agreement unless its effect can be avoided in a lawful manner and will not, in PEF's sole judgment, result in unreasonable expense to PEF, the obligations of the parties hereto shall be totally excused during the continuance of such force majeure.

**11.01 Audit.** SELLER agrees to maintain books, records, documents and other evidences pertaining to the costs of producing, mining, handling or loading of coal under this Agreement (herein collectively called the "records") to the extent and in such detail as will properly reflect all items of whatever nature for which payment, reimbursement or adjustment in base price of coal is claimed under the provisions of this Agreement. Upon the request of PURCHASER, SELLER shall make available at SELLER'S office any and all said records along with related correspondence, receipts, vouchers and memoranda pertaining to this Agreement for inspection, audit or reproduction by any authorized representative of PURCHASER. SELLER shall preserve all such records with respect to each shipment of coal for a period of twenty-four (24) months after final payment for such shipment, during which time PURCHASER shall complete any audit it may desire; provided, however, such time limitation shall not apply in cases whereby material misrepresentation, fraud or similar circumstances are claimed. The applicable records shall be preserved until audit is completed or, should there otherwise be questions raised regarding such recording, until agreement with regard to same is reached.

**11.02 Mine Access Rights.** SELLER shall at all times carry out its mining operations consistent with obligations to meet the production and delivery schedule as provided herein. PURCHASER shall have the right from time to time during the term of this Agreement to arrange for geologists, consultants and engineers (PURCHASER'S "agents"), as well as PURCHASER'S own employees, to visit the mine at PURCHASER'S expense and risk, so long as it does not unreasonably interfere with SELLER'S operations. PURCHASER and its agents shall have access to the mine and to any and all data related to SELLER'S mining plans and reserves used to produce the quantity and quality of coal required by this Agreement.

**12.01 Waiver.** The failure of either party to insist on strict performance of any provisions of this Agreement or to take advantage of any right hereunder shall not be construed as a waiver or relinquishment of such provision or right but the same shall continue and remain in full force and effect.

**12.02 Remedies Cumulative.** Remedies provided under this Agreement shall be cumulative and in addition to other remedies provided by law.

**13.01 Cure of Default.** Except as otherwise expressly provided in this Agreement, no default of either party to this Agreement in the performance of any of its covenants or obligations hereunder, which, except for this provision, would be the legal basis for cancellation or termination of this Agreement by the other party hereto, shall give or result in such a right unless and until the party committing such default shall fail to correct the default but in no event later than within sixty (60) days after written notice of claim of such default is given to such defaulting party by the other party hereto.

**14.01 Applicable Law and Arbitration.** All questions relating to execution, construction, performance, termination or breach of this Agreement shall be resolved under the laws of the State of Florida without regard to the choice of law provisions thereof. Any dispute arising out of or relating to the Contract which the parties cannot settle by mutual accord, shall be referred to arbitration in Tampa, Florida, USA. in accordance with the Rules of Arbitration of the American Arbitration Association (AAA) in force at the time of arbitration.

The Board of Arbitration shall be composed of three arbitrators, one of whom shall be chosen by the Seller, one by the Purchaser, and the third by the two so chosen. If both or either of the parties fail to choose an arbitrator within fourteen (14) days after receiving notice of commencement of arbitration proceedings, or if the two arbitrators chosen cannot agree upon a third arbitrator within fourteen (14) days after they have been chosen, said third arbitrator shall be appointed by A.A.A. The decision of the majority of the arbitrators shall be final and binding on the parties hereto, including the decision as to allocation of the cost of such arbitration, and may be entered in any court having jurisdiction.

**15.01 Indemnification.** SELLER shall indemnify, defend and hold PURCHASER harmless from and against any claim, demand, loss, damage or injury caused by or resulting from any act or omission, whether negligent or otherwise, of SELLER. PURCHASER shall indemnify, defend and hold SELLER harmless from and against any claim, demand, loss, damage or injury caused by or resulting from any act or omission, whether negligent or otherwise, of PURCHASER. However, notwithstanding the above, neither party assumes any responsibility for damage or injury to officers, agents or employees of the other party.

**15.02 Environment, Health, and Safety.**

**A. Compliance and Indemnification.** SELLER shall comply with all applicable EHS laws and shall indemnify PURCHASER against any EHS claims and costs arising from SELLER'S performance under this Agreement.

**B. Audits.** PURCHASER may audit SELLER'S EHS compliance. Within thirty (30) days of PURCHASER'S request, SELLER shall deliver to PURCHASER (1) all records regarding (a) SELLER'S actual or alleged violations of EHS laws and (b) EHS claims asserted against SELLER, in each case in the five year period preceding PURCHASER'S request and (2) any executed consent form(s) necessary for PURCHASER to obtain from regulatory agencies and other third parties information regarding SELLER'S EHS compliance.

**D. Definitions (as used in this Agreement).**

1. **Claim** means administrative, regulatory or judicial action, suite, dispute, liability, judgment, penalty, damages, directive, order or claim.

2. **EHS** means relating to the management of any material or the protection of human health, public safety, occupational/mine safety and health, the environment or natural resources.

3. **Indemnify** means to indemnify, defend, and reimburse the indemnitee and its successors and assigns on an after-tax basis.

4. **Law** means any binding authority, demand, or permitting requirement issued by a legislative, judicial, or executive governmental body.

5. **Manage or management, with respect to any material,** means the manufacture, disturbance, generation, use, transportation, emission, discharge, treatment, storage, disposal, release, or threatened release thereof.

**16.01 Notice of Problem.** Whenever either party hereto encounters or discovers or reasonably anticipates any problem which could delay or prevent performance of this Agreement,

such party shall immediately notify in writing the other party of all relevant circumstances and any remedial steps being taken.

**17.01 Independent Contractor.** The parties recognize and agree that SELLER is not an agent or employee of PURCHASER but is independent of any managerial or other control or direction by PURCHASER in its work hereunder and is free to perform, by such means and in such manner as SELLER may choose, all work in pursuance of commitments hereunder.

**18.01 Binding Effect.** This Agreement shall bind and inure to the benefit of the parties and their successors and assigns under Section 5.03 hereof. This Agreement shall not create any rights or remedies in any entity not a part hereto.

**19.01 Assignments.** Neither party may assign nor transfer this Agreement nor any rights nor obligations hereunder without the prior written consent of the other party hereto. In the event that there shall be a change of control of SELLER or any company which controls SELLER directly or indirectly (as the term control is defined in the Federal Securities Law), PURCHASER will have the right to terminate this Agreement.

**20.01 Partial Dispute.** Should any bona fide dispute involving the price of coal hereunder extend only to a portion of any amount claimed due hereunder, the undisputed portion shall be paid as and when due. Should it later be determined that additional payments are due from PURCHASER to SELLER, such amount shall be paid together with interest from the date payment was due as provided herein at the prime rate for preferred customers on loans not to exceed thirty (30) days as from time to time quoted by the Morgan Guaranty Trust Company of New York, New York, during pendency of the dispute.

21.01 Oil Back Out. If during the term of this Agreement, the New York Harbor Daily Spot Market Cargo Price for No. 6 Fuel Oil, 1.0 percent maximum sulfur, as published in Platt's U. S. Marketscan under the heading "Estimated Gulfcoast Waterborne," averaged over a thirty (30) consecutive day period (hereinafter the "average" price), is less than or equal to the price specified below (hereinafter the "target price"), then PURCHASER, at its sole option, may reduce the monthly ratable quantity of coal purchased hereunder by ● percent for each calendar month that the average price is less than or equal to the target price. The target price shall be ● per barrel during calendar year. PURCHASER may exercise this option by giving written notice to SELLER within fifteen (15) business days of the date that that PURCHASER determined that the average price is less than or equal to the target price at or below the aforementioned values. The ● percent reduction percentage, if PURCHASER exercises its option, shall be effective at the beginning of the calendar month immediately following the calendar month in which notice is given to SELLER. The foregoing provision shall apply irrespective of whether PURCHASER or PURCHASER'S intended customer, PEF, obtains replacement fuel or power as a consequence of oil prices.

22.01 Captions. The captions to sections hereof are for convenience only and shall not be considered in construing the intent of the parties.

23.01 Conflict of Interest Policy. PURCHASER has adopted a conflict of interest policy, applicable to all its full-time employees (hereafter "Employee"), and intended to ensure that all business activities of PURCHASER will be conducted in a manner so as to avoid any conflict of interest or appearance of a conflict.

SELLER agrees to conduct its activities in support of said conflict of interest policy, specifically as follows:



(a) SELLER shall promptly disclose to PURCHASER the existence of any material financial interest in SELLER held, at any time during the term of this Agreement, by any Employee or member of an Employee's immediate family. The holding of publicly traded securities in SELLER need not be disclosed unless the Employee is directly or indirectly involved in dealing with the SELLER.

(b) SELLER shall not accept on its own behalf the service or employment in any capacity (such as director, officer, employee, representative or consultant) of any Employee, unless such service or employment is specifically authorized by the President or Board of Directors of PURCHASER.

(c) SELLER shall not offer to any Employee or member of an Employee's immediate family any gifts of more than token value, special preference loans, lavish entertainment or other substantial favors.

Breach of this provision by SELLER shall constitute a material breach of this Agreement; and in the event thereof, PURCHASER shall have the right to terminate this Agreement and pursue any and all other remedies at law or equity.

**24.01 Entire Agreement.** This instrument contains the entire agreement between the parties and there are no representations, understandings or agreements, oral or written, which are not included herein. This Agreement cannot be changed except by duly authorized representatives of both parties in writing. It is understood that PURCHASER or SELLER from time to time in the administration of this Agreement may issue and transmit each to the other documents designated as "Purchase Orders" and "Change Orders;" these documents serve instructional or accounting functions only and are not amendments to or constructions of this Agreement.

**25.01 Confidentiality.** Each party hereto recognizes that this Agreement contains confidential commercial information, the public disclosure of all or any part of which could be



damaging to the parties hereto. Accordingly, each party hereto agrees not to disclose any of the terms or provisions of this Agreement to any person or persons not a part hereto, except for affiliated corporations or unincorporated divisions of the parties hereto, without the prior consent in writing thereto of the other party hereto, which consent shall not be unreasonably withheld, except to the extent such party is legally compelled to make such disclosure pursuant to applicable law or to the extent such disclosure is reasonably necessary in connection with any regulatory, administrative or other legal proceeding in which such party, or any such affiliated corporation or unincorporated division, is involved. When disclosure is made within the terms of the above mentioned exceptions, such disclosure shall be made only to the extent reasonably necessary. It is further understood and agreed that whenever any such information is disclosed by any party hereto in accordance with the above mentioned exceptions, such party will advise each person to whom disclosure is made of the confidential nature of the information disclosed and, except for routine regulatory reporting by PURCHASER, provide written notice of such disclosure, in advance thereof, if possible, to the other party to this Agreement.

**26.01 Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their authorized officers, all as of the date and year first above written.

WITNESS:

Roberto A. Ott  
Granny D. Rudewich

PROGRESS FUELS CORPORATION

BY: [Signature]  
Vice President - Coal Procurement

Date Executed: 7/8/04

WITNESS:

(s.n) Hall  
Black Gold, LLC

SEQUOIA ENERGY, LLC

BY:

Stanley R. Ditty  
President

Date Executed:

July 15, 2004

## APPENDIX A

### Adjustments for Calorific Value

Base price is based upon Subject Coal having weighted average calorific value of 12,700 Btu's per pound avoirdupois ("Pound"), "as received" at the point of weighing referred to in Section 8.01. The Base Price shall be subject to adjustment each month in accordance with the following provisions in order to compensate for variations in the calorific value of the Coal delivered during that month, with the result of such adjustment being taken into account in determining the price to be paid for the Coal received during that month. Price adjustments shall be calculated on a per-shipment basis and totaled for the month.

1. The variation of any given month shall be ascertained by comparing the per shipment calorific value of the Coal delivered and accepted that month with the calorific value of 12,700 Btu's per Pound.
2. If the calorific value in any shipment is greater than or less than 12,700 Btu's per Pound, the adjustment to be made therefor shall be computed on the basis of the following formula:

$$\frac{(\text{Actual Btu's Per Pound} - \text{Guaranteed Btu's Per Pound})}{\text{Guaranteed Btu's Per Pound}} \times \text{Base Price} = \text{Cents Per Ton (FOB Mine)} \text{ (Premium if positive—penalty if negative.)}$$

Shipments that do not meet one or more contract minimum or maximum specifications will be excluded from premium calculations.

### Adjustments for Ash Content

Base price is based upon Subject Coal having weighted average ash content of ten percent (10.0%) maximum "as received" at the point of weighing referred to in Section 2.01. The Base Price shall be subject to the following deductions:

ASH CONTENT	AMOUNT TO BE DEDUCTED FROM BASE PRICE
10%	of the Base Price per 1% ash over to the nearest 0.1%
12%	of the Base Price per 1% ash over to the nearest 0.1%

1  
2

## APPENDIX B

### Railroad and Railcar Detention Costs

#### A. RAILROAD CHARGES:

1. Detention: As published in Tariff ICC CSXT-8200-Series, including supplements thereto and re-issues thereof.
2. Dead Freight: Actual railroad charges.
3. Crew Change: [REDACTED] per change, subject to periodic adjustment by the railroad.

#### B. PFC RAILCAR CHARGES:

1. Lost Utilization Charges: Sum of a. and b. below.
  - a. Delay of Train = [REDACTED] per car per day of delay.
  - b. Failure to Fully Load Cars =  $((9,600 + 90 \times AC) - AW) \times [REDACTED] = P\$$

Where: AC = actual number railcars  
AW = actual weight of trains  
P\$ = penalty in dollars

AGREEMENT FOR  
THE SALE AND PURCHASE OF COAL  
BETWEEN  
PROGRESS FUELS CORPORATION  
AND  
CENTRAL COAL COMPANY

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[illegible]

# AGREEMENT FOR THE SALE AND PURCHASE OF COAL

This AGREEMENT (hereinafter the "Agreement") is made and entered into as of the 13<sup>th</sup> day of September, 2004, between PROGRESS FUELS CORPORATION, a Florida corporation, 200 Central Avenue, One Progress Plaza, St. Petersburg, Florida, 33701 (hereinafter "PURCHASER") and CENTRAL COAL COMPANY, a West Virginia corporation, 148 Bristol East Road, Bristol, Virginia, 24202 (hereinafter "SELLER"),

WHEREAS, PURCHASER does supply coal to Progress Energy Florida, Inc., a Florida corporation (hereinafter "PEF"), under a long-term purchase and sale agreement for use as fuel at PEF's Crystal River Units No. 4 and No. 5 near Red Level, Citrus County, Florida (hereinafter "PEF's generating units"); and

WHEREAS, PURCHASER desires to purchase and SELLER desires to mine and sell coal for use as fuel in PEF's generating units;

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties hereto as herein stated and intending to be legally bound, PURCHASER and SELLER agree as follows:

**1.01 Mutual Obligations.** SELLER agrees to mine, sell and deliver to PURCHASER, and PURCHASER agrees to buy from SELLER, coal of the quality and in the quantities and on the terms and conditions, set forth below.



1.02 Warranty and Dedication of SELLER'S Reserves. SELLER represents and warrants that SELLER owns, leases or controls mineral interests containing reserves in seams sufficient in quality and quantity to supply the coal covered by this Agreement (hereinafter the "Coal Property"). SELLER hereby expressly dedicates to PURCHASER sufficient reserves of coal meeting the quality specifications hereof and lying on or in the Coal Property so as to fulfill the quantity specifications hereof. SELLER further agrees to reimburse PURCHASER for any increased cost that might be incurred to replace coals that SELLER is unable to ship on this contract.

1.03 Quantity. During the term hereof, the quantity of coal to be delivered hereunder shall be 600,000 net tons.

1.04 Term. The term of this Agreement will commence on January 1, 2005 and will continue in effect for a period of twenty-four (24) months.

1.05 Base Price. The base price per ton of coal, f.o.b. PURCHASER'S barge at Winifrede dock on the Kanawha River, (hereinafter "base price") shall be fixed at [REDACTED] per ton, adjusted monthly for the quality of coal in accordance with the formula and procedures set out in Appendix A hereto, during the initial term of this Agreement.

1.06 Billing and Payment. SELLER shall invoice PURCHASER for the coal delivered to PURCHASER on a per-barge basis at the base price as shown in Section 1.05 hereof. Each invoice shall be paid by PURCHASER within twenty (20) days of the date of the invoice or fifteen (15) days from receipt of the invoice, whichever is later. Adjustments under Appendix A shall be separately stated and if not calculated in time for preparation of the monthly invoice may be stated

as a retroactive adjustment on the monthly invoice next following the calculation date. A statement showing the basis for the adjustment shall accompany said invoice.

2.01 Weighing. The net weight of coal sold and delivered hereunder shall be determined by certified belt scales at the barge loading point or by barge survey at PURCHASER'S option and expense.

2.02 Delivery and Title. All coal to be supplied under this Agreement shall be from SELLER'S mines located in Kanawha County, West Virginia. Delivery shall commence on or about January 1, 2005, and shipments shall be as uniform as practicable during contract period, plus or minus ten percent (10%). SELLER and PURCHASER shall mutually agree on actual shipment dates. For months in which SELLER fails to achieve these delivery rates through no fault of PURCHASER'S, PURCHASER shall have, in addition to any other rights it may have at law or in equity, the right to acquire suitable substitute or replacement coal. In such event, SELLER shall reimburse PURCHASER for the amount by which the cost of substitute or replacement coal exceeds the price of coal under this Agreement. The quality analysis performed by an independent certified testing company selected by PURCHASER would be final and binding as to all questions of quality. Title to the coal and risk of loss thereof shall transfer to PURCHASER at the time PURCHASER'S river barges are completely loaded and have been released by SELLER.

2.03 Shipment. It is presently contemplated that coal sold hereunder will be shipped by barge from Winifrede dock on the Kanawha River.

SELLER warrants its terminals provide adequate and safe dock and harbor facilities for river barges and are free of wharfage, dockage or port charges. SELLER further warrants its terminals are capable of loading a minimum of three (3) 1,500 net ton river barges per day without

unusual shifting or loading delay. SELLER shall operate its terminals twenty-four (24) hour per day, seven (7) days per week, if and as needed to load PURCHASER'S barges. PURCHASER shall nominate load dates to SELLER on a month-by-month basis; SELLER'S approval of such not to be unreasonable withheld. SELLER shall be responsible for all loss of, or damage to, any barge provided hereunder and for the loss of any coal in said barge (other than damage or loss due to normal wear and tear, latent or patent defects in the barge existing at the time of delivery) occurring after such barge has been delivered to SELLER at SELLER'S terminal and while in the custody, control and possession of SELLER, if such loss or damage was caused by SELLER'S negligence. SELLER shall, at its own expense, carry and maintain wharfinger's liability insurance or equivalent coverage for its terminals naming PURCHASER as an additional insured under the policy. SELLER agrees to provide to PURCHASER a copy of this insurance within ten (10) working days from the signing of this Agreement. SELLER shall have the right, but not the duty, to refuse to load any barges which SELLER considers unseaworthy. In such event, SELLER shall promptly notify PURCHASER. The loading and switching of barges between the time PURCHASER delivers the barges and the time PURCHASER picks up the barges shall be SELLER'S risk and expense.

PURCHASER shall be solely responsible for making and providing all necessary arrangements with barge carriers for barges to be loaded hereunder. PURCHASER shall provide or cause its barge carrier to provide SELLER seven (7) and one (1) day advance notices of the estimated time of arrival of barges at the loading origin.

A barge shall be deemed to have been delivered to SELLER and be in SELLER'S custody, control and possession when it has been secured by or on behalf of PURCHASER at SELLER'S terminal to await loading, and shall be deemed to be released when untied for pickup by or on behalf of PURCHASER from SELLER'S terminal.

SELLER agrees to load purchaser's barges in a good and workmanlike manner according to drafts or other instructions as issued by PURCHASER or its agent. Any costs

associated with SELLER'S failure to load barges in accordance with instructions issued by PURCHASER or its agent; such as, dead freight or reducing overloaded barges, shall be for SELLER'S account. SELLER shall make every reasonable effort to avoid loading barges which contain excess free water, ice, metal, wood or other debris. SELLER shall not load in each end piece barge less than 1,400 net tons and in each box barge less than 1,600 net tons unless otherwise instructed by PURCHASER or its agent.

SELLER shall have two (2) days free time per barge to load. Laytime shall commence the first 0700 following actual or constructive placement and shall end the first 0700 following completion of loading. Demurrage, if any shall be reconciled on a quarterly basis and paid in accordance with Appendix B.

**2.04 Freight Charges.** Subject to reimbursement provided by Sections 2.05, PURCHASER shall pay all freight and other charges imposed by its barge carrier.

**2.05 Excess Loading Costs Chargeable to SELLER.** SELLER shall be responsible for any origin river barge demurrage costs assessed by PURCHASER'S barge contractor provided such demurrage costs are, in fact, incurred by PURCHASER and are not excused pursuant to Section 4.01 hereof. SELLER agrees to exercise its best efforts to load PURCHASER'S barges in an expeditious manner.

**2.06 Payment of Excess Costs to PURCHASER.** Any payments required by Sections 2.05 above shall be promptly paid on receipt by SELLER of a written statement from PURCHASER itemizing such charges and showing facts necessary to permit SELLER to verify such charges. At either party's election, such charges may be credited against amounts then owed by PURCHASER to SELLER hereunder.

**3.01 Coal Specifications.** Coal delivered hereunder shall be crushed to two inches (2") by zero inches (0") in size with no intermediate sizes added or removed. It shall be prepared so as to be free of bone, slate, shale, fire clay, wood, metal, rock, loose clay and other impurities, as determined by PURCHASER, shall have a temperature below 131 degrees Fahrenheit and shall have the following per barge specifications analyzed on an "as-received" basis. SELLER or SELLER'S terminal shall provide magnets and/or metal detectors, as required, to ensure that metal is eliminated from product.

<b>SPECIFICATION</b>	<b>TYPICAL</b>	<b>REJECT</b>
Moisture (Total)	7.0% (maximum)	>8.0%
Ash	<12.0% (maximum)	>12.0%
Sulfur Dioxide	<1.2 LB/SO <sub>2</sub> per Million Btu	>1.2LB/SO <sub>2</sub> per Million Btu
Pyritic Sulfur	<0.2%	>0.2%
Volatile	33.0% (minimum)	<31.0%
Ash Fusion - Softening (H=W), Reducing	2700°F (minimum)	<2500°F
Grindability	45 HGI (minimum)	<45 HGI
Calorific Value	12,300 Btu/LB (guaranteed)	12,300 Btu/LB
Fines (-1/4")	45% (maximum)	>45%

All shipments shall be free of metal. SELLER shall provide magnets and metal detectors or other suitable equipment as required to satisfy this requirement. Inclusion of metal in coal shipments, if continued, shall be grounds for immediate termination of this Agreement or rejection of shipment.

**3.02 Sampling and Analysis.** For all coal delivered under this Agreement, PURCHASER shall appoint a mutually agreeable third party commercial laboratory to collect and analyze a representative sample of each shipment. At PURCHASER'S discretion, sampling may be performed at loading, transloading, or unloading facility.

A. **Standards.** Current versions of the ASTM standards or subsequent revisions thereof shall apply to equipment and methods used for sampling and analyzing coal under this Agreement, unless specifically stated and mutually agreed to otherwise. PURCHASER and

SELLER shall agree as required on standard reference materials for use in performing analyses where applicable.

B. Sampling. Sampling of coal subject to this Agreement shall be performed by a third party laboratory selected by PURCHASER with an automatic sampling system at the mine, loading point, transloading point, at PURCHASER'S discretion, in conformance with the specifications of ASTM Standards D 2234 and D 2013 except for deviations agreed to in writing by PURCHASER and SELLER. In case of failure of the automatic sampler, shipments shall be hand-sampled per ASTM D 4915. SELLER shall perform bias testing on sampling systems at intervals not to exceed two (2) years as a condition for consideration of utilizing loading samples for basis of payment. PURCHASER has the right to perform or cause to be performed bias tests at any time during the period that this Agreement is in effect at PURCHASER'S cost.

Four sub-samples will be divided from each gross sample according to ASTM Standard 2013. All sub-samples shall be placed in suitable containers and distributed as follows:

Sub-sample one shall be for analyses as specified in Sections (c) and (d), and shall be called the Laboratory Sample.

Sub-sample two shall be maintained for a period of thirty days as referee samples as described in Section (e).

Sub-sample three shall be for SELLER'S disposition.

Sub-sample four shall be for PURCHASER'S disposition.

C. Air Drying. The laboratory sample shall be air-dried according to ASTM Standards D 2013 and D 3302 except that new minimum and maximum times or procedures may be employed by mutual agreement. An analysis sample shall be prepared from the air-dried sample for further analyses.

D. Analysis to be Made. The analyses to be made by a third party commercial laboratory, according to methods described in the applicable standards, are as follows:

Moisture, in weight percentage

Ash Content, in weight percentage

Calorific Value, in Btu's per pound

Sulfur, in weight percentage

Volatile Matter, in weight percentage

PURCHASER may also request analysis for HGI and Ash Fusion tests from time to time. Upon request, additional sub-sample(s) shall be maintained to allow SELLER to perform additional analysis.

**E. Acceptance of Results.** The results of the sampling and analysis by third party laboratory shall be accepted as the quality and characteristics of the coal delivered hereunder in the shipments represented by such samples, and the same shall be accepted as the monthly analysis for the shipments delivered during such month; provided, however, that if either party should at any time question the correctness of the original analysis made on the laboratory sample, it shall have the right to have sub-sample two analyzed by a testing laboratory mutually selected by SELLER and PURCHASER. Said laboratory shall use methods approved by ASTM or other mutually-accepted procedures, and mutually-agreeable standard reference materials.

The analysis of sub-sample two as determined by the commercial testing laboratory shall be accepted as being representative for the lot of coal under consideration. The party questioning the correctness of the original analysis shall pay the cost of such analyses, and the price of coal represented by such samples shall immediately be adjusted in accordance with the provisions of this Agreement, and any amounts due either PURCHASER or SELLER shall be paid in accordance with Section 5 hereof.

PURCHASER shall have the right to have a representative present at any and all times to observe said sampling and analysis and to take reasonable samples.

**3.03 Quality Reports.** Notice of the quality of coal delivered hereunder shall be given by telephone and telecopy to PURCHASER as soon as practical following the loading of coal at origin.

**3.04 Coal Specifications Deficiencies.** For purposes of this Agreement, a "shipment" shall mean the quantity actually received in any barge. If the coal delivered hereunder in any single shipment fails to meet any of the reject specifications set out in Section 3.01 other than sulfur content, PURCHASER shall have each of the following options to be exercised in its sole discretion:

(1) PURCHASER may notify SELLER that PURCHASER will accept such coal subject to and in accordance with the provisions set forth in this Agreement including Appendix A;

provided, however, that PURCHASER'S exercise of this option shall in no way constitute a waiver of PURCHASER'S right at any time thereafter to exercise any of the other options set forth herein with respect to subsequent deliveries of coal hereunder; or

(2) PURCHASER will have the option to reject any shipment which exceeds any of the reject specifications listed in 3.01, and PURCHASER may notify SELLER to suspend further deliveries of coal hereunder until SELLER demonstrates to PURCHASER'S sole satisfaction that it can deliver coal that will conform on a per shipment basis to the specifications set forth in Section 3.01; provided, however, that PURCHASER'S exercise of this option shall in no way constitute a waiver of PURCHASER'S right at any time thereafter to exercise any of the other options set forth herein with respect to subsequent deliveries of coal hereunder. If SELLER fails to make the above demonstration to PURCHASER'S satisfaction within thirty (30) days after notice by PURCHASER, PURCHASER shall have the right to terminate or cancel this Agreement and, in addition, pursue every other remedy provided by law or equity.


**3.05 Sulfur Content Warranty.** SELLER warrants and represents that the average total sulfur content of each shipment shall not contain more than 1.20 LB of sulfur dioxide per million Btu's heat input (the "calculated sulfur limit") and not more than .2 percent pyritic sulfur.

In the event SELLER delivers to PURCHASER any shipment of coal with a total sulfur content or a pyritic sulfur content in excess of the calculated sulfur limits set forth above, the following shall apply:

(1) If, in PURCHASER'S sole determination, PURCHASER is able to use such coal by blending directly with other coal from the active stockpile so that the blended coal shall not exceed 1.20 LB of sulfur dioxide per million Btu's or .2 percent pyritic sulfur, PURCHASER shall accept such coal and the price of the coal delivered in such shipment shall be reduced from the invoice price PURCHASER would otherwise have been required to pay for such coal under this



Agreement by the amount of PURCHASER'S cost of blending such coal determined by the following adjustment:

Sulfur Adjustment =  percent (I)

Where:

I - Invoice price which would apply excluding the sulfur adjustment.

Such adjusted price shall become the price for purposes of applying any adjustments provided in Appendix A. No Btu premiums shall be allowed on any shipment which received the above sulfur penalty.

(2) If PURCHASER rejects any shipment under 3.04 or is unable to use such coal under any circumstances because the burning of such coal will cause PURCHASER'S buyer's generating unit or units to have emissions that exceed 1.20 LB of sulfur dioxide per million Btu's of heat input, PURCHASER may reject such shipment without payment and SELLER shall be obligated to pay the cost of disposing of such rejected shipment of coal and any other reasonable costs of disposition incurred. If PURCHASER rejects a shipment from SELLER under the provisions of this paragraph, PURCHASER and SELLER shall meet promptly thereafter to see what reasonable steps may be taken on the part of both parties to allow this Agreement to continue. If PURCHASER and SELLER fail to reach agreement within thirty (30) days as to what steps can be taken to correct the situation, then PURCHASER shall have the right to terminate this agreement by giving notice of termination to SELLER and, in addition, pursue every other remedy provided by law or equity.

SELLER shall be permitted to have a representative present to observe tests conducted by PURCHASER'S buyer of burning in PURCHASER'S buyer's facilities, and to observe sampling, analysis and tests conducted to determine the content of flue gases resulting from the burning of such coal. PURCHASER shall also make available to SELLER at reasonable times the

results of such tests and analysis, as well as charts and other information resulting from the monitoring of stack gas emissions.

4.01 Force Majeure. As used herein, the term "force majeure" shall mean any event beyond the control and without fault or negligence of the party affected thereby and which, by the exercise of reasonable diligence or the incurring of reasonable expense, such party is unable to prevent or overcome, regardless of whether such event was foreseeable, including, without limitation, act of God, act of public authorities (including courts and commissions of competent jurisdiction), act of the public enemy, insurrection, riot, labor dispute, labor or material shortage, fire, explosion, flood, breakdown of or damage to plant equipment or facilities (including emergency outages of equipment or facilities to make repairs to avoid breakdowns thereof or damage thereto), interruption to transportation or transportation delay, river freeze-up, embargo, order or act of civil or military authority, legislative, regulatory, permitting, judicial rule or order adopted, amended or newly interpreted subsequent to the date of this Agreement and any other event of a similar or dissimilar nature which wholly or partially prevents the mining, hauling, handling, processing or loading of coal by SELLER or the receiving, handling, transporting and/or delivering by PURCHASER'S carrier thereof or the accepting, handling, utilizing and/or unloading thereof by PURCHASER or PURCHASER'S intended buyer, PEF.

In the event performance of SELLER'S obligations hereunder or PURCHASER'S obligations hereunder is made impossible, impractical or illegal by reason of force majeure (other than obligations to pay or expend money for or in connection with the performance of the transactions contemplated by this Agreement) and such party promptly gives to each other party hereto written notice of the details thereof, then the obligations of the parties hereto shall be totally excused to the extent made necessary by such force majeure and during its continuance; provided, however, that such party giving such notice shall use its best efforts to eliminate such

force majeure to the extent economically feasible to do so and with a minimum of delay. Any deficiencies in deliveries of coal hereunder as a result of force majeure shall not be made up except at the sole discretion of the PURCHASER. In the event force majeure results in a partial reduction in the total quantity of coal SELLER is obligated to deliver hereunder, the quantity of coal SELLER shall be obligated to deliver to PURCHASER hereunder during the continuance of such force majeure shall be limited to the amount of coal required to be delivered during such period but for this section multiplied by a fraction, the denominator of which is the production capacity of the Coal Property immediately prior to such force majeure and the numerator of which is the production capacity of the Coal Property during the continuance of such force majeure.

In the event that restrictions are imposed during the term of this Agreement by governmental bodies, agencies, entities, officials or courts which preclude or restrict PEF from burning coal of the specifications hereunder, such restriction shall be deemed to be an event of force majeure under this Agreement unless its effect can be avoided in a lawful manner and will not, in PEF's sole judgment, result in unreasonable expense to PEF, the obligations of the parties hereto shall be totally excused during the continuance of such force majeure.

**4.02 Waiver.** The failure of either party to insist on strict performance of any provisions of this Agreement or to take advantage of any right hereunder shall not be construed as a waiver or relinquishment of such provision or right but the same shall continue and remain in full force and effect.

**4.03 Remedies Cumulative.** Remedies provided under this Agreement shall be cumulative and in addition to other remedies provided by law.

**4.04 Cure of Default.** Except as otherwise expressly provided in this Agreement, no default of either party to this Agreement in the performance of any of its covenants or obligations hereunder, which, except for this provision, would be the legal basis for cancellation or termination of this Agreement by the other party hereto, shall give or result in such a right unless and until the party committing such default shall fail to correct the default but in no event later than within thirty (30) days after written notice of claim of such default is given to such defaulting party by the other party hereto.

**4.05 Attorney's Fees.** In the event either party should default under the terms hereof or fail to perform any of the terms and conditions of this Agreement and a party employs an attorney to protect its interest and obtains a judgment in court or through arbitration in its favor, then the cost of such reasonable attorney's fee shall be and will form a portion of such judgment and shall be included in such judgment.

**4.06 Indemnification.** SELLER shall indemnify, defend and hold PURCHASER harmless from and against any claim, demand, loss, damage or injury caused by or resulting from any act or omission, whether negligent or otherwise, of SELLER. PURCHASER shall indemnify, defend and hold SELLER harmless from and against any claim, demand, loss, damage or injury caused by or resulting from any act or omission, whether negligent or otherwise, of PURCHASER. However, notwithstanding the above, neither party assumes any responsibility for damage or injury to officers, agents or employees of the other party.

#### **4.07 Environment, Health, and Safety.**

**A. Compliance and Indemnification.** SELLER shall comply with all applicable EHS laws and shall indemnify PURCHASER against any EHS claims and costs arising from SELLER'S performance under this Agreement.

**B. Audits.** PURCHASER may audit SELLER'S EHS compliance. Within thirty (30) days of PURCHASER'S request, SELLER shall deliver to PURCHASER (1) all records regarding (a) SELLER'S actual or alleged violations of EHS laws and (b) EHS claims asserted against SELLER, in each case in the five year period preceding PURCHASER'S request and (2) any executed consent form(s) necessary for PURCHASER to obtain from regulatory agencies and other third parties information regarding SELLER'S EHS compliance.

#### **D. Definitions (as used in this Agreement).**

**1. Claim** means administrative, regulatory or judicial action, suite, dispute, liability, judgment, penalty, damages, directive, order or claim.

**2. EHS** means relating to the management of any material or the protection of human health, public safety, occupational/mine safety and health, the environment or natural resources.

**3. Indemnify** means to indemnify, defend, and reimburse the indemnitee and its successors and assigns on an after-tax basis.

**4. Law** means any binding authority, demand, or permitting requirement issued by a legislative, judicial, or executive governmental body.

**5. Manage or management, with respect to any material,** means the manufacture, disturbance, generation, use, transportation, emission, discharge, treatment, storage, disposal, release, or threatened release thereof.

4.08 Notice of Problem. Whenever either party hereto encounters or discovers or reasonably anticipates any problem which could delay or prevent performance of this Agreement, such party shall immediately notify in writing the other party of all relevant circumstances and any remedial steps being taken.

5.01 Independent Contractor. The parties recognize and agree that SELLER is not an agent or employee of PURCHASER but is independent of any managerial or other control or direction by PURCHASER in its work hereunder and is free to perform, by such means and in such manner as SELLER may choose, all work in pursuance of commitments hereunder.

5.02 Binding Effect. This Agreement shall bind and inure to the benefit of the parties and their successors and assigns under Section 5.03 hereof. This Agreement shall not create any rights or remedies in any entity not a part hereto.

5.03 Assignments. Neither party may assign nor transfer this Agreement nor any rights nor obligations hereunder without the prior written consent of the other party hereto. In the event that there shall be a change of control of SELLER or any company which controls SELLER directly or indirectly (as the term control is defined in the Federal Securities Law), PURCHASER will have the right to terminate this Agreement.

5.04 Captions. The captions to sections hereof are for convenience only and shall not be considered in construing the intent of the parties.

5.05 Applicable Law and Venue. All questions relating to execution, construction, performance, termination or breach of this Agreement shall be resolved under the laws of the State

of Florida without regard to the choice of law provisions thereof. In the event of any lawsuit filed hereunder, the parties hereto authorize venue in Pinellas County, Florida, and/or the federal court district encompassing said county.

**5.06 Conflict of Interest Policy.** PURCHASER has adopted a conflict of interest policy, applicable to all its full-time employees (hereafter "Employee"), and intended to ensure that all business activities of PURCHASER will be conducted in a manner so as to avoid any conflict of interest or appearance of a conflict.

SELLER agrees to conduct its activities in support of said conflict of interest policy, specifically as follows:

(a) SELLER shall promptly disclose to PURCHASER the existence of any material financial interest in SELLER held, at any time during the term of this Agreement, by any Employee or member of an Employee's immediate family. The holding of publicly traded securities in SELLER need not be disclosed unless the Employee is directly or indirectly involved in dealing with the SELLER.

(b) SELLER shall not accept on its own behalf the service or employment in any capacity (such as director, officer, employee, representative or consultant) of any Employee, unless such service or employment is specifically authorized by the President or Board of Directors of PURCHASER.

(c) SELLER shall not offer to any Employee or member of an Employee's immediate family any gifts of more than token value, special preference loans, lavish entertainment or other substantial favors.

Breach of this provision by SELLER shall constitute a material breach of this Agreement; and in the event thereof, PURCHASER shall have the right to terminate this Agreement and pursue any and all other remedies at law or equity.

**5.07 Entire Agreement.** This instrument contains the entire agreement between the parties and there are no representations, understandings or agreements, oral or written, which are not included herein. This Agreement cannot be changed except by duly authorized representatives of both parties in writing. It is understood that PURCHASER or SELLER from time to time in the administration of this Agreement may issue and transmit each to the other documents designated as "Purchase Orders" and "Change Orders;" these documents serve instructional or accounting functions only and are not amendments to or constructions of this Agreement.

**5.08 Confidentiality.** Each party hereto recognizes that this Agreement contains confidential commercial information, the public disclosure of all or any part of which could be damaging to the parties hereto. Accordingly, each party hereto agrees not to disclose any of the terms or provisions of this Agreement to any person or persons not a part hereto, except for affiliated corporations or unincorporated divisions of the parties hereto, without the prior consent in writing thereto of the other party hereto, which consent shall not be unreasonably withheld, except to the extent such party is legally compelled to make such disclosure pursuant to applicable law or to the extent such disclosure is reasonably necessary in connection with any regulatory, administrative or other legal proceeding in which such party, or any such affiliated corporation or unincorporated division, is involved. When disclosure is made within the terms of the above mentioned exceptions, such disclosure shall be made only to the extent reasonably necessary. It is further understood and agreed that whenever any such information is disclosed by any party hereto in accordance with the above mentioned exceptions, such party will advise each person to whom disclosure is made of the confidential nature of the information disclosed and, except for routine regulatory reporting by PURCHASER, provide written notice of such disclosure, in advance thereof, if possible, to the other party to this Agreement.



5.09 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their authorized officers, all as of the date and year first above written.

WITNESSES:

Roberta A. Velt  
Mary J. Kuderach

WITNESSES:

Kim Lankam  
\_\_\_\_\_

PROGRESS FUELS CORPORATION

BY: [Signature]  
Vice President - Coal Procurement  
Date Executed: 9/13/04

CENTRAL COAL COMPANY

BY: [Signature]  
Date Executed: 10-8-04

## APPENDIX A

### Adjustments for Calorific Value

Base price is based upon Subject Coal having weighted average calorific value of 12,300 Btu's per pound avoirdupois ("Pound"), "as received" at the point of weighing referred to in Section 2.01. The Base Price shall be subject to adjustment each month in accordance with the following provisions in order to compensate for variations in the calorific value of the Coal delivered during that month, with the result of such adjustment being taken into account in determining the price to be paid for the Coal received during that month. Price adjustments shall be calculated on a per-shipment basis and totaled for the month.

1. The variation of any given month shall be ascertained by comparing the per shipment calorific value of the Coal delivered and accepted that month with the calorific value of 12,300 Btu's per Pound.
2. If the calorific value in any shipment is greater than or less than 12,300 Btu's per Pound, the adjustment to be made therefor shall be computed on the basis of the following formula:

(Actual Btu's Per Pound - Guaranteed Btu's Per Pound) ÷ Guaranteed Btu's Per Pound X Base Price = Cents Per Ton (FOB Mine) (Premium if positive—penalty if negative.) PENALTIES WILL RECEIVE A MULTIPLIER OF TWO.

Shipments that do not meet one or more contract minimum or maximum specifications will be excluded from premium calculations.

### Adjustments for Ash Content

Base price is based upon Subject Coal having weighted average ash content of eleven percent (11.0%) maximum "as received" at the point of weighing referred to in Section 2.01. The Base Price shall be subject to the following deductions:

ASH CONTENT	AMOUNT TO BE DEDUCTED FROM BASE PRICE
Greater Than 12%	of the Base Price per 1% ash over to the nearest 0.1%

## APPENDIX B

### River Barge Demurrage/Detention Costs

Two (2) days free time to load; [REDACTED]/day or portion thereof thereafter. This rate is subject to change. Demurrage calculations are non-averaging.

XC: AWP  
RFP  
FHL  
MSK  
CAL  
THH  
VHH  
DMD  
AMY ENTRELL  
VICKY HICKS

AGREEMENT FOR  
THE SALE AND PURCHASE OF COAL  
BETWEEN  
PROGRESS FUELS CORPORATION  
AND  
MASSEY UTILITY SALES COMPANY

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[illegible][illegible]

# AGREEMENT FOR THE SALE AND PURCHASE OF COAL

This AGREEMENT (hereinafter the "Agreement") is made and entered into as of the 9<sup>th</sup> day of August, 2004, between PROGRESS FUELS CORPORATION, a Florida corporation, 200 Central Avenue, One Progress Plaza, St. Petersburg, Florida, 33701 (hereinafter "PURCHASER") and MASSEY UTILITY SALES COMPANY, a Virginia corporation, Four North Forth Street, Richmond, Virginia 23219 (hereinafter "SELLER"),

WHEREAS, PURCHASER does supply coal to Progress Energy Florida, Inc., a Florida corporation (hereinafter "PEF"), under a purchase and sale agreement for use as fuel at PEF's Crystal River Units No. 4 and No. 5 near Red Level, Citrus County, Florida (hereinafter "PEF's generating units"); and

WHEREAS, PURCHASER desires to purchase and SELLER desires to mine and sell coal for use as fuel in PEF's generating units;

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties hereto as herein stated and intending to be legally bound, PURCHASER and SELLER agree as follows:

1.01 Mutual Obligations. SELLER agrees to mine, sell and deliver to PURCHASER, and PURCHASER agrees to buy from SELLER, coal of the quality and in the quantities and on the terms and conditions, set forth below.

2.01 SELLER'S Reserves and Preparations for Selling Coal. SELLER represents and warrants that SELLER'S affiliates own, lease or otherwise controls coal properties. SELLER

further represents and warrants that the coal properties contains economically recoverable coal of a quality and in quantities which, under present mining laws, practices, governmental rules and regulations will be sufficient to satisfy all the requirements of this Agreement during the entire term of this Agreement. SELLER agrees and warrants that it will mine coal from the coal property and that it has loading facilities, described in Exhibit "A", attached hereto and made a part hereof, capable of loading at the rate required to comply with this Agreement. SELLER hereby expressly dedicates to PURCHASER sufficient reserves of coal meeting the quality specifications hereof and lying on or in the coal properties so as to fulfill the quantity specifications hereof. SELLER shall not ship any coal from sources other than those identified in Exhibit A without the prior written consent of PURCHASER which consent shall not be unreasonably withheld.

3.01 Quantity. During each calendar year during the term hereof, the quantity of coal to be delivered hereunder shall be 720,000 tons +/- 5,000 tons or approximately 60,000 tons per calendar month, prorated for any partial calendar year.

4.01 Term. The initial term ("Initial Term") of this Agreement will commence on January 1, 2005, and will continue in effect for a period of twelve (12) months. On or before October 1, 2005, the parties shall negotiate in good faith to extend this Agreement for an additional term of twelve (12) months. If the parties, for any reason, are unable to reach agreement for a new Base Price for calendar year 2006 by November 1, 2005, then this Agreement shall extend an additional six (6) months at the Base Price in effect on December 31, 2005 in effect and expire June 30, 2006.

5.01 Base Price. The base price per ton of coal, (hereinafter "Base Price") f.o.b. SELLER'S mine loading site, shall be [REDACTED] per ton, and [REDACTED] per ton f.o.b. PURCHASER'S barge at Kanawha River Terminals-Ceredo, adjusted monthly for the quality of coal in accordance with the formula and procedures set out in Appendix A hereto, during the initial term of this Agreement. The Base Price during any extended term shall be as negotiated as provided in



Section 4.01 above. The mine loading site or the Kanawha River Terminal-Ceredo shall be the point of delivery ("Delivery Point"). The Base Price includes as of the effective date of this Agreement all applicable taxes and fees imposed by a governmental body upon the mining, production, loading and delivery of coal hereunder including, but not limited to severance taxes, reclamation fees or Black Lung taxes. PURSHASER shall be responsible for and shall pay the sales or use tax, if any, imposed on the sale and transfer of the coal to PURCHASER.

If the parties are unable to agree to a new Base Price for coal sold f.o.b. PURCHASER's barge at Kanawha River Terminals for calendar year 2006 by November 1, 2005, then the Base Price in effect on December 31, 2005, shall be increased by the amount of increase, if any, in Seller's costs for rail transportation of coal from the mine loading site to the Delivery Point; in such event such increased Base Price shall be in effect from January 1, 2005 through June 30, 2006.

**5.02 Governmental Impositions.** The parties also recognize that, during the continuance of this Agreement, legislative or regulatory bodies or the courts may adopt laws, regulations, policies and/or restrictions or a change in interpretation of enforcement which impact PURCHASER'S costs and which make it impossible or economically impractical for PURCHASER to utilize in PEF's Generating Units this or like kind and quality of coal which thereafter would be delivered hereunder. If, as a result of the increased costs associated with the adoption of such laws, regulations, policies or restrictions, or change in interpretation or enforcement, PURCHASER decides that it will be impossible or economically impractical for PURCHASER to utilize in PEF's Generating Units coal which would be delivered hereunder, PURCHASER shall so notify SELLER and thereupon PURCHASER and SELLER shall promptly consider whether corrective actions can be taken in the mining and preparation of the coal at the mine and/or in the handling and utilization of the coal at PEF's Generating Units; and if, in PURCHASER's reasonable judgment, such actions will, without unreasonable expense to PURCHASER, make it impossible and economically impractical for PURCHASER to so utilize coal which thereafter would be delivered hereunder without violating any applicable law,

regulation, policy or restriction, PURCHASER shall have the right, upon thirty (30) days prior notice to SELLER, to terminate this Agreement without further obligation hereunder on the part of either party; provided, however, that, if the impracticality of PURCHASER's utilizing the coal is only on economical grounds, SELLER may, at its option, prevent such termination by agreeing to reimburse PURCHASER for such expense.

The parties recognize that, during the continuance of this Agreement, legislative or regulatory bodies or the courts may adopt laws, regulations, policies and/or restrictions or change in interpretation or enforcement which impact SELLER's mining cost ("Governmental Impositions"). Adjustment to the Base Price may be made for changes in SELLER's costs occasioned by increased Governmental Imposition arising on or after the date first above written. SELLER shall give prompt notice to PURCHASER of any such costs increased by reason of a change of Governmental Imposition. PURCHASER shall accept such increase to the Base Price in effect for aggregate increases, for the term of the Agreement or any extensions thereof, not greater than [REDACTED] per ton. If the aggregate of all Governmental Impositions increases the Base Price then in effect by more than [REDACTED] per ton, PURCHASER shall have the option (to be exercised within thirty (30) days of notice of the increased Governmental Obligation) of accepting or refusing such increased Governmental Obligation to the extent in the aggregate such is greater than [REDACTED] per ton. If PURCHASER refuses such Governmental Imposition increase, SELLER shall have the option (to be exercised within thirty (30) days of PURCHASER's election to refuse such increase), to absorb the portion of the aggregate Governmental Imposition exceeding [REDACTED] per ton or terminate this Agreement with respect to coal not yet delivered and SELLER shall have no further obligation to PURCHASER hereunder except for those arising from shipments prior to the date of termination of this Agreement.

6.01 Billing and Payment. SELLER shall invoice PURCHASER in writing which may be sent by fax to PURCHASER for the coal delivered to PURCHASER on a train by train basis at the

base price as presented in Section 5.01 hereof. Each invoice shall be paid by PURCHASER within ten (10) days from receipt of the invoice, by electronic wire transfer. Adjustments under Appendix A shall be separately stated and invoiced monthly. A statement showing the basis for the adjustment shall accompany said invoice.

**7.01 Delivery and Title.** Delivery shall commence during January, 2005. Delivery will be at PURCHASER'S option as provided in Section 7.02, in railroad cars f.o.b. SELLER'S mine loading site, or river barges f.o.b. Kanawha River Terminals Ceredo Dock and will be so scheduled as to permit loading in unit train lots in accordance with the terms of the applicable contract or tariff. PURCHASER represents that it will supply transportation equipment as required for direct delivery to PEF and that transportation of coal after delivery is the responsibility of PURCHASER. Delivery shall be in approximately equal monthly quantities wherever possible. However, PURCHASER and SELLER each shall have the right to alter monthly shipping schedules on a reasonable basis if agreed to by the other. Title to the coal and risk of loss thereof shall transfer to PURCHASER at the time the coal enters the shipping conveyance.

**7.02 Shipment; Applicable Contract or Tariff.** It is currently contemplated that coal sold hereunder will be shipped by rail from SELLER'S unit train loading facilities at Sylvester or Hutchinson, WV or at other approved locations set forth in Exhibit A attached hereto and made a part hereof to destinations specified by PURCHASER. Notwithstanding the foregoing, PURCHASER shall have the option to ship the coal to Kanawha River Terminals Ceredo Dock for movement on the American inland waterway system. PURCHASER shall notify SELLER by the 15<sup>th</sup> of the month the loading schedule for the following month. Seller shall notify PURCHASER of the loading facilities by the 25<sup>th</sup> of the month prior to the month of shipments. Once an individual train or barge loading is scheduled, the schedule may be revised only through the mutual agreement of PURCHASER and SELLER.

SELLER shall operate its approved rail loading facilities twenty-four (24) hours per day, seven (7) days per week and shall load unit trains comprised of approximately ninety (90) one-hundred (100) ton cars within four (4) hours of their arrival (minimum weight 98 percent of marked car capacity). "Arrival" shall be deemed to have occurred when the railcars are placed at SELLER'S loadout.

In no event shall SELLER load a car in excess of the maximum weight limitation per car as currently allowed by the railroad over the route of movement. If a car is found to be loaded in excess of the maximum weight limitation, the provision and charges published in Section 3, Item 3000, Tariff ICC CSXT-8200-Series, as it exists on the effective date of this Agreement; SELLER shall be responsible for such charges based on SELLER'S batch weight scale weight.

Notwithstanding anything in this Agreement to the contrary, if the applicable contract or tariff as amended, supplemented or replaced imposes more costly car-loading terms, conditions or duties on SELLER than those specifically assumed by SELLER under this Agreement, PURCHASER shall pay SELLER, as a direct result of the imposition of such additional costly car-loading terms, conditions or duties on SELLER, reasonable additional per ton charges. Payments shall begin within thirty (30) days after receipt from SELLER of a written statement itemizing such costs (which may include SELLER'S additional costs for labor, materials, amortization of capital items or a combination of these) and showing facts necessary to permit PURCHASER to verify such costs. If PURCHASER elects not to pay SELLER such additional costs, SELLER shall have the right either to absorb such increased costs or terminate this Agreement and Seller shall have no further obligation to Purchaser hereunder except for those arising from shipments prior to the date of termination of this Agreement.

SELLER shall be responsible for all loss of, or damage to, any barge provided hereunder and for the loss of any coal in said barge (other than damage or loss due to normal wear and tear, latent or patent defects in the barge existing at the time of delivery) occurring after such barge has been delivered to Seller's Terminal and while in the custody, control and possession of Terminal, if such loss or damage was caused by Terminal's negligence. SELLER shall require Terminal at its

own expense, to carry and maintain wharfingers liability insurance or equivalent coverage naming PURCHASER as an additional insured under the policy, agreeing to pay on behalf of PURCHASER any damages arising under liability to barges in the care, custody and control of Terminal. SELLER agrees to provide to PURCHASER a copy of this insurance within ten (10) working days from the signing of this contract. SELLER shall have the right, but not the duty, to refuse to load any barges which SELLER considers unseaworthy or contaminated. In such event, SELLER shall promptly notify PURCHASER. The loading and switching of barges between the time PURCHASER delivers the barges and the time PURCHASER picks up the barges shall be SELLER'S risk and expense.

PURCHASER shall be solely responsible for making and providing all necessary arrangements with barge carriers to provide SELLER a seven (7) and three (3) day advance notice of the estimated time of arrival of barges at the loading origin.

A barge shall be deemed to have been delivered to SELLER and be in SELLER'S custody, control and possession when it has been secured by and on behalf of PURCHASER at SELLER'S terminal to await loading and shall be deemed to be picked up when untied for pick up by or on behalf of PURCHASER from SELLER'S terminal.

SELLER agrees to load PURCHASER'S barges in a good and workmanlike manner according to drafts or other instructions as issued by PURCHASER or its agent. Minimum tonnage to load in each end piece barge is 1,400 net tons and in each box barge 1,600 net tons unless otherwise instructed by PURCHASER or its agent.

**7.03 Freight Charges.** For f.o.b. mine shipments, subject to reimbursement provided by Sections 7.04 and 7.05, PURCHASER shall pay all freight and other charges imposed by the applicable tariff. For Kanawha River Terminals Ceredo shipments, SELLER shall pay all freight and other charges imposed by the applicable tariff.

7.04 Excess Loading Costs Chargeable to SELLER. For f.o.b. mine shipments, if SELLER fails to satisfy the loading requirements of the applicable tariff and such failure is not excused pursuant to force majeure as provided in Section 10.01 hereof or the applicable tariff, SELLER shall pay railroad any resulting car detention penalties, demurrage, crew charges or charges for cars not timely loaded to 98 percent of marked capacity which PURCHASER is required to pay under the applicable tariff as it exists on the effective date of this Agreement.

7.05 Freeze Proofing. When required, a PURCHASER approved freeze proofing material will be applied by SELLER. For such freeze proofing application, PURCHASER shall pay SELLER'S actual cost for the freeze proofing material applied plus [REDACTED] per ton of coal to which the material is applied. Freeze proofing will not typically be required on direct rail shipments. PURCHASER shall advise SELLER on an "as needed" basis of the amount and frequency needed.

7.06 Delivery Short Falls. In the event Seller shall fail to deliver, or Buyer shall fail to accept delivery of, any shipment(s), the missed shipment(s) shall be re-scheduled on a ratable basis over the remainder of the calendar year during which the shipment(s) was missed. If at the end of the term of this Agreement, not all missed shipment(s) have been rescheduled, and delivered, such remaining missed shipment(s) shall be rescheduled and delivered during the twelve (12) months following the end of the term of this Agreement.

8.01 Weighing. The net weight of coal sold and delivered hereunder shall be determined by SELLER'S certified scales (if available) at origin for unit train shipments or, if the origin scales are inoperable or are not certified, by the certified scales at PURCHASER's Crystal River facility (if available), or if the Crystal River scales are not available then by the carrying railroad over certified railroad scales, the cost of which shall be borne by PURCHASER. If SELLER's scales and the Crystal River scales are unavailable and if the railroad is unable to weigh the shipped coal, the

average weight of the five (5) trains most recently shipped by SELLER to PURCHASER shall be used for billing purposes. The net weight for coal sold f.o.b. barge shall be determined by railroad certified unit train weights, the cost of which shall be borne by the PURCHASER or by barge draft at PURCHASER option and expense.

#### **8.02 Sampling and Analysis.**

**A. Sampling.** Analysis of the samples of coal subject to this Agreement shall be performed on each shipment based on samples taken by SELLER'S automatic sampling system at the mine by a third party employed by PURCHASER and approved by SELLER at the mine or, transloading facility in conformance with the specifications of ASTM Standards, except for deviations agreed to in writing by PURCHASER and SELLER. In case of any failure of the automatic sampler, at the mine, the coal shall be sampled using the automatic sampling system at PURCHASER's Crystal River facility, and if the Crystal River sampling system is inoperable, trainloads or barges may be hand-sampled at the load out in accordance with ASTM 4915 or by other mutually agreed to method. The cost of sampling coals shall be for the account of PURCHASER.

The SELLER shall perform or cause to be performed bias/performance tests on mechanical sampling systems at two-year intervals. PURCHASER shall be furnished bias test reports performed within two (2) years of commencement of shipments. PURCHASER has the right to perform or cause to be performed bias/performance tests at any time during the period that this Agreement is in effect at PURCHASER'S cost.

A minimum of four sub-samples shall be divided from the shipment sample according to ASTM Standard D 2013. The fourth sub-sample shall be placed in a suitable container and sent to PURCHASER. The third sub-sample shall be placed in a suitable container and saved for SELLER'S disposition only. The second sub-sample shall be placed in a suitable container and retained for thirty (30) days as a check sample. The first sub-sample, which is called

the laboratory sample, shall be used for analyses as specified in the following paragraphs. Appropriate additional splits shall be retained for additional tests as needed.

B. Air Drying. The laboratory sample shall be air-dried according to ASTM Standards D 2013 and D 3302, except that modified procedures may be employed by mutual agreement. The air-dried sample shall then be prepared for further analyses.

C. Analyses to be Made. The analyses to be made according to methods described in the applicable standards are as follows:

Moisture, in weight percentage  
Ash Content, in weight percentage  
Calorific Value, in Btu's per pound  
Sulfur, in weight percentage  
Volatile, in weight percentage  
Grindability, in Hardgrove Index units  
Ash Fusion, in degrees Fahrenheit  
Pyritic Sulfur, in weight percentage  
Screen Analysis, in weight percentage (separate sampling required)

D. Acceptance of Results. The results of the third party sampling and analysis of the laboratory sample shall be accepted as the quality and characteristics of the coal delivered hereunder in the trainloads represented by such samples and the same shall be accepted as the monthly analysis for the trainloads or barges delivered during such month; provided, however, that if either party, within thirty (30) days, questions the correctness of the original analysis made on the laboratory sample, it shall have the right to have the check sample analyzed by a commercial testing laboratory mutually selected by SELLER and PURCHASER and said laboratory shall use methods approved by ASTM or other mutually acceptable procedures. The results obtained on the check sample will be accepted as the quality and characteristics of the lot of coal involved. The party questioning the correctness of the original analyses shall pay the cost of such analyses. The price for the coal represented by such samples shall be adjusted in accordance with the provisions of this Agreement and any amounts due shall be paid in accordance with Section 6 hereof.

PURCHASER and SELLER shall have the right to have a representative present at any and all times to observe said sampling and analyses and to take a reasonable number of samples.



**8.03 Quality Reports.** Notice of the quality of coal delivered hereunder shall be given to PURCHASER and SELLER as soon as practical following the loading of coal at origin.

**9.01 Coal Specifications.** Coal delivered hereunder shall be a homogenous coal, crushed to two inches (2") by zero inches (0"). The coal shall be prepared so as to be substantially free from quantities of bone, slate, shale, fire clay, wood, metal, rock, loose clay, and other mine impurities as determined by PURCHASER, and shall have the following specifications per shipment on an "as-received" basis:

<b>SPECIFICATION</b>	<b>GUARANTEED</b>	<b>REJECT</b>
Moisture	8.0%	>8.5%
Ash	12.0%	>12.5%
Sulfur	1.20 LB/SO <sub>2</sub> per Million Btu	>1.20LB/SO <sub>2</sub> per Million Btu
Pyritic Sulfur*	<0.2%	>0.2%
Volatile	31.0 %	<30.0%
Ash Fusion - Softening (H=W), Reducing	2500°F	<2500°F
Grindability	42 HGI	<40 HGI
Calorific Value	12,100 Btu/LB	<11,800 Btu/LB
Fines (-1/4")	48%	>55%

\*If SELLER determines in its reasonable opinion that it is unable to meet the specification parameter for pyritic sulfurs, SELLER and PURCHASER will meet to determine what actions are necessary to resolve the issue.

SELLER will provide, as necessary magnets and metal detectors or other suitable equipment at the loading facilities.

**9.02 Coal Specifications Deficiencies.** For purposes of this Agreement, a "shipment" shall mean the quantity actually received in any unit train load or, in the event barge transportation is utilized, each barge loaded. If the coal delivered hereunder in any single shipment fails to meet any of the specifications set out in Section 9.01 other than sulfur content, PURCHASER shall have each of the following options to be exercised in its sole discretion:

(1) PURCHASER may notify SELLER that PURCHASER will accept such coal subject to and in accordance with the provisions set forth in this Agreement including Appendix A; provided, however, that PURCHASER'S exercise of this option shall in no way constitute a waiver of PURCHASER'S right at any time thereafter to exercise any of the other options set forth herein with respect to subsequent deliveries of coal hereunder; or

(2) PURCHASER will have the option to reject any shipment which exceeds any of the minimum/maximum specifications listed in 9.01, and PURCHASER may notify SELLER to suspend further deliveries of coal hereunder until SELLER demonstrates to PURCHASER'S satisfaction that it can deliver coal that will conform on a per shipment basis to the specifications set forth in Section 9.01; provided, however, that PURCHASER'S exercise of this option shall in no way constitute a waiver of PURCHASER'S right at any time thereafter to exercise any of the other options set forth herein with respect to subsequent deliveries of coal hereunder. If SELLER fails to make the above demonstration to PURCHASER'S reasonable satisfaction within thirty (30) days after notice by PURCHASER, PURCHASER shall have the right to terminate or cancel this Agreement.

**9.03 Sulfur Content Warranty.** SELLER warrants and represents that the average total sulfur content of each shipment shall not contain more than 1.20 LB of sulfur dioxide per million Btu's heat input (the "calculated sulfur limit").

In the event SELLER delivers to PURCHASER any shipment of coal with a total sulfur content in excess of the calculated sulfur limits set forth above, the following shall apply:


(1) If PURCHASER is able to use such coal by blending directly with other coal from the active stockpile so that the blended coal shall not exceed 1.20 LB of sulfur dioxide per million Btu's, PURCHASER shall accept such coal and the price of the coal delivered in such shipment shall be reduced from the invoice price PURCHASER would otherwise have been required to pay for such coal under this Agreement by the amount of PURCHASER'S cost of blending such coal determined by the following adjustment:

Penalty

Sulfur Adjustment =  percent of the F.O.B. Mine Price

1

Premium

SO<sub>2</sub> Adjustment =  per each 0.1 pound of SO<sub>2</sub> / million Btu <1.19 pound of SO<sub>2</sub> / million Btu.

2

Such adjusted price shall become the price for purposes of applying any adjustments provided in Appendix A.

(2) If PURCHASER rejects any shipment under 9.02 or is unable to use such coal under any circumstances because the burning of such coal will cause PURCHASER'S buyer's generating unit or units to have emissions that exceed 1.20 LB of sulfur dioxide per million Btu's of heat input, PURCHASER may reject such shipment without payment and SELLER shall be obligated to pay PURCHASER'S costs involved in transporting such coal from the point of SELLER'S delivery to the PURCHASER'S buyer's unit, the cost of disposing of such rejected shipment of coal and any other reasonable costs of disposition incurred, including PURCHASER'S railcar utilization costs and cost of transportation of such coal from PURCHASER'S buyer's unit to the point of disposition. If PURCHASER rejects a shipment from SELLER under the provisions of this paragraph, PURCHASER and SELLER shall meet promptly thereafter to see what reasonable steps may be taken on the part of both parties to allow this Agreement to continue. If PURCHASER and SELLER fail to reach agreement within thirty (30) days as to what steps can be taken to correct the situation, then PURCHASER shall have the right to terminate this agreement by giving notice of termination to SELLER.

10.01 Force Majeure. As used herein, the term "force majeure" shall mean any event beyond the control and without fault or negligence of the party affected thereby and which, by the exercise of reasonable diligence or the incurring of reasonable expense, such party is unable to prevent or overcome, regardless of whether such event was foreseeable, including, without limitation, act of God, act of public authorities (including courts and commissions of competent jurisdiction), act of the public enemy, insurrection, riot, labor dispute, labor or material shortage,

fire, explosion, flood, breakdown of or damage to plant equipment or facilities (including emergency outages of equipment or facilities to make repairs to avoid breakdowns thereof or damage thereto), faults in coal seams, other geological anomalies beyond what is normally encountered within a respective coal seam, interruption to transportation or transportation delay, river freeze-up, embargo, order or act of civil or military authority, legislative, regulatory, judicial rule or order adopted, amended or newly interpreted subsequent to the date of this Agreement and any other event of a similar or dissimilar nature which wholly or partially prevents the mining, hauling, processing or loading of coal by SELLER or the receiving, transporting, handling, storing, and/or delivering by PURCHASER'S carrier thereof or the accepting, handling, utilizing and/or unloading thereof by PURCHASER or PURCHASER'S intended buyer, PEF.

In the event performance of SELLER'S obligations hereunder or PURCHASER'S obligations hereunder is made impossible, impractical or illegal by reason of force majeure (other than obligations to pay or expend money for or in connection with the performance of the transactions contemplated by this Agreement) and such party promptly gives to each other party hereto written notice of the details thereof, then the obligations of the parties hereto shall be totally excused to the extent made necessary by such force majeure and during its continuance; provided, however, that such party giving such notice shall use its all reasonable efforts to eliminate such force majeure to the extent economically feasible to do so and with a minimum of delay. Any deficiencies in deliveries of coal hereunder as a result of force majeure shall not be made up except at the mutual agreement of PURCHASER and SELLER. In the event force majeure results in a partial reduction in the total quantity of coal SELLER is obligated to deliver hereunder, the quantity of coal SELLER shall be obligated to deliver to PURCHASER hereunder during the continuance of such force majeure shall be limited to the amount of coal required to be delivered during such period but for this section multiplied by a fraction, the denominator of which is the production of the coal property or properties which provided coal sold under this Agreement in the three (3) month period ending just prior to the force majeure, or shorter period if the force majeure occurs within the initial three (3) months of the term of this Agreement immediately prior to

such force majeure and the numerator of which is the production of such coal property or properties during the continuance of such force majeure.

In the event that restrictions are imposed during the term of this Agreement by governmental bodies, agencies, entities, officials or courts which preclude or restrict PEF from burning coal of the specifications hereunder, such restriction shall be deemed to be an event of force majeure under this Agreement unless PURCHASER and SELLER mutually agree that its effect can be avoided in a lawful and reasonable manner, the obligations of the parties hereto shall be totally excused during the continuance of such force majeure.

**11.01 Audit.** SELLER agrees to maintain books, records, documents and other evidences pertaining to the amounts invoiced by SELLER under this Agreement (herein collectively called the "records") to the extent and in such detail as will properly reflect all items of whatever nature for which payment, reimbursement or adjustment in Base Price of coal is claimed under the provisions of this Agreement. Upon the request of PURCHASER, SELLER shall make available at SELLER'S office said records along with related correspondence, receipts, vouchers and memoranda pertaining to amounts invoiced under this Agreement for inspection, audit or reproduction by any authorized representative of PURCHASER. SELLER shall preserve all such records with respect to each shipment of coal for a period of twelve (12) months after final payment for such shipment, during which time PURCHASER shall complete any audit it may desire. The applicable records shall be preserved until audit is completed or, should there otherwise be questions raised regarding such recording, until agreement with regard to same is reached.

**11.02 Mine Access Rights.** SELLER shall at all times carry out its mining operations consistent with obligations to meet the production and delivery schedule as provided herein. Upon prior notification to SELLER, PURCHASER shall have the right from time to time during the term of this Agreement to arrange for geologists, consultants and engineers (PURCHASER'S "agents"), as well as PURCHASER'S own employees, to visit the mine at PURCHASER'S expense and risk, so

long as it does not unreasonably interfere with SELLER'S operations. PURCHASER and its agents shall have access to the mine and to SELLER'S mining plans and reserves used to produce the quantity and quality of coal required by this Agreement.

**12.01 Waiver.** The failure of either party to insist on strict performance of any provisions of this Agreement or to take advantage of any right hereunder shall not be construed as a waiver or relinquishment of such provision or right but the same shall continue and remain in full force and effect.

**13.01 Cure of Default.** Except as otherwise expressly provided in this Agreement, no default of either party to this Agreement in the performance of any of its covenants or obligations hereunder, which, except for this provision, would be the legal basis for cancellation or termination of this Agreement by the other party hereto, shall give or result in such a right unless and until the party committing such default shall fail to correct the default but in no event later than within thirty (30) days after written notice of claim of such default is given to such defaulting party by the other party hereto.

**14.01 Attorney's Fees.** In the event either party should fail to pay to the other any amount due and payable under this Agreement and a party employs an attorney to collect and recover such amounts and obtains a judgment in court or through arbitration in its favor, then the cost of such reasonable attorney's fee shall be and will form a portion of such judgment and shall be included in such judgment.

**15.01 Indemnification.** SELLER shall indemnify, defend and hold PURCHASER harmless from and against any claim, demand, loss, damage or injury caused by or resulting from any act or omission, whether negligent or otherwise, of SELLER. PURCHASER shall indemnify, defend and hold SELLER harmless from and against any claim, demand, loss, damage or injury caused by or



resulting from any act or omission, whether negligent or otherwise, of PURCHASER. However, notwithstanding the above, neither party assumes any responsibility for damage or injury to officers, agents or employees of the other party.

#### **15.02 Default, Remedies and Damages.**

A. Default. An event of default ("Event of Default") with respect to a party (the "Defaulting Party") shall mean any of the following: (i) the failure of Defaulting Party to pay when due any required payment and such failure is not remedied within three (3) business days after written notice thereof (provided the payment is not subject to a good faith dispute, in which event such good faith dispute shall not relieve a party's obligation to timely pay such portion of a payment that is not in dispute); (ii) the failure of the Defaulting Party to comply with its other material obligations under this Agreement, and (b) events that are otherwise specifically covered in this Section 15.02 as a separate Event of Default) and such failure continues uncured for ten (10) business days after written notice thereof, provided that if it shall be impracticable or impossible to remedy such failure within such ten (10) business day period, the cure period shall be extended for an additional period reasonably necessary to remedy such failure subject to the condition that during the additional period, the Defaulting Party shall be diligently pursuing a remedy for the failure; (iii) the Defaulting Party shall be subject to a bankruptcy proceeding under the United States Bankruptcy Code; (iv) any representation or warranty made by a party herein shall prove to be untrue in any material respect when made.

B. Remedies. If an Event of Default occurs with respect to a Defaulting Party at any time during the Term of this Agreement, the other party ("Non-Defaulting Party") may, in its sole discretion, do any or all of the following: (i) by not more than twenty (20) days written notice to the Defaulting Party specifying the relevant Event of Default, establish a date (which date shall not be earlier than the date that such notice is effective) as an early termination date ("Early Termination Date") on which this Agreement will terminate, (ii) withhold any payments due in respect of this terminated Agreement (hereinafter referred to as "Terminated Agreement");

however, the payment arising prior to the event of default shall be completed if the Defaulting Party has already performed under the Agreement (iii) suspend performance under this Agreement, and/or (iv) exercise such other remedies as may be provided in this Agreement.

If an Early Termination Date is established, the Non-Defaulting Party shall in good faith calculate its damages in accordance with the terms of Section 15.02D of this Agreement. Notwithstanding any provision to the contrary contained in this Agreement, the Non-Defaulting Party may withhold any payment otherwise owed to the Defaulting Party hereunder, until the Non-Defaulting Party receives confirmation satisfactory to it in its reasonable discretion that (i) all amounts due and payable as of the Early Termination Date by the Defaulting Party under this Agreement or otherwise with the Non-Defaulting Party have been fully and finally paid, and (ii) all other obligations of any kind whatsoever of the Defaulting Party to make any payments to the Non-Defaulting Party under this Agreement or otherwise which are due and payable as of the Early Termination Date have been fully and finally performed.

NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, WHETHER BASED ON BREACH OF CONTRACT, NEGLIGENCE OR OTHER LEGAL THEORY. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURE OF DAMAGES PROVIDED IN THIS SECTION 15.02 SATISFY THE ESSENTIAL PURPOSES HEREOF AND ARE THE EXCLUSIVE REMEDY FOR DEFAULT BY A PARTY. ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

C. Damages. Unless excused by Force Majeure or the PURCHASER'S failure to perform, if the SELLER fails to deliver all or part of the quantity of coal to be delivered hereunder, the SELLER shall pay the PURCHASER for each ton of such deficiency (the "Deficiency") an amount equal to the positive difference, if any, obtained by subtracting the Base Price for the Deficiency from the Replacement Price. "Replacement Price" means the price at which the PURCHASER, acting in a commercially reasonable manner, purchases substitute



coal for the Deficiency or, absent such a purchase, the market price for such quantity of coal f.o.b. the Delivery Point or Alternate Delivery Point as the case may be, as determined by the PURCHASER in a commercially reasonable manner. It is expressly agreed that the PURCHASER shall not be required to enter into a replacement purchase and sale of coal in order to determine Replacement Price.

Unless excused by Force Majeure or the SELLER'S failure to perform, if the PURCHASER fails to accept all or any part of the quantity of coal to be delivered hereunder, the PURCHASER shall pay the SELLER for each ton of the Deficiency an amount equal to the positive difference, if any, obtained by subtracting the Sales Price from the Base Price. "Sales Price" means the price at which the SELLER, acting in a commercially reasonable manner, resells (if at all) the Deficiency or, absent such a sale, the market price for such quantity of coal f.o.b. the Delivery Point or Alternate Delivery Point as the case may be, as determined by the SELLER in a commercially reasonable manner. It is expressly agreed that the SELLER shall not be required to enter into a replacement purchase and sale of coal in order to determine the Sales Price. Each party hereby stipulates that the payment obligations set forth in this Section 15.02 are reasonable in light of the anticipated harm and the difficulty of estimation or calculation of actual damages and each party hereby waives the right to contest such payments as an unreasonable penalty or otherwise. The remedy set forth in this Section 15.02 shall be the sole and exclusive remedy of the aggrieved party for the failure of the other to deliver or accept, as the case may be, the quantity of coal specified herein, and all other damages and remedies are hereby waived as to such failure(s).

**16.01 NO WARRANTIES.** SELLER MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, CONCERNING THE SUITABILITY OF COAL DELIVERED HEREUNDER FOR USE IN PURCHASER'S FACILITIES INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

17.01 Independent Contractor. The parties recognize and agree that SELLER is not an agent or employee of PURCHASER but is independent of any managerial or other control or direction by PURCHASER in its work hereunder and is free to perform, by such means and in such manner as SELLER may choose, all work in pursuance of commitments hereunder.

18.01 Binding Effect. This Agreement shall bind and inure to the benefit of the parties and their successors and assigns under Section 5.03 hereof. This Agreement shall not create any rights or remedies in any entity not a part hereto.

19.01 Assignments. Neither party may assign nor transfer this Agreement nor any rights nor obligations hereunder without the prior written consent of the other party hereto which consent shall not be unreasonably withheld; provided, however, SELLER or PURCHASER may assign this Agreement to any parent, subsidiary or affiliate or assign this Agreement for financing purposes without consent of the other party providing satisfactory guarantees are provided.

20.01 Partial Dispute. Should any bona fide dispute involving the price of coal hereunder extend only to a portion of any amount claimed due hereunder, the undisputed portion shall be paid as and when due. Should it later be determined that additional payments are due from PURCHASER to SELLER, such amount shall be paid together with interest from the date payment was due as provided herein at the prime rate for preferred customers on loans not to exceed thirty (30) days as from time to time quoted by the Morgan Guaranty Trust Company of New York, New York, during pendency of the dispute.

21.01 Captions. The captions to sections hereof are for convenience only and shall not be considered in construing the intent of the parties.

**22.01 Applicable Law and Venue.** All questions relating to execution, construction, performance, termination or breach of this Agreement shall be resolved under the laws of the State of Delaware without regard to the choice of law provisions thereof. In the event of any lawsuit filed hereunder, the parties hereto authorize venue in New York City, New York, and/or the federal court district encompassing said city.

**23.01 Conflict of Interest Policy.** PURCHASER has adopted a conflict of interest policy, applicable to all its full-time employees, and intended to ensure that all business activities of PURCHASER will be conducted in a manner so as to avoid any conflict of interest or appearance of a conflict.

SELLER and PURCHASER agree to conduct their activities in support of said conflict of interest policy, specifically as follows:

(a) Either shall promptly disclose to the other the existence of any material financial interest held in the other, at any time during the term of this Agreement, by any employee or member of an Employee's immediate family. The holding of publicly traded securities in the other need not be disclosed unless the employee is directly or indirectly involved in dealing with the other.

(b) Either shall not accept on its own behalf the service or employment in any capacity (such as director, officer, employee, representative or consultant) of any of the other's employee, unless such service or employment is specifically authorized by the President or Board of Directors of the other.

(c) Either shall not offer to any of the other's employee or member of an employee's immediate family any gifts of more than token value, special preference loans, lavish entertainment or other substantial favors.

**24.01 Entire Agreement.** This instrument contains the entire agreement between the parties and there are no representations, understandings or agreements, oral or written, which are

not included herein. This Agreement cannot be changed except by duly authorized representatives of both parties in writing. It is understood that PURCHASER or SELLER from time to time in the administration of this Agreement may issue and transmit each to the other documents designated as "Purchase Orders" and "Change Orders;" these documents serve instructional or accounting functions only and are not amendments to or constructions of this Agreement.

**25.01 Confidentiality.** Each party hereto recognizes that this Agreement contains confidential commercial information, the public disclosure of all or any part of which could be damaging to the parties hereto. Accordingly, each party hereto agrees not to disclose any of the terms or provisions of this Agreement to any person or persons not a part hereto, except for affiliated entities of the parties hereto, without the prior consent in writing thereto of the other party hereto, which consent shall not be unreasonably withheld, except to the extent such party is legally compelled to make such disclosure pursuant to applicable law or to the extent such disclosure is reasonably necessary in connection with any regulatory, administrative or other legal proceeding in which such party, or any such affiliated corporation or unincorporated division, is involved. When disclosure is made within the terms of the above mentioned exceptions, such disclosure shall be made only to the extent reasonably necessary. It is further understood and agreed that whenever any such information is disclosed by any party hereto in accordance with the above mentioned exceptions, such party will advise each person to whom disclosure is made of the confidential nature of the information disclosed and, except for routine regulatory reporting by PURCHASER, provide written notice of such disclosure, in advance thereof, if possible, to the other party to this Agreement.

**26.01 Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their authorized officers, all as of the date and year first above written.

WITNESS:

Roberta A. Ott  
Mary J. Kuderath

WITNESS:

Kelly Butt

PROGRESS FUELS CORPORATION

BY:

[Signature] Vice President - Coal Procurement

Date Executed: 8/9/04

MASSEY UTILITY SALES COMPANY

BY:

[Signature] Senior Vice President

Date Executed: 8/10/04

## EXHIBIT A

### Approved Locations

Approved Sources – CSX Rail Direct or F.O.B. Barge

RR	Resource Group	Railroad Mine Name	Railroad Mine Number	Railroad Shipping Point	Batch Weigh	Type Loadout	OPSL Number	Railroad Freight District	County
CSXT	Bandmill Coal Corp.	MacBeth	82733	Hutchinson, W.V.	Y	4	CSXT-65810	Logan	Logan
		Crystal River	82231	Sylvester, W.V.	Y	4	CSXT-64837	Kanawha	Boone
CSXT	Endurance	Ashley Kay	81993	Ashley Kay, W.V.	N	4	CSXT-65115	Kanawha	Logan
CSXT	Feats			Feats, W.V.	N	4	CSXT-65615	Kanawha	Logan
CSXT	Omar Mining Co.	Chesterfield	82034	Holbrook, W.V.	N	4	CSXT-65220	Kanawha	Boone
CSXT	Stirrat Coal Co.	Stirrat	82693	Stirrat, W.V.			CSXT-65610	Logan	Logan

Approved Sources –F.O.B. Barge Only

NS	Long Fork Coal Co.	Long Fork	0596	Gund, KY	Y	4	NS-6254	Kenova	Pike
NS	Sidney Coal Co.	Sidney	0816	Sidney, KY	N	4	NS-6253	Kenova	Pike
NS	Delbarton Mining Co.	Polly Siding	0686	Delbarton, WV	Y	4	NS-6310	Kenova	Mingo

## APPENDIX A

### Adjustments for Calorific Value

Base price is based upon Subject Coal having weighted average calorific value of 12,100 Btu's per pound avoirdupois ("Pound"), "as received" at the point of weighing referred to in Section 8.01. The Delivered Price shall be subject to adjustment each month in accordance with the following provisions in order to compensate for variations in the calorific value of the Coal delivered during that month, with the result of such adjustment being taken into account in determining the price to be paid for the Coal received during that month. Price adjustments shall be calculated on a per-shipment basis and totaled for the month.

1. The variation of any given month shall be ascertained by comparing the per shipment calorific value of the Coal delivered and accepted that month with the calorific value of 12,100 Btu's per Pound.
2. If the calorific value in any shipment is greater than or less than 12,100 Btu's per Pound, the adjustment to be made therefor shall be computed on the basis of the following formula:

$$(\text{Actual Btu's Per Pound} - \text{Guaranteed Btu's Per Pound}) \div \text{Guaranteed Btu's Per Pound} \times \text{Delivered Price} = \text{Cents Per Ton (FOB Mine) (Premium if positive—penalty if negative.)}$$

Shipments that do not meet one or more contract minimum or maximum specifications will be excluded from premium calculations.

### Adjustments for Ash Content

Base price is based upon Subject Coal having weighted average ash content of twelve percent (12%) maximum "as received" at the point of weighing referred to in Section 2.01. The Base Price shall be subject to the following deductions:

ASH CONTENT	PENALTY
>13%	of the Base Price per 1% ash to the nearest 0.1%

ASH CONTENT	PREMIUM
<11.0%	per 1.0% to then nearest 0.1%

## APPENDIX B

### Railroad, Railcar and River Barge Demurrage/Detention Costs

#### A. RAILROAD CHARGES:

1. Detention: As published in Tariff ICC CSXT-8200-Series as in existence on the effective date of this Agreement.
2. Dead Freight: Actual railroad charges unless railcars loaded to 95 percent capacity (non-batch weigh) or 98 percent from batch weigh.
3. Crew Change: [REDACTED] per change, as in existence on the effective date of the Agreement.

#### B. RIVER BARGE DEMURRAGE CHARGES:

Seller will not be responsible for any river barge demurrage.





XC: AWP  
RFP  
FHL  
MSK  
CAL  
THM  
VHM  
DHD  
ABF

November 17, 2004

THIS TO CF

Sent Via UPS Next Day Air

Mr. Joseph B. Jefferson  
Progress Fuels Corporation  
100 Main Street & River Front  
Ceredo, West Virginia 25507

Dear Mr. Jefferson:

Enclosed are two originals of the *Agreement for the Sale and Purchase of Coal between Progress Fuels Corporation and Progress Fuels Corporation, on its own behalf and as agent for Diamond May Coal Company; Kanawha River Terminals, Inc.; Kentucky May Coal Company, Inc.; and Powell Mountain Coal Company, Inc.*, which I have executed on behalf of Progress Fuels Corporation. Please have the appropriate individual sign both originals on behalf of Progress Fuels Corporation, on its own behalf and as agent for Diamond May Coal Company; Kanawha River Terminals, Inc.; Kentucky May Coal Company, Inc.; and Powell Mountain Coal Company, Inc., and return one original to me for our files.

We thank you for your cooperation in finalizing this agreement and look forward to working with you under this contract.

Sincerely,

A handwritten signature in black ink, appearing to be "A. W. Pitcher".

A. W. Pitcher  
Vice President—Coal Procurement

AWP/ro

Enclosures

Progress Fuels Corporation  
200 Central Avenue  
St. Petersburg, FL 33701

**AGREEMENT FOR  
THE SALE AND PURCHASE OF COAL  
BETWEEN**

**PROGRESS FUELS CORPORATION**

**AND**

**PROGRESS FUELS CORPORATION,  
on its own behalf and as agent for  
Diamond May Coal Company;  
Kanawha River Terminals, Inc.;  
Kentucky May Coal Company, Inc.; and  
Powell Mountain Coal Company, Inc.**

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[illegible]

# **AGREEMENT FOR THE SALE AND PURCHASE OF COAL**

This AGREEMENT (hereinafter the "Agreement") is made and entered into as of the 17th day of November 2004, between PROGRESS FUELS CORPORATION, a Florida corporation, 200 Central Avenue, One Progress Plaza, St. Petersburg, Florida, 33701 (hereinafter "PURCHASER") and PROGRESS FUELS CORPORATION on its own behalf and as agent for DIAMOND MAY COAL COMPANY; KANWAHA RIVER TERMINALS, INC.; KENTUCKY MAY COAL COMPANY, INC; and POWELL MOUNTAIN COAL COMPANY, INC. (hereinafter collectively "SELLER") located at 410 S. Wilmington Street, Raleigh, NC 27601,

WHEREAS, PURCHASER does supply coal to Progress Energy Florida, Inc., a Florida corporation (hereinafter "PEF"), under a purchase and sale agreement for use as fuel at PEF's Crystal River Units No. 4 and No.5 near Red Level, Citrus County, Florida (hereinafter "PEF's generating units"); and

WHEREAS, PURCHASER desires to purchase and receive and SELLER desires to sell and deliver coal for use as fuel in PEF's generating units;

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties hereto as herein stated and intending to be legally bound hereby, PURCHASER and SELLER agree as follows:

1.01 Mutual Obligations. SELLER agrees to sell and deliver to PURCHASER, and PURCHASER agrees to buy and receive from SELLER, coal of the quality and in the quantities and on the terms and conditions, set forth below.

2.01 SELLER'S Reserves and Preparations for Selling Coal. SELLER represents and warrants that DIAMOND MAY COAL COMPANY ("Diamond May") owns or leases the mine or mines that is the source of the coal that is to be purchased and sold hereunder (hereinafter the "Coal Property") unless an alternate source is approved as contemplated in the last sentence of this paragraph. SELLER further represents and warrants that the Coal Property contains economically recoverable coal of a quality and in quantities which, under present mining laws, practices, governmental rules and regulations in effect as of the effective date of this Agreement will be sufficient to satisfy all the requirements of this Agreement during the entire term of this Agreement.

SELLER agrees and warrants that it will

provide loading facilities capable of loading at the rate required to meet Seller's delivery requirements pursuant to this Agreement. SELLER hereby expressly dedicates to PURCHASER sufficient reserves of coal lying on or in the Coal Property that meets the quality specifications hereof in an amount sufficient to meet Seller's contractual obligations pursuant to this Agreement. SELLER shall not ship any coal hereunder mined from any source other than the Coal Property without the prior written approval of PURCHASER.

3.01 Quantity and Source. During each calendar year during the term hereof, the quantity of coal to be delivered hereunder shall be 360,000 tons, prorated for any partial calendar year.

**4.01 Term.** The term of this Agreement will commence on January 1, 2005, and will continue in effect for a period of twenty-four (24) months, ending on December 31, 2006, inclusive.

**5.01 Base Price.** The base price per ton of coal, f.o.b. SELLER'S mine loading site, (hereinafter "base price") shall be fixed at [REDACTED] for the calendar years 2005 and 2006, adjusted monthly for the quality of coal in accordance with the formula and procedures set out in Appendix A hereto, during the term of this Agreement.

**6.01 Billing and Payment.** SELLER shall invoice PURCHASER monthly for the coal delivered to PURCHASER during the preceding month at the base price as shown in Section 5.01 hereof. Each invoice shall be paid by PURCHASER within twenty (20) days of the date of the invoice or fifteen (15) days from receipt of the invoice, whichever is later. Adjustments under Appendix A shall be separately stated and if not calculated in time for preparation of the monthly invoice may be stated as a retroactive adjustment on the monthly invoice next following the calculation date. A statement showing the basis for the adjustment shall accompany said invoice.

**7.01 Delivery and Title.** Delivery shall commence during January 2005. Time is of the essence. Delivery will be at PURCHASER'S option as provided in Section 7.02, in railroad cars or trucks f.o.b. the Coal Property and will be so scheduled as to permit loading in unit-train lots in accordance with the terms of the applicable contract or tariff (as defined hereinafter). PURCHASER represents that it will supply transportation equipment as required for delivery. Delivery shall be in approximately equal monthly installments wherever possible; however, PURCHASER retains the right to, with reasonable notification to SELLER, alter monthly shipping schedules on a reasonable basis to meet monthly burn requirements at PEF's Generating Units and to conform to PURCHASER'S unit train and river barge tonnage requirements. Title to the

coal and risk of loss thereof shall transfer to PURCHASER at the time the trains or trucks are completely loaded and have been released by SELLER.

**7.02 Shipment; Applicable Contract or Tariff.** It is currently contemplated that coal sold hereunder will be shipped by rail from SELLER'S unit train loading facilities at Yellow Creek Tipple to destinations specified by PURCHASER. Notwithstanding the foregoing, PURCHASER shall have the option to ship the coal by truck or rail to river docks for movement on the American inland waterway system. Coal for shipment by river from a single origin shall be scheduled in shipments to meet PURCHASER'S river barge requirements, not to exceed 22,500 tons for loading into fifteen (15) barge unit tows.

Unless waived in writing by PURCHASER (as may be done in the case of river shipments), SELLER will provide, at its own expense, off-mainline rail trackage sufficient for efficient and dependable loading of unit trains at or near the mine loading site or at another mutually acceptable location in accordance with schedules mutually agreed upon by PURCHASER AND SELLER. SELLER shall operate such loading facilities twenty-four (24) hours per day, seven (7) days per week, if and as needed, regardless of mine holidays or vacation periods, and shall fully load unit trains comprised of approximately ninety (90) one-hundred (100) ton cars within four (4) hours of their arrival (minimum weight 9,600 tons per 90-car unit train or 107.0 minimum tons per car) at such loading facilities or in accordance with the applicable contract or tariff for shipments hereunder. SELLER shall load each car at least to the minimum tonnage requirements of the railroad as defined in the CSXT-8200 Series Tariff in effect at the time shipments are made. "Arrival" shall be deemed to have occurred when the SELLER is notified by the CSX trainmaster that a train is available for loading and, actually placed at the Yellow Creek Loadout, with a sufficient power supply and a crew to assist in the standard loading operations. Requests by the SELLER to the CSX to "hold" trains will not allow SELLER to avoid charges referenced in Appendix B.



In no event shall SELLER load a car in excess of the maximum weight limitation per car as currently allowed by the railroad over the route of movement. If a car is found to be loaded in excess of the maximum weight limitation, the provision and charges published in Section 3, Item 3000, Tariff ICC CSXT-8200-Series, including supplements thereto or reissues thereof, will apply; and SELLER shall be responsible for such charges.

Shipment of coal under this Agreement (other than by truck) shall be made in accordance with the contract which PURCHASER has negotiated with the railroad or in the absence thereof the applicable tariff (herein called the "applicable contract or tariff"); provided that such terms and conditions are made known to SELLER. SELLER agrees to load unit trains in a manner and at an effective rate sufficient to load the quantities of coal scheduled for delivery under this Agreement and sufficient to qualify PURCHASER for the applicable contract or tariff without demurrage, car detention, dead freight or other penalties or charges; provided, however, that PURCHASER provides transportation equipment on a regularly scheduled basis sufficient to enable SELLER to fulfill the terms of this Agreement. SELLER agrees and warrants that no agreement of SELLER providing for the joint use of surface facilities will interfere with or impair SELLER'S obligations as set forth in this Agreement. The provisions of Sections 7.04 and 7.05 of this Agreement shall not be deemed to limit or modify any of SELLER'S obligations or PURCHASER'S rights hereunder.

If the applicable contract or tariff is amended, supplemented or replaced, subsequent shipments of coal shall be made by SELLER in accordance with the terms of the applicable contract or tariff as amended, supplemented or replaced; provided that such terms are made known to SELLER. Notwithstanding anything in this Agreement to the contrary, if the applicable contract or tariff as amended, supplemented or replaced imposes more costly car-loading terms, conditions or duties on SELLER than those specifically assumed by SELLER under this Agreement, PURCHASER either shall pay SELLER, as a direct result of the imposition of such additional costly car-loading terms, conditions or duties on SELLER, reasonable additional per ton charges or, at PURCHASER'S sole discretion, may terminate the Agreement. Payments shall

begin within thirty (30) days after receipt from SELLER of a written statement itemizing such costs (which may include SELLER'S additional costs for labor, materials, amortization of capital items or a combination of these) and showing facts necessary to permit PURCHASER to verify such costs.

**7.03 Freight Charges.** Subject to reimbursement provided by Sections 7.04 and 7.05, PURCHASER shall pay all freight and other charges imposed by the applicable tariff.

**7.04 Excess Loading Costs Chargeable to SELLER.** If SELLER fails to satisfy the loading requirements of the applicable tariff and such failure is not excused pursuant to force majeure as provided in Section 10.01 hereof, by PURCHASER's failure to perform or the applicable tariff, SELLER shall pay PURCHASER or railroad any resulting car detention penalties, demurrage, crew charges or charges for cars not timely loaded to marked capacity which PURCHASER is required to pay under the applicable tariff. In addition, SELLER shall pay PURCHASER reasonable lost railcar utilization charges for failure to timely and fully load and/or time lost to unload overloaded railcars of PURCHASER; provided that such failure is not due to force majeure or by PURCHASER'S failure to perform. Examples of these charges are listed in Appendix B.

**7.05 Excess Freight Costs Chargeable to SELLER.** If SELLER fails to have available sufficient coal to satisfy the quantity requirements of Section 3.01 on the regularly scheduled basis referred to in Section 7.01 and thereby fails to satisfy the tonnage requirements of the applicable contract or tariff (dead freight, volume incentive threshold, annual volume guarantee) and such failure is not excused pursuant to force majeure as provided in Section 11.01 hereof, SELLER shall pay PURCHASER any resulting freight charges which PURCHASER is required by such contract or tariff to pay in excess of the amount of such charges that would have been payable with respect to the coal actually shipped had tonnage requirements been met. In the event locomotives and

train crew are released without a unit train of loaded cars being released to the railroad, and such failure is not excused pursuant to force majeure as provided in Section 11.01 hereof, detention charges, which include charges for locomotives, if any, will cease at the time of notification of such release. When a train crew and locomotives are again required by SELLER for service, and such failure is not excused pursuant to force majeure as provided in Section 11.01 hereof, a charge of [REDACTED] as adjusted by the railroad, will be assessed by the railroad and paid by SELLER and the detention and free time provisions will again be applicable upon the arrival of locomotives and crew at the mine loading site. /

**7.06 Payment of Excess Costs to PURCHASER.** Any payments required by Sections 7.04 and 7.05 above shall be promptly paid on receipt by SELLER of a written statement from PURCHASER itemizing such charges and showing facts necessary to permit SELLER to verify such charges. At either party's election, such charges may be credited against amounts then owed by PURCHASER to SELLER hereunder.

**7.07 Freeze Proofing.** When required by the river transfer terminal, a PURCHASER approved freeze proofing material will be applied by SELLER at the rate of two (2) pints per ton at a cost of [REDACTED] per ton to PURCHASER. Freeze proofing will not be required on direct rail shipments. 2

**8.01 Weighing.** The net weight of coal sold and delivered hereunder shall be determined by SELLER'S certified scales (if available) at origin for unit train shipments or, if the origin scales are inoperable or are not certified, PURCHASER may, at its sole discretion, order weighing by the carrying railroad over certified scales or may use the average of the net weights of the five (5) prior unit trains. Notwithstanding the above, at PURCHASER'S option, weight may be determined by certified scale at discharge point.

#### **8.02 Sampling and Analysis.**

The SELLER shall perform or cause to be performed bias/performance tests on mechanical sampling systems at two-year intervals. PURCHASER shall be furnished bias test reports performed within two (2) years of commencement of shipments. PURCHASER has the right to perform or cause to be performed bias/performance tests at any time during the period that this Agreement is in effect at PURCHASER'S cost.

A. **Sampling.** Sampling of coal subject to this Agreement shall be performed on each shipment with a mechanical sampling system by a third party employed by PURCHASER at the mine or at PEF's Crystal River power plant in conformance with the specifications of ASTM Standards, except for deviations agreed to in writing by PURCHASER and SELLER. In case of any failure of the mechanical sampler, trainloads may be hand-sampled in accordance with ASTM 4915 or by other mutually agreed to method. The cost of sampling coals shall be for the account of PURCHASER.

A minimum of four sub-samples shall be divided from the shipment sample according to ASTM Standard D 2013. The fourth sub-sample shall be placed in a suitable container and sent to SELLER. The third sub-sample shall be placed in a suitable container and saved for PURCHASER'S disposition only. The second sub-sample shall be placed in a suitable container and retained for thirty (30) days as a check sample. The first sub-sample, which is called the laboratory sample, shall be used for analyses as specified in the following paragraphs. Appropriate additional splits shall be retained for additional tests as needed.

B. **Air Drying.** The laboratory sample shall be air-dried according to ASTM Standards D 2013 and D 3302, except that modified procedures may be employed by mutual agreement. The air-dried sample shall then be prepared for further analyses.

C. **Analyses to be Made.** The analyses to be made according to methods described in the current applicable ASTM standards are as follows:

Moisture, in weight percentage  
Ash Content, in weight percentage  
Calorific Value, in Btu's per pound  
Sulfur, in weight percentage  
Volatile, in weight percentage  
Grindability, in Hardgrove Index units  
Ash Fusion, in degrees Fahrenheit  
Pyritic Sulfur, in weight percentage  
Screen Analysis, in weight percentage (separate sampling required)

D. **Acceptance of Results.** The results of the third party sampling and analysis of the laboratory sample shall be accepted as the quality and characteristics of the coal delivered hereunder in the trainloads represented by such samples and the same shall be accepted as the monthly analysis for the trainloads delivered during such month; provided, however, that if either party, within thirty (30) days, questions the correctness of the original analysis made on the laboratory sample, it shall have the right to have the check sample analyzed by a commercial testing laboratory mutually selected by SELLER and PURCHASER and said laboratory shall use methods approved by ASTM or other mutually acceptable procedures. The results obtained on the check sample will be accepted as the quality and characteristics of the lot of coal involved. The party questioning the correctness of the original analyses shall pay the cost of such analyses. The price for the coal represented by such samples shall be adjusted in accordance with the provisions of this Agreement and any amounts due shall be paid in accordance with Section 6.01 hereof.

PURCHASER and SELLER shall have the right to have a representative present at any and all times to observe said sampling and analyses and to take a reasonable number of samples.

8.03 **Quality Reports.** Notice of the quality of coal delivered hereunder shall be given to PURCHASER and SELLER as soon as practical following the loading of coal at origin.

9.01 **Coal Specifications.** Coal delivered hereunder shall be a homogenous coal, crushed to two inches (2") by zero inches (0") in size. The coal shall be prepared so as to be free from

excess quantities of bone, slate, shale, fire clay, wood, metal, rock, loose clay, and other mine impurities as determined by PURCHASER and shall have a temperature below 131° Fahrenheit, and shall have the following specifications per shipment on an "as-received" basis:

<b>SPECIFICATION</b>	<b>TYPICAL</b>	<b>REJECT</b>
Moisture (Total)	6.5%	>8.0%
Ash	12.0%	>12.0%
Sulfur Dioxide	<1.2 LB/SO <sub>2</sub> per Million Btu	>1.2LB/SO <sub>2</sub> per Million Btu
Pyritic Sulfur	.10%	>.2%
Volatile	35.0%	<32.0%
Ash Fusion - Softening (H=W), Reducing	2700°F	<2700°F
Grindability	43 HGI	<43 HGI
Calorific Value	12,500 Btu/LB	<12,500 Btu/LB
Fines (-1/4")	40%	>40%

All shipments shall be free of metal. SELLER shall provide magnets and metal detectors or other suitable equipment as required to satisfy this requirement. Inclusion of metal in coal shipments shall be grounds for rejection of such shipment. Inclusion of metal in any two (2) out of four (4) consecutive shipments or any three (3) shipments in a six (6) month period shall constitute an Event of Default hereunder.

**9.02 Coal Specifications Deficiencies.** For purposes of this Agreement, a "shipment" shall mean the quantity actually received in any unit train load or, in the event barge transportation is utilized, each barge loaded. If the coal delivered hereunder in any single shipment fails to meet any of the specifications set out in Section 9.01 other than sulfur content, PURCHASER shall have each of the following options to be exercised in its sole discretion:

(1) PURCHASER may notify SELLER that PURCHASER will accept such coal subject to and in accordance with the provisions set forth in this Agreement including Appendix A; provided, however, that PURCHASER'S exercise of this option shall in no way constitute a waiver

of PURCHASER'S right at any time thereafter to exercise any of the other options set forth herein with respect to subsequent deliveries of coal hereunder; or

(2) PURCHASER will have the option to reject any shipment which is above or below, as applicable, any of the minimum/maximum "reject" specifications listed in Section 9.01. If any two (2) out of four (4) consecutive shipments or any three (3) shipments in a six (6) month period are above or below, as applicable the minimum/maximum specifications listed in Section 9.01, PURCHASER may notify SELLER in writing to suspend further deliveries of coal hereunder until SELLER demonstrates to PURCHASER'S satisfaction that it can deliver coal that will conform on a per shipment basis to the specifications set forth in Section 9.01; provided, however, that PURCHASER'S exercise of this option shall in no way constitute a waiver of PURCHASER'S right at any time thereafter to exercise any of the other options set forth herein with respect to subsequent deliveries of coal hereunder. If SELLER fails to make the above demonstration to PURCHASER'S satisfaction within thirty (30) days after notice by PURCHASER, it shall constitute an Event of Default hereunder and

(3) No premiums shall be paid on coals that fail to meet any of Section 9.01 reject specifications if the coal is rejected by Buyer, premiums will, however, be included as part of the monthly average computation and will be paid on all coal accepted by Buyer, excluding the cost of any agreed or contractually assessed penalty that may apply.

**9.03 Sulfur Content Warranty.** SELLER warrants and represents that the average total sulfur content of each shipment shall not contain more than 1.20 LB of sulfur dioxide per million Btu's heat input (the "calculated sulfur limit") and not more than .2 percent pyritic sulfur.

In the event SELLER delivers to PURCHASER any shipment of coal with a total sulfur content or a pyritic sulfur content in excess of the calculated sulfur limits set forth above, the following shall apply:

(1) If PURCHASER is able to use such coal by blending directly with other coal from the active stockpile so that the blended coal shall not exceed 1.20 LB of sulfur dioxide per million Btu's or .2 percent pyritic sulfur, PURCHASER shall accept such coal and the price of the coal delivered in such shipment shall be reduced from the invoice price PURCHASER would otherwise have been required to pay for such coal under this Agreement by the amount of PURCHASER'S cost of blending such coal determined by the following adjustment:

Sulfur Adjustment = ● percent (I)

Where:

I - Invoice price which would apply excluding the sulfur adjustment.

Such adjusted price shall become the price for purposes of applying any adjustments provided in Appendix A. No premiums shall be paid for shipments that fail to meet Section 9.01 sulfur specifications.

(2) If PURCHASER rejects any shipment under Sections 9.01 or 9.02 hereof or is unable to use such coal under any circumstances because the burning of such coal will cause PURCHASER'S buyer's generating unit or units to have emissions that exceed 1.20 LB of sulfur dioxide per million Btu's of heat input, PURCHASER may reject such shipment without payment and SELLER shall be obligated to pay PURCHASER'S costs involved in transporting such coal from the point of SELLER'S delivery to the PURCHASER'S buyer's unit. Title to and risk of loss to the coal shall immediately revert back to SELLER and PURCHASER shall redirect the shipment to an alternate destination as instructed by SELLER. SELLER shall reimburse PURCHASER for any costs incurred by PURCHASER in redirecting such shipment including PURCHASER'S railcar utilization costs and cost of transportation of such coal from PURCHASER'S buyer's unit to the point of disposition. If PURCHASER rejects a shipment from SELLER under the provisions of this paragraph, PURCHASER and SELLER shall meet promptly thereafter to see what reasonable steps may be taken on the part of either or both parties to prevent further rejected shipments. If



PURCHASER and SELLER fail to reach agreement within thirty (30) days as to what steps can be taken to correct the situation, then PURCHASER shall have the right to terminate this agreement by giving written notice of termination to SELLER . Upon such termination PURCHASER shall be entitled to the remedies set forth in Section 14.01 hereof.

SELLER shall be permitted to have a representative present to observe tests conducted by PURCHASER'S buyer of burning in PURCHASER'S buyer's facilities, and to observe sampling, analysis and tests conducted to determine the content of flue gases resulting from the burning of such coal. PURCHASER shall also make available to SELLER at reasonable times the results of such tests and analysis, as well as charts and other information resulting from the monitoring of stack gas emissions.

**10.01 Force Majeure.** As used herein, the term "force majeure" shall mean any event beyond the control and without fault or negligence of the party affected thereby and which, by the exercise of reasonable diligence or the incurring of reasonable expense, such party is unable to prevent or overcome, regardless of whether such event was foreseeable, including, without limitation, act of God, act of public authorities (including courts and commissions of competent jurisdiction), act of the public enemy, acts of terrorists, insurrection, riot, labor dispute, labor or material shortage, fire, explosion, flood, breakdown of or damage to plant equipment or facilities (including emergency outages of equipment or facilities to make repairs to avoid breakdowns thereof or damage thereto), interruption to transportation or transportation delay, river freeze-up, embargo, order or act of civil or military authority, legislative, regulatory, judicial rule or order adopted, amended or newly interpreted subsequent to the date of this Agreement and any other event of a similar or dissimilar nature which wholly or partially prevents the mining, hauling, processing or loading of coal by SELLER or the receiving, transporting, handling, storing, and/or delivering by PURCHASER'S carrier thereof or the accepting, handling, utilizing and/or unloading thereof by PURCHASER or PURCHASER'S intended buyer, PEF

In the event performance of SELLER'S obligations hereunder or PURCHASER'S obligations hereunder is made impossible, impractical or illegal by reason of force majeure (other than obligations to pay or expend money for or in connection with the performance of the transactions contemplated by this Agreement) and such party promptly gives to each other party hereto of the details thereof, which notice may initially be given orally but shall be followed up in writing as soon as reasonably practicable thereafter, then the obligations of the parties hereto shall be totally excused to the extent made necessary by such force majeure and during its continuance; provided, however, that such party giving such notice shall use its best efforts to eliminate such force majeure to the extent economically feasible to do so and with a minimum of delay. Any deficiencies in deliveries of coal hereunder as a result of force majeure shall not be made up except at the sole discretion of the PURCHASER. In the event force majeure results in a partial reduction in the total quantity of coal SELLER is obligated to deliver hereunder, SELLER shall prorate its sales obligations between this Agreement and any other agreements in effect as of the date of the occurrence of such force majeure regarding coal from the Coal Property that requires substantially similar quality specifications as the coal hereunder so that PURCHASER receives its pro-rata share of the coal that is available from the Coal Property that meets the quality specifications hereunder during the continuance of such force majeure. In the event force majeure results in a partial reduction in the total quantity of coal PURCHASER is obligated to receive hereunder, PURCHASER shall prorate its purchase obligations between this Agreement and any other agreements in effect as of the date of the occurrence of such force majeure involving coal of substantially similar quality specifications as the coal hereunder such that PURCHASER is purchasing a pro rata share of coal from SELLER during the continuation of such force majeure.

In the event that restrictions are imposed during the term of this Agreement by governmental bodies, agencies, entities, officials or courts which preclude or restrict PEF from burning coal of the specifications hereunder, such restriction shall be deemed to be an event of force majeure under this Agreement unless its effect can be avoided in a lawful manner and will

not, in PEF's sole judgment, result in unreasonable expense to PEF, the obligations of the parties hereto shall be totally excused during the continuance of such force majeure.

**11.01 Audit.** For a period of two (2) years following receipt by any party of any invoice, statement or calculation hereunder, such party and its representatives shall have the right at its sole expense and upon reasonable advance notice to the other party and during such other party's normal working hours, to examine the records of the other party, but only to the extent reasonably necessary to verify the accuracy of any invoice, statement, or calculation made pursuant to this Agreement. If requested, a party shall provide to the requesting party statements evidencing the quantities of coal delivered or received at the delivery point. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statements and the payments thereof will be promptly made and shall bear interest calculated at the prime rate of interest (set forth in the Wall Street Journal under the heading "Money Rates") plus 2 % from and including the date the overpayment or underpayment was made until but excluding the date the underpayment or overpayment is remedied; provided, however, that no adjustment for any statement or payment will be made unless objection to the accuracy thereof was made in writing prior to the lapse of such two (2) year period.

**11.02 Mine Access Rights.** SELLER shall at all times carry out its operations consistent with obligations to meet the production and delivery schedule as provided herein. PURCHASER shall have the right from time to time during the term of this Agreement to arrange for geologists, consultants and engineers (PURCHASER'S "agents"), as well as PURCHASER'S own employees, to visit the mine at PURCHASER'S expense and risk, so long as it does not interfere with SELLER'S operations. PURCHASER and its agents shall have reasonable access to the mine and to reasonable data related to SELLER'S mining plans and reserves used to produce the quantity and quality of coal required by this Agreement.

12.01 Waiver. The failure of either party to insist on strict performance of any provisions of this Agreement or to take advantage of any right hereunder shall not be construed as a waiver or relinquishment of such provision or right but the same shall continue and remain in full force and effect.

12.02 DISCLAIMER OF WARRANTY; LIMITATION OF LIABILITY. OTHER THAN THOSE EXPRESSLY PROVIDED HEREIN, SELLER MAKES NO OTHER REPRESENTATION OR WARRANTY, WRITTEN OR ORAL, EXPRESS OR IMPLIED, IN CONNECTION WITH THE SALE AND PURCHASE OF COAL HEREUNDER. ALL WARRANTIES OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE OR ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE ARE SPECIFICALLY DISCLAIMED.

THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED IN THIS AGREEMENT, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE HEREBY WAIVED UNLESS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY HEREIN PROVIDED, THE LIABLE PARTY'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY. SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED UNLESS EXPRESSLY PROVIDED IN THIS AGREEMENT. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY

STATUTE, IN TORT OR IN CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE.

THIS SECTION 12.02 SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

**13.01 Failure to Deliver or Receive.**

**Seller Failure.** If Seller fails to schedule and/or deliver coal pursuant hereto and such failure is not excused by force majeure or by Purchaser's failure to perform, Seller shall pay Purchaser an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the contract price Purchaser would otherwise have paid for such tonnage from the Replacement Price. "Replacement Price" means the price at which Purchaser, acting in a commercially reasonable manner, purchases replacement for the coal not delivered by Seller hereunder plus any costs reasonably incurred by Purchaser in purchasing such substitute coal including, without limitation, any additional transportation and/or storage charges, if any. Absent such a purchase of substitute coal, the Replacement Price shall be the market price for coal as determined by Purchaser in a commercially reasonable manner.

**Purchaser Failure.** If Purchaser fails to schedule and/or receive coal pursuant hereto and such failure is not excused by force majeure or by Seller's failure to perform, Purchaser shall pay Seller an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Sales Price from the contract price Seller would otherwise have received for such tonnage. "Sales Price" means the price at which Seller, acting in a commercially reasonable manner, resells all or any portion of the coal not received by Purchaser, deducting from such proceeds any costs reasonably incurred by Seller in reselling such coal including, without limitation, any additional transportation and/or storage charges, if any, reasonably incurred by Seller in delivering such coal to any third party purchasers. Absent such a re-sale the Sales Price shall be the market price for such coal as determined by Seller in a commercially reasonable manner.

**Due Date.** The party to whom such amount is owed shall invoice the other party for such amounts and any payments hereunder shall otherwise be paid in accordance with the provisions of this Agreement.

**Duty to Mitigate.** Each Party covenants and agrees that it has a duty to mitigate any damages hereunder. Notwithstanding the foregoing, neither Purchaser nor Seller shall be required to enter into any actual replacement transaction(s) in order to determine the Replacement Price or the Sales Price, as applicable.

**14.01 Events of Default; Remedies.** An "Event of Default" shall mean, with respect to a party (the "Defaulting Party"), the occurrence of any of the following:

(a) after the effective date of this Agreement such Party, becomes insolvent (however evidenced), or a voluntary or involuntary petition for bankruptcy, receivership or any similar proceeding is filed with respect to such party;

(b) such party fails to make, when due, any payment pursuant to this Agreement and such failure is not remedied within three (3) business days after written notice of such failure; provided that such amount is not the subject of a good faith dispute;

(c) with respect to SELLER, an event as described in the last sentence of Section 9.01 of this Agreement has occurred;

(d) with respect to SELLER, an event as described in Section 9.02 of this Agreement has occurred;

(e) with respect to SELLER, an event as described in Section 9.03 of this Agreement which gives rise to PURCHASER'S right to terminate this Agreement;

(f) such Party consolidates, or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all of

the obligations of such party under this Agreement to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other party;

(g) such party fails to perform any other material covenant or obligation set forth in this Agreement (except for the obligation to deliver or receive coal, the exclusive remedy for which is set forth in Section 13.01 above) and such failure is not remedied within three (3) business days after it receives written notice of such failure; or

(h) any representation or warranty made by such party herein is false or misleading in any material respect when made or when deemed made or repeated;

(i) an event as describe in Section 24.02(c) hereof has occurred.

For so long as an Event of Default has occurred and is continuing with respect to a party, the other party (the "Non-Defaulting Party") shall have the right to (i) designate a day (by providing the Defaulting Party written notice thereof), which such day shall be within 20 days after the occurrence of the Event of Default, upon which the Non-Defaulting Party will accelerate all amounts owing between the Parties and liquidate and terminate this Agreement; (ii) withhold any payments due to the Defaulting Party under this Agreement; and/or (iii) suspend performance. If the Non-Defaulting Party chooses to liquidate and terminate this Agreement, the Non-Defaulting Party shall calculate any gains or losses to it resulting from the termination of this Agreement, taking into account any costs reasonably incurred (the "Termination Payment"). The Termination Payment shall be due to or due from the Non-Defaulting Party as appropriate and shall be paid within two (2) Business Days after it is communicated in writing to the Defaulting Party by the Non-Defaulting Party. Upon such termination, the Non-Defaulting Party shall have the right to offset any amounts it owes to the Defaulting Party whether under this Agreement or otherwise, against any amounts owed to the Non-Defaulting Party by the Defaulting Party, whether under this Agreement or otherwise. The remedy provided for in this Section shall be without prejudice and in addition to any right of setoff, combination of accounts, lien or other right to which any party is at any time otherwise entitled (whether by operation of law, contract or otherwise).

PURCHASER and SELLER agree that this Agreement constitutes a "forward contract" and that each is a "forward contract merchant" as such terms are defined in the United States Bankruptcy Code as amended.

**15.01 Indemnification.** SELLER shall indemnify, defend and hold PURCHASER harmless from and against any claim, demand, loss, damage or injury caused by or resulting from any act or omission, whether negligent or otherwise, of SELLER. PURCHASER shall indemnify, defend and hold SELLER harmless from and against any claim, demand, loss, damage or injury caused by or resulting from any act or omission, whether negligent or otherwise, of PURCHASER.

**15.02 Environment, Health, and Safety.**

**A. Compliance and Indemnification.** SELLER and PURCHASER shall comply with all applicable EHS laws and shall indemnify the other PARTY against any EHS claims and costs arising from the indemnifying party's performance or non-performance under this Agreement.

**B. Audits.** Either party may audit the other party's EHS compliance at its own expense and during the normal business hours of the party being audited.

**C. Definitions.**

1. **Claim** means administrative, regulatory or judicial action, suite, dispute, liability, judgment, penalty, damages, directive, order or claim.

2. **EHS** means relating to the management of any material or the protection of human health, public safety, occupational/mine safety and health, the environment or natural resources.

3. **Indemnify** means to indemnify, defend, and reimburse the indemnitee and its successors and assigns on an after-tax basis.

4. **Law** means any binding authority, demand, or permitting requirement issued by a legislative, judicial, or executive governmental body.



5. **Manage or management, with respect to any material,** means the manufacture, disturbance, generation, use, transportation, emission, discharge, treatment, storage, disposal, release, or threatened release thereof.

**16.01 Notice of Problem.** Whenever either party hereto encounters or discovers or reasonably anticipates any problem which could delay or prevent performance of this Agreement, such party shall immediately notify in writing the other party of all relevant circumstances and any remedial steps being taken.

**17.01 Independent Contractor.** The parties recognize and agree that SELLER is not an agent or employee of PURCHASER but is independent of any managerial or other control or direction by PURCHASER in its work hereunder and is free to perform, by such means and in such manner as SELLER may choose, all work in pursuance of commitments hereunder.

**18.01 Binding Effect.** This Agreement shall bind and inure to the benefit of the parties and their permitted successors and assigns. This Agreement shall not create any rights or remedies in any entity not a part hereto.

**19.01 Assignments.** Neither party may assign nor transfer this Agreement nor any rights nor obligations hereunder without the prior written consent of the other party hereto which consent shall not be unreasonably withheld or delayed.

**20.01 Partial Dispute.** Should any bona fide dispute involving the price of coal hereunder extend only to a portion of any amount claimed due hereunder, the undisputed portion shall be paid as and when due. Should it later be determined that additional payments are due from PURCHASER to SELLER, such amount shall be paid together with interest from and including the

date payment was due as provided herein, to but excluding the date paid at the prime lending rate set forth in the Wall Street Journal under the heading "Money Rates" plus 2%.

**21.01 Captions.** The captions to sections hereof are for convenience only and shall not be considered in construing the intent of the parties.

**22.01 Applicable Law and Venue.** All questions relating to execution, construction, performance, termination or breach of this Agreement shall be resolved under the laws of the State of Florida without regard to the choice of law provisions thereof. In the event of any lawsuit filed hereunder, the parties submit to the nonexclusive venue in Pinellas County, Florida, and/or the federal court district encompassing said county.

**23.01 Conflict of Interest Policy.** PURCHASER and SELLER have each adopted a conflict of interest policy, applicable to all its full-time employees (hereafter "Employee"), and intended to ensure that all business activities of such party will be conducted in a manner so as to avoid any conflict of interest or appearance of a conflict.

SELLER and PURCHASER each agrees to conduct its activities in support of said conflict of interest policy, specifically as follows:

(a) Each party shall promptly disclose to the other party the existence of any material financial interest in the other party held, at any time during the term of this Agreement, by any Employee or member of an Employee's immediate family. The holding of publicly traded securities in the other party need not be disclosed unless the Employee is directly or indirectly involved in dealing with such party.

(b) Neither party shall accept on its own behalf the service or employment in any capacity (such as director, officer, employee, representative or consultant) of any Employee,

unless such service or employment is specifically authorized by the President or Board of Directors of the other party.

(c) Neither party shall offer to any Employee or member of an Employee's immediate family any gifts of more than token value, special preference loans, lavish entertainment or other substantial favors.

Breach of this provision by a party shall constitute an Event of Default hereunder.

**24.01 Entire Agreement.** This instrument contains the entire agreement between the parties and there are no representations, understandings or agreements, oral or written, which are not included herein. This Agreement cannot be changed except by duly authorized representatives of both parties in writing. It is understood that PURCHASER or SELLER from time to time in the administration of this Agreement may issue and transmit each to the other documents designated as "Purchase Orders" and "Change Orders;" these documents serve instructional or accounting functions only and are not amendments to or constructions of this Agreement.

**25.01 Confidentiality.** Neither party shall disclose the terms of this Agreement and/or any information or data related hereto, including without exclusion any information relating to site visits, to any third party (other than such party's and its affiliates' employees, officers, lenders, counsel, accountants or prospective purchasers, directly or indirectly, of a party or all or substantially all of a party's assets; provided, in each case the party to whom disclosure is made shall agree to keep this Agreement and the terms and conditions hereof and information or data related hereto confidential) except in order to comply with any applicable law, order, regulation, exchange rule or regulatory or administrative proceeding; provided, each party shall notify the other party of any proceeding of which it is aware may result in disclosure (if and to the extent such notice does not violate the order or request compelling the disclosure), and shall use reasonable efforts to prevent or limit the disclosure.

**25.02 Imaged Agreement.** Any original executed Agreement or other related document may be photocopied and stored on computer tapes and disks ("Imaged Agreement"). If an Imaged Agreement is introduced as evidence in any judicial, arbitration mediation or administrative proceeding, it shall be considered as admissible evidence; provided that such Imaged Agreement bears the signature of the Party against whom enforcement is sought; and further provided that there is no evidence that such Imaged Agreement has been manipulated or otherwise altered in any way. Neither Party shall object to the admissibility of the Imaged Agreement on the basis that such was not originated or maintained in documentary form under either the hearsay rule, the best evidence rule, or other rule of evidence.

**26.01 Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their authorized officers, all as of the date and year first above written.

WITNESS:

Roberta C. Ott  
Mary J. Kuderich

PROGRESS FUELS CORPORATION

BY:

[Signature]  
Vice President—Coal Procurement

Date Executed: 11/17/04

WITNESS:

PROGRESS FUELS CORPORATION,  
on its own behalf and as agent for  
DIAMOND MAY COAL COMPANY;  
KANAWHA RIVER TERMINALS, INC.;  
KENTUCKY MAY COAL COMPANY, INC.; and  
POWELL MOUNTAIN COAL COMPANY, INC.  
(

BY: \_\_\_\_\_

Date Executed: \_\_\_\_\_

## APPENDIX A

### Adjustments for Calorific Value

Base price is based upon Subject Coal having weighted average calorific value of 12500 Btu's per pound avoirdupois ("Pound"), "as received" at the point of weighing referred to in Section 8.01. The Base Price shall be subject to adjustment each month in accordance with the following provisions in order to compensate for variations in the calorific value of the Coal delivered during that month, with the result of such adjustment being taken into account in determining the price to be paid for the Coal received during that month. Price adjustments shall be calculated on a per-shipment basis and totaled for the month.

1. The variation of any given month shall be ascertained by comparing the per shipment calorific value of the Coal delivered and accepted that month with the calorific value of 12500 Btu's per Pound.
2. If the calorific value in any shipment is greater than or less than 12500 Btu's per Pound, the adjustment to be made therefor shall be computed on the basis of the following formula:

$$(\text{Actual Btu's Per Pound} - \text{Guaranteed Btu's Per Pound}) \div \text{Guaranteed Btu's Per Pound} \times \text{Base Price} = \text{Cents Per Ton (FOB Mine) (Premium if positive—penalty if negative.)}$$

Shipments that do not meet one or more contract minimum or maximum specifications will be excluded from premium calculations if the coal is rejected by Buyer. Premiums will, however, be included as part of the monthly average computation and will be paid on all coal accepted by Buyer, excluding the cost of any agreed or contractually assessed penalty that may apply

### Adjustments for Ash Content

Base price is based upon Subject Coal having weighted average ash content of twelve percent (12.0%) maximum "as received" at the point of weighing referred to in Section 2.01. The Base Price shall be subject to the following deductions:

ASH CONTENT	AMOUNT TO BE DEDUCTED FROM BASE PRICE
Greater than 12%	of the Base Price per 1% ash to the nearest 0.1%

## APPENDIX B

### Railroad and Railcar Detention Costs

#### A. RAILROAD CHARGES:

1. Detention: As published in Tariff ICC CSXT-8200-Series, including supplements thereto and re-issues thereof.
2. Dead Freight: Actual railroad charges.
3. Crew Change: [REDACTED] per change, subject to periodic adjustment by the railroad.

#### B. PFC RAILCAR CHARGES:

1. Lost Utilization Charges: Sum of a. and b. below.
  - a. Delay of Train = [REDACTED] per car per day of delay.
  - b. Failure to Fully Load Cars =  $((9,600 \div 90 \times AC) - AW) \times [REDACTED] = P\$$

Where: AC = actual number railcars  
AW = actual weight of trains  
P\$ = penalty in dollars

**DRUMMOND/INTEROCEAN COAL SALES  
"D" COLOMBIAN COAL PURCHASE—CR4&5**

**UNSOLICITED OFFER—03/02/04**

**COPIES**





**Progress Energy**

September 17, 2004

Sent Via UPS Next Day Air

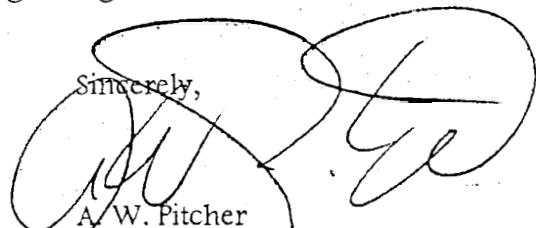
Mr. Dennis J. Steul  
Director, North American Sales  
Drummond Coal Sales, Inc.  
1000 Urban Center Drive  
Vestavia Hills, Alabama 35242

Dear Mr. Steul:

Enclosed are two originals of the *Agreement for the Sale and Purchase of Coal between Progress Fuels Corporation and Interocean Coal Sales, LDC*, which I have executed on behalf of Progress Fuels Corporation. Please have the appropriate individual sign both originals on behalf of Interocean Coal Sales, LDC, and return one original to me for our files.

We thank you for your cooperation in finalizing this agreement and look forward to working with you under this contract.

Sincerely,



A. W. Pitcher  
Vice President—Coal Procurement

AWP/ro

Enclosures

Progress Fuels Corporation  
200 Central Avenue  
St. Petersburg, FL 33701

AGREEMENT FOR  
THE SALE AND PURCHASE OF COAL  
BETWEEN  
PROGRESS FUELS CORPORATION  
AND  
INTEROCEAN COAL SALES, LDC

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# AGREEMENT FOR THE SALE AND PURCHASE OF COAL

This AGREEMENT (hereinafter the "Agreement") is made and entered into as of the 17<sup>th</sup> day of September, 2004, between PROGRESS FUELS CORPORATION, a Florida corporation, 200 Central Avenue, One Progress Plaza, St. Petersburg, Florida, 33701 (hereinafter "PURCHASER") and INTEROCEAN COAL SALES, LDC, a Cayman Island BWI corporation (hereinafter "SELLER"),

WHEREAS, PURCHASER does supply coal to Progress Energy Florida, Inc., a Florida corporation (hereinafter "PEF"), under a long-term purchase and sale agreement for use as fuel at PEF's Crystal River Units No. 4 and No. 5 near Red Level, Citrus County, Florida (hereinafter "PEF's generating units"); and

WHEREAS, PURCHASER desires to purchase and SELLER desires to mine and sell coal for use as fuel in PEF's generating units;

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties hereto as herein stated and intending to be legally bound, PURCHASER and SELLER agree as follows:

1.01 Mutual Obligations. SELLER agrees to mine, sell and deliver to PURCHASER, and PURCHASER agrees to buy from SELLER, coal of the quality and in the quantities and on the terms and conditions, set forth below.

1.02 Warranty of SELLER. SELLER represents and warrants that SELLER or its affiliates own, lease or control mineral interests containing reserves in seams sufficient in quality and quantity to supply the coal covered by this Agreement (hereinafter the "Coal Property"). SELLER hereby represents to PURCHASER that it has access to sufficient reserves of coal meeting the quality specifications hereof and lying on or in the Coal Property so as to fulfill the quantity specifications hereof.

1.03 Quantity. During the initial term hereof, the quantity of coal to be delivered hereunder shall be 800,000 tons for 2005 and 1,000,000 for 2006.

1.04 Term. The initial term of this Agreement will commence on January 1, 2005, and will continue in effect for a period of twenty-four (24) months.

1.05 Base Price. The base price per net ton of coal, DES PURCHASER'S gulf barge at McDuffie Terminal (McDuffie), Mobile, Alabama, (hereinafter "base price") shall be [REDACTED] [REDACTED] (United States Dollars) [REDACTED] per net ton for 2005 and [REDACTED] (United States Dollars) ([REDACTED]) for 2006, adjusted on a per barge basis for the quality of coal in accordance with the formula and procedures set out in Appendix A hereto, during the initial term of this Agreement. A net ton is defined as 2,000 pounds "avoirdupois".

1.06 Billing and Payment. SELLER shall invoice PURCHASER for the coal delivered to PURCHASER on a per barge basis at the base price as shown in Section 1.05 hereof. Each invoice shall be paid by PURCHASER within twenty (20) days of the date of the invoice or fifteen (15) days from receipt of the invoice, whichever is later. Adjustments under Appendix A shall be separately stated and if not calculated in time for preparation of the monthly invoice may be stated

as a retroactive adjustment on the monthly invoice next following the calculation date. A statement showing the basis for the adjustment shall accompany said invoice.

In the event demurrage is incurred at McDuffie, SELLER shall pay the corresponding demurrage rate set forth in Appendix B within forty-five (45) days after receipt of the pertinent statement of facts and invoice PURCHASER.

**2.01 Weighing.** The net weight of coal sold and delivered hereunder shall be determined by certified draft survey at the load port by an independent surveyor mutually agreed upon by both parties. The cost of the survey shall be for SELLER'S account. PURCHASER reserves the right to witness the weighing procedure.

**2.02 Delivery and Title.** All coal to be supplied under this Agreement shall be from SELLER'S affiliate Pribbenow mine located in Colombia, South America. Delivery shall commence on or about January 1, 2005, and shipments shall be as uniform as practicable during contract period, plus or minus ten percent (10%). SELLER and PURCHASER shall mutually agree on actual shipment dates. For months in which SELLER other than reasons of force Majeure and defenses available to Seller fails to achieve these delivery rates through no fault of PURCHASER'S (i.e., McDuffie can receive vessel, or gulf barges are available as scheduled), SELLER shall pay PURCHASER the difference, if any, over the amount of [REDACTED] United States Dollars ([REDACTED]) per ton for all tons which Purchaser pays to others for coal to replace Seller's coal, which SELLER failed to load as scheduled in accordance with Section 2.03. Should Purchaser elect to replace coal which Seller fails to load, Seller will first have the option to provide replacement coal.

Make-up of tons not loaded as scheduled shall be at PURCHASER'S sole discretion.

Title to the coal and risk of loss thereof shall transfer to PURCHASER at the time coal is progressively loaded aboard PURCHASER'S gulf barges.

SELLER shall have free time of fourteen (14) weather working hours within which to load each gulf barge. Free time will commence upon tying up, or, if berth is not open, when NOR has been tendered while within reasonable proximity to berth. Completion of loading shall be when the barge is released by the dock. Time used over fourteen (14) hours shall incur demurrage at the rate shown in Appendix B. However, if SELLER notifies PURCHASER within forty-eight (48) hours of loading that the berth will be unavailable and PURCHASER chooses to dispatch the barge to McDuffie, then the commencement of free time will not begin until the berth becomes available and the barge is tied up.

**3.01 Coal Specifications.** Coal delivered hereunder shall be crushed to three inches (3") by zero inches (0") in size with no intermediate sizes added or removed. Seller will use best efforts to prepare coal so as to be free of bone, slate, shale, fire clay, wood, metal, rock, loose clay and other impurities, as determined by PURCHASER, and shall have the following per barge specifications analyzed on an "as-received" basis. SELLER or SELLER'S terminal shall provide magnets and/or metal detectors, as required, to ensure that metal is eliminated from product.

<b>SPECIFICATION</b>	<b>QUALITY</b>	<b>REJECT</b>
MOISTURE	14.0% MAXIMUM	16.0%
ASH	5.5% MAXIMUM	7.0%
SULFUR	1.2 LB/MMBTU SO <sub>2</sub> MAXIMUM	>1.2 LB/MMBTU SO <sub>2</sub>
BTU	11,700/LB MINIMUM	*
VOLATILE	32.0% MINIMUM	-----
ASH HEMISPHERICAL TEMPERATURE	2500 DEGREES FAHRENHEIT MINIMUM	<2500 DEGREES FAHRENHEIT
GRIND	43 MINIMUM	-----
SIZE	3" X 0" WITH MAXIMUM OF 45% LESS THAN 1/4" FINES	>50% LESS THAN 1/4" FINES

\*11,600 Btu/lb. per Puerto Drummond vessel analysis



**3.02 Sampling and Analysis.** The sampling analyses of each shipment of Coal delivered under this Agreement shall be determined by a mutually agreeable independent third party testing company ("Testing Company"). Representative samples from each shipment of Coal shall be taken at the load port by bias-tested, PURCHASER-approved, mechanical sampler and analyzed by the Testing Company. If no mechanical sampler is available, weighing and sampling may be conducted at discharge point based upon mutual agreement.

**A. Methods and Procedures.** The methods and procedures for obtaining samples and conducting tests and analyses as required under this Agreement shall be in accordance with good practice and the applicable current standards of the American Society for Testing and Materials ("ASTM") or with methods mutually agreeable to PURCHASER and SELLER. Cost of the sampling and analysis shall be borne for the account of Seller. Splits of each sample (not to exceed 10,000 short tons) shall be provided as follows:

1. One for the analysis by the independent testing company.
2. Referee sample(s) to be held for at least thirty (30) days.
3. One set of splits for the analysis by SELLER or its representative.
4. One set of splits to be retained by SELLER for thirty (30) days after SELLER has rendered its invoice for Subject Coal from which such sample was taken, to be furnished on request to PURCHASER; and

PURCHASER, at its sole expense and risk, may observe and inspect such sampling and analyses and the actual analytical procedures and equipment used in collecting such samples and shall have the right to take check samples of Coal at the port..

**B. Analysis to be Made.** The analyses to be made by the Testing Company, a third party commercial laboratory, according to methods described in the applicable standards, are as follows:

Moisture, in weight percentage

Ash Content, in weight percentage  
Calorific Value, in Btu's per pound  
Sulfur, in weight percentage  
Volatile Matter, in weight percentage

PURCHASER may also request analysis for HGI, Ash Fusion, or other tests from time to time. Upon request, additional sub-sample(s) shall be maintained to allow SELLER to perform additional analysis.

E. Acceptance of Results. The results of the sampling and analysis by the Testing Company, a third party laboratory, shall be accepted as the quality and characteristics of the coal delivered hereunder in the shipments represented by such samples, and the same shall be accepted as the monthly analysis for the shipments delivered during such month; provided, however, that if either party should at any time question the correctness of the original analysis made on the laboratory sample, it shall have the right to have sub-sample two analyzed by a testing laboratory mutually selected by SELLER and PURCHASER. Said laboratory shall use methods approved by ASTM or other mutually-accepted procedures, and mutually-agreeable standard reference materials.

The party questioning the correctness of the original analysis shall pay the cost of such analyses, and in the event sub-sample two results for coal specifications in Section 3.01 differ from the original analysis by more than the applicable ASTM reproducibility, then the sub-sample two results shall govern. The price of coal represented by such samples shall immediately be adjusted in accordance with the provisions of the Agreement and any amounts due either Purchaser or Seller shall be paid in accordance with Section 1.06 hereof.

PURCHASER shall have the right to have a representative present at any and all times to observe said sampling and analysis and to take reasonable samples.

3.03 Quality Reports. Notice of the quality of coal delivered hereunder shall be given by telephone, electronic, or telecopy means to PURCHASER as soon as practical following the loading of coal. Analyses must be received prior to vessel arrival in Crystal River, Florida. Any demurrage charges incurred waiting for analyses shall be for SELLER'S account.

**3.04 Coal Specifications Deficiencies.** For purposes of this Agreement, a "shipment" shall mean the quantity actually received in any gulf barge. If the coal delivered hereunder in any single shipment fails to meet any of the rejection specifications set out in Section 3.01 other than sulfur content, PURCHASER shall have each of the following options to be exercised in its sole discretion:

(1) PURCHASER may notify SELLER that PURCHASER will accept such coal subject to and in accordance with the provisions set forth in this Agreement including Appendix A; provided, however, that PURCHASER'S exercise of this option shall in no way constitute a waiver of PURCHASER'S right at any time thereafter to exercise any of the other options set forth herein with respect to subsequent deliveries of coal hereunder; or

(2) PURCHASER will have the option to reject any shipment which exceeds any of the rejection specifications listed in 3.01, and PURCHASER may notify SELLER to suspend further deliveries of coal hereunder until SELLER demonstrates to PURCHASER'S reasonable satisfaction that it can deliver coal that will conform on a per shipment basis to the specifications set forth in Section 3.01; provided, however, that PURCHASER'S exercise of this option shall in no way constitute a waiver of PURCHASER'S right at any time thereafter to exercise any of the other options set forth herein with respect to subsequent deliveries of coal hereunder. If SELLER fails to make the above demonstration to PURCHASER'S reasonable satisfaction within thirty (30) days after notice by PURCHASER, PURCHASER shall have the right to terminate or cancel this Agreement and, in addition, pursue every other remedy provided by law or equity.

**3.05 Sulfur Content Warranty.** SELLER warrants and represents that the average total sulfur content of each shipment shall not contain more than 1.20 LB of sulfur dioxide per million Btu's heat input (the "calculated sulfur limit") and not more than .2 percent pyritic sulfur.

In the event SELLER delivers to PURCHASER any shipment of coal with a total sulfur content or a pyritic sulfur content in excess of the calculated sulfur limits set forth above, the following shall apply:

(1) If, in PURCHASER'S reasonable determination, PURCHASER is able to use such coal by blending directly with other coal from the active stockpile so that the blended coal shall not exceed 1.20 LB of sulfur dioxide per million Btu's or .2 percent pyritic sulfur, PURCHASER shall accept such coal and the price of the coal delivered in such shipment shall be reduced from the invoice price PURCHASER would otherwise have been required to pay for such coal under this Agreement by the amount of PURCHASER'S cost of blending such coal determined by the following adjustment:

$$\text{Sulfur Adjustment} = \text{percent (I)}$$

Where:

I - Invoice price which would apply excluding the sulfur adjustment.

Such adjusted price shall become the base price for purposes of applying any adjustments provided in Appendix A for the affected shipment. No Btu premiums shall be allowed on any shipment which received the above sulfur penalty.

(2) If PURCHASER rejects any shipment under 3.04 or is unable to use such coal under any circumstances because the burning of such coal will cause PURCHASER'S buyer's generating unit or units to have emissions that exceed 1.20 LB of sulfur dioxide per million Btu's of heat input, PURCHASER may reject such shipment without payment and SELLER shall be obligated to pay the cost of disposing of such rejected shipment of coal and any other reasonable costs of disposition incurred. If PURCHASER rejects a shipment from SELLER under the provisions of this paragraph, PURCHASER and SELLER shall meet promptly thereafter to see what reasonable steps may be taken on the part of both parties to allow this Agreement to

continue. If PURCHASER and SELLER fail to reach agreement within thirty (30) days as to what steps can be taken to correct the situation, then PURCHASER shall have the right to terminate this agreement by giving notice of termination to SELLER and, in addition, pursue every other remedy provided by law or equity.

SELLER shall be permitted to have a representative present to observe tests conducted by PURCHASER'S buyer of burning in PURCHASER'S buyer's facilities, and to observe sampling, analysis and tests conducted to determine the content of flue gases resulting from the burning of such coal. PURCHASER shall also make available to SELLER at reasonable times the results of such tests and analysis, as well as charts and other information resulting from the monitoring of stack gas emissions.

**4.01 Force Majeure.** As used herein, the term "force majeure" shall mean any event beyond the control and without fault or negligence of the Party (for purposes of this section shall include Seller's supplier and Purchaser's Buyer).affected thereby and which, by the exercise of reasonable diligence or the incurring of reasonable expense, such Party is unable to prevent or overcome, regardless of whether such event was foreseeable, including, without limitation, act of God, act of public authorities (including courts and commissions of competent jurisdiction), act of the public enemy, insurrection, riot ,terrorism, labor dispute, labor or material shortage, fire, explosion, flood, breakdown of or damage to plant equipment or facilities (including emergency outages of equipment or facilities to make repairs to avoid breakdowns thereof or damage thereto), interruption to transportation or transportation delay, river freeze-up, embargo, order or act of civil or military authority, legislative, regulatory, permitting, judicial rule or order adopted, amended or newly interpreted subsequent to the date of this Agreement and any other event of a similar or dissimilar nature which wholly or partially prevents the mining, hauling, handling, processing or loading of coal by SELLER (including Seller's supplier) or the receiving, handling, transporting

and/or delivering by PURCHASER'S carrier thereof or the accepting, handling, utilizing and/or unloading thereof by PURCHASER or PURCHASER'S intended buyer, PEF.

In the event performance of SELLER'S obligations hereunder or PURCHASER'S obligations hereunder is made impossible, impractical or illegal by reason of force majeure (other than obligations to pay or expend money for or in connection with the performance of the transactions contemplated by this Agreement) and such party promptly gives to each other party hereto written notice of the details thereof, then the obligations of the parties hereto shall be totally excused to the extent made necessary by such force majeure and during its continuance; provided, however, that such party giving such notice shall use its reasonable best efforts to eliminate such force majeure to the extent reasonably and economically feasible to do so and with a minimum of delay. Any deficiencies in deliveries of coal hereunder as a result of force majeure shall not be made up except at the mutual discretion of the Parties. In the event force majeure results in a partial reduction in the total quantity of coal SELLER is obligated to deliver hereunder, the quantity of coal SELLER shall be obligated to deliver to PURCHASER hereunder during the continuance of such force majeure shall be limited to the amount of coal required to be delivered during such period but for this section multiplied by a fraction, the denominator of which is the production capacity of the Coal Property immediately prior to such force majeure and the numerator of which is the production capacity of the Coal Property during the continuance of such force majeure.

In the event that restrictions are imposed during the term of this Agreement by governmental bodies, agencies, entities, officials or courts which preclude or restrict PEF from burning coal of the specifications hereunder, such restriction shall be deemed to be an event of force majeure under this Agreement unless its effect can be avoided in a lawful manner and will not, in PEF's reasonable judgment, result in unreasonable expense to PEF, the obligations of the parties hereto shall be totally excused during the continuance of such force majeure.

**4.02 Governmental Impositions.** The parties also recognize that, during the continuance of this Agreement, legislative or regulator bodies or the courts may adopt laws, regulations, policies and/or restrictions or a change in interpretation of enforcement which impact PURCHASER'S costs and which make it impossible or economically impractical for PURCHASER to utilize in PEF's Generating Units this or like kind and quality of coal which thereafter would be delivered hereunder. If, as a result of the increased costs associated with the adoption of such laws, regulations, policies or restrictions, or change in interpretation or enforcement, PURCHASER decides that it will be impossible or economically impractical for PURCHASER to utilize in PEF's Generating Units coal which would be delivered hereunder, PURCHASER shall so notify SELLER and thereupon PURCHASER and SELLER shall promptly consider whether corrective actions can be taken in the mining and preparation of the coal at the mine and/or in the handling and utilization of the coal at PEF's Generating Units; and if, in PURCHASER'S judgment, such actions will, without unreasonable expense to PURCHASER, make it impossible and economically impractical for PURCHASER to so utilize coal which thereafter would be delivered hereunder without violating any applicable law, regulation, policy or restriction, PURCHASER shall have the right, upon six (6) month's prior notice to SELLER, to terminate this Agreement without further obligation hereunder on the part of either party; provided, however, that, if the impracticality of PURCHASER'S utilizing the coal is only on economical grounds, SELLER may, at its option, prevent such termination by agreeing to reimburse PURCHASER for such expense to the extend that PURCHASER deems such expense to be reasonable.

The parties recognize that, during the continuance of this Agreement, legislative or regulatory bodies or the courts may adopt laws, regulations, policies and/or restrictions or change in interpretation or enforcement which impact SELLER'S mining cost and which will make it impossible or economically impractical for SELLER to continue delivery hereunder. If, as a result of

the increased costs associated with the adoption of such laws, regulations, policies or restrictions, or change in interpretation or enforcement, SELLER decides that it will be impossible or economically impractical for SELLER to continue delivery hereunder, SELLER shall so notify PURCHASER and thereupon SELLER and PURCHASER shall promptly consider whether corrective actions can be taken in the mining and preparation of the coal at the mine and/or in the handling and utilization of the coal at PEF's Generating Units; and if, in SELLER'S judgment, such actions will, without unreasonable expense to SELLER, make it impossible and economically impractical for SELLER to continue to deliver coal hereunder without violating any applicable law, regulation, policy or restriction, SELLER shall have the right, upon six (6) month's prior notice to PURCHASER, to terminate this Agreement without further obligation hereunder on the part of either party; provided, however, that if the impracticality of SELLER'S continuing to deliver coal hereunder is only on economical grounds, PURCHASER may, at its option, prevent such termination by agreeing to reimburse SELLER for such expense to the extent that SELLER deems such expense to be unreasonable.

**4.03 Waiver.** The failure of either party to insist on strict performance of any provisions of this Agreement or to take advantage of any right hereunder shall not be construed as a waiver or relinquishment of such provision or right but the same shall continue and remain in full force and effect.

**4.04 Remedies Cumulative.** Remedies provided under this Agreement shall be cumulative and in addition to other remedies provided by law.

**4.05 Cure of Default.** Except as otherwise expressly provided in this Agreement, no default of either party to this Agreement in the performance of any of its covenants or obligations



hereunder, which, except for this provision, would be the legal basis for cancellation or termination of this Agreement by the other party hereto, shall give or result in such a right unless and until the party committing such default shall fail to correct the default but in no event later than within thirty (30) days after written notice of claim of such default is given to such defaulting party by the other party hereto except that such notice period shall be 10 days for defaults for non-payment of money.

**4.06 Attorney's Fees.** In the event either party should default under the terms hereof or fail to perform any of the terms and conditions of this Agreement and a party employs an attorney to protect its interest and obtains a judgment through arbitration in its favor, then the cost of such reasonable attorney's fee shall be and will form a portion of such judgment and shall be included in such judgment.

**4.07 Indemnification.** SELLER shall indemnify, defend and hold PURCHASER harmless from and against any claim, demand, loss, damage or injury caused by or resulting from any negligent or wrongful act or omission of SELLER. PURCHASER shall indemnify, defend and hold SELLER harmless from and against any claim, demand, loss, damage or injury caused by or resulting from any negligent or wrongful act or omission of PURCHASER. However, notwithstanding the above, neither party assumes any responsibility for damage or injury to officers, agents or employees of the other party.

**4.08 Environment, Health, and Safety.**

A. **Compliance and Indemnification.** Seller shall endeavor to comply with all applicable EHS laws and shall indemnify Purchaser against any EHS claims and costs arising from Seller's performance under this Agreement. Purchaser shall endeavor to comply with all applicable EHS

laws and shall indemnify Seller against any EHS claims and costs arising from Purchaser's performance under this Agreement.

B. Definitions (as used in this Section 4.07).

1. Claim means administrative, regulatory or judicial action, suite, dispute, liability, judgment, penalty, damages, directive, order or claim.

2. EHS means relating to the management of any material or the protection of human health, public safety, occupational/mine safety and health, the environment or natural resources.

3. Indemnify means to indemnify, defend, and reimburse the indemnitee and its successors and assigns on an after-tax basis.

4. Law means any binding authority, demand, or permitting requirement issued by a legislative, judicial, or executive governmental body.

5. Manage or management, with respect to any material, means the manufacture, disturbance, generation, use, transportation, emission, discharge, treatment, storage, disposal, release, or threatened release thereof.

4.09 Limitation on Indemnification and Liability Generally. Notwithstanding any provisions of this agreement to the contrary, in no event shall either party be liable to an indemnified person under any provision of this Agreement for any lost business opportunities, or consequential, incidental, punitive or exemplary damages incurred or suffered by an indemnified person; provided, this section 4.07 shall not limit an indemnified person's right to indemnification pursuant to Section 4.06 for any such damages that the indemnified person is legally required to pay to third parties as a result of a claim or proceeding.

4.10 Notice of Problem. Whenever either party hereto encounters or discovers or reasonably anticipates any problem which could delay or prevent performance of this Agreement, such party shall immediately notify in writing the other party of all relevant circumstances and any remedial steps being taken.

5.01 Independent Contractor. The parties recognize and agree that SELLER is not an agent or employee of PURCHASER but is independent of any managerial or other control or direction by PURCHASER in its work hereunder and is free to perform, by such means and in such manner as SELLER may choose, all work in pursuance of commitments hereunder.

5.02 Binding Effect. This Agreement shall bind and inure to the benefit of the parties and their successors and assigns under Section 5.03 hereof. This Agreement shall not create any rights or remedies in any entity not a part hereto.

5.03 Guarantee Agreement. In order to secure all payment and performance obligations of SELLER to PURCHASER hereunder, SELLER shall cause Drummond Company Inc. (Guarantor) to execute and deliver to PURCHASER a guarantee agreement in an amount and form satisfactory to PURCHASER as represented in Appendix C attached.

5.04 Assignments. Neither party may assign nor transfer this Agreement nor any rights nor obligations hereunder without the prior written consent of the other party hereto which consent shall not be unreasonable withheld.

5.05 Captions. The captions to sections hereof are for convenience only and shall not be considered in construing the intent of the parties.

**5.06 Applicable Law and Arbitration.** All questions relating to execution, construction, performance, termination or breach of this Agreement shall be resolved under the laws of the State of Florida without regard to the choice of law provisions thereof. Any dispute arising out of or relating to the Contract which the parties cannot settle by mutual accord, shall be referred to arbitration in Tampa, Florida, USA. in accordance with the Rules of Arbitration of the American Arbitration Association (AAA) in force at the time of arbitration.

The Board of Arbitration shall be composed of three arbitrators, one of whom shall be chosen by the Seller, one by the Purchaser, and the third by the two so chosen. If both or either of the parties fail to choose an arbitrator within fourteen (14) days after receiving notice of commencement of arbitration proceedings, or if the two arbitrators chosen cannot agree upon a third arbitrator within fourteen (14) days after they have been chosen, said third arbitrator shall be appointed by A.A.A. The decision of the majority of the arbitrators shall be final and binding on the parties hereto, including the decision as to allocation of the cost of such arbitration, and may be entered in any court having jurisdiction.

**5.07 Conflict of Interest Policy.** PURCHASER has adopted a conflict of interest policy, applicable to all its full-time employees (hereafter "Employee"), and intended to ensure that all business activities of PURCHASER will be conducted in a manner so as to avoid any conflict of interest or appearance of a conflict.

SELLER agrees to conduct its activities in support of said conflict of interest policy, specifically as follows:

(a) SELLER shall promptly disclose to PURCHASER the existence of any material financial interest in SELLER held, at any time during the term of this Agreement, by any Employee or member of an Employee's immediate family. The holding of publicly traded securities

in SELLER need not be disclosed unless the Employee is directly or indirectly involved in dealing with the SELLER.

(b) SELLER shall not accept on its own behalf the service or employment in any capacity (such as director, officer, employee, representative or consultant) of any Employee, unless such service or employment is specifically authorized by the President or Board of Directors of PURCHASER.

(c) SELLER shall not offer to any Employee or member of an Employee's immediate family any gifts of more than token value, special preference loans, lavish entertainment or other substantial favors.

Breach of this provision by SELLER shall constitute a material breach of this Agreement; and in the event thereof, PURCHASER shall have the right to terminate this Agreement and pursue any and all other remedies at law or equity.

**5.08 Entire Agreement.** This instrument contains the entire agreement between the parties and there are no representations, understandings or agreements, oral or written, which are not included herein. This Agreement cannot be changed except by duly authorized representatives of both parties in writing. It is understood that PURCHASER or SELLER from time to time in the administration of this Agreement may issue and transmit each to the other documents designated as "Purchase Orders" and "Change Orders;" these documents serve instructional or accounting functions only and are not amendments to or constructions of this Agreement.

**5.09 Confidentiality.** Each party hereto recognizes that this Agreement contains confidential commercial information, the public disclosure of all or any part of which could be damaging to the parties hereto. Accordingly, each party hereto agrees not to disclose any of the terms or provisions of this Agreement to any person or persons not a part hereto, except for

affiliated corporations or unincorporated divisions of the parties hereto, its attorneys, accountants, or other representatives, without the prior consent in writing thereto of the other party hereto, which consent shall not be unreasonably withheld, except to the extent such party is legally compelled to make such disclosure pursuant to applicable law or to the extent such disclosure is reasonably necessary in connection with any regulatory, administrative or other legal proceeding in which such party, or any such affiliated corporation or unincorporated division, is involved. When disclosure is made within the terms of the above mentioned exceptions, such disclosure shall be made only to the extent reasonably necessary. It is further understood and agreed that whenever any such information is disclosed by any party hereto in accordance with the above mentioned exceptions, such party will advise each person to whom disclosure is made of the confidential nature of the information disclosed and, except for routine regulatory reporting by PURCHASER, provide written notice of such disclosure, in advance thereof, if possible, to the other party to this Agreement.

5.10 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their authorized officers, all as of the date and year first above written.

WITNESSES:

Roberta A. Ott  
Mary J. Rudwick

PROGRESS FUELS CORPORATION

BY: [Signature]

Vice President - Coal Procurement

Date Executed: 9/17/04

WITNESSES:

\_\_\_\_\_  
\_\_\_\_\_

INTEROCEAN COAL SALES, LDC

BY: \_\_\_\_\_  
Attorney in Fact  
Date Executed: \_\_\_\_\_

## APPENDIX A

### Adjustments for Calorific Value

Base price is based upon Subject Coal having weighted average calorific value of 11,700 Btu's per pound avoirdupois ("Pound"), "as received" at the point of weighing referred to in Section 2.01. The Base Price shall be subject to adjustment each month in accordance with the following provisions in order to compensate for variations in the calorific value of the Coal delivered during that month, with the result of such adjustment being taken into account in determining the price to be paid for the Coal received during that month. Price adjustments shall be calculated on a per-shipment basis and totaled for the month.


1. The variation of any given month shall be ascertained by comparing the per shipment calorific value of the Coal delivered and accepted that month with the calorific value of 11,700 Btu's per Pound.
2. If the calorific value in any shipment is greater than or less than 11,700 Btu's per Pound, the adjustment to be made therefor shall be computed on the basis of the following formula:

$$(\text{Actual Btu's Per Pound} - \text{Guaranteed Btu's Per Pound}) \div \text{Guaranteed Btu's Per Pound} \times \text{Base Price} = \text{Dollars Per Ton (DES Barge McDuffie) (Premium if positive—penalty if negative.)}$$

### Adjustments for Ash Content

Base price is based upon Subject Coal having weighted average ash content of five and one-half percent (5.5%) maximum "as received" at the point of weighing referred to in Section 2.01. The Base Price shall be subject to the following deductions:

> 5.5%

 of the Base Price for each 1.00% or fraction thereof



## APPENDIX B

### Vessel Demurrage Provision

Demurrage rate escalates quarterly under PURCHASER'S contract with its barge carrier. Current demurrage is [REDACTED] per hour.

## APPENDIX C

### DRUMMOND COMPANY, INC.

September 17, 2004

Progress Fuels Corporation  
200 Central Avenue  
One Progress Plaza  
St. Petersburg, Florida 33701

Re: Agreement for the Sale and Purchase of Coal between  
Progress Fuels Corporation and Interocean Coal Sales, LDC

Gentlemen:

Reference is made to that certain Agreement for the Sale and Purchase of Coal (the "Contract") dated September 17, 2004, by and between Progress Fuels Corporation (as "Buyer") and Interocean Coal Sales, LDC (as "Seller").

This letter is to confirm that, upon and in consideration of the execution of said Contract dated September 17, 2004, between Seller and Buyer in respect to sale and purchase of coal as defined in said Contract, Drummond Company, Inc. ("DCI") subject to all the rights, limitations defenses and Obligations of Seller, pursuant to the Contract, in law or in equity, guarantees the due and punctual performance of all of the obligations ("Obligations") of Seller solely to the extent and for so long as the obligations remain outstanding under and pursuant to the terms and conditions of the Contract.

Drummond hereby waives diligence, presentment, demand on Seller for any performance, requirement of a prior proceeding against Seller, and protest. [I don't know if any of these are required pursuant to Alabama law with respect to guarantees of this nature. So instead of having to do all of the associated research, PFC would prefer if Drummond merely waived these to the extent they apply.] The Buyer shall not be obligated to file any claim relating to the Obligations owing to it if Seller becomes subject to a bankruptcy, reorganization or similar proceeding and the failure of the Buyer to so file shall not affect DCI's obligations hereunder. If any payment to the Buyer with respect to any Obligations is rescinded or must otherwise be returned for any reason whatsoever (and such underlying Obligation remains outstanding), DCI shall remain liable hereunder with respect to such Obligations as if such payment had not been made. No set-off or counterclaim, reduction or diminution of, or defense of any kind to, any obligation of DCI hereunder that DCI may have against Buyer (other than the performance by DCI of its obligations under this Guarantee in full) or through its reservation of defenses of Seller as

provided in this Guarantee, shall be available to DCI against Buyer to reduce its obligations under this Guarantee. [Since this is a performance guarantee, PFC does not want any setoffs, or any defenses not otherwise herein reserved to be available to DCI that would potentially interfere with PFC obtaining full performance. DCI has reserved Seller's defenses under the Contract, and that should be sufficient to protect DCI.]

If Seller fails to perform any Obligations, Buyer shall make a written demand on DCI (the "Demand"). The Demand shall identify the Contract under which demand is being made and identify the basis of the demand and shall contain a statement that Buyer is calling upon DCI under this Guarantee. A Demand conforming to the foregoing requirements shall be sufficient notice to DCI to perform under this Guarantee. Notices under this Guarantee shall be deemed received if sent to the address specified below: (i) on the day received if served by overnight express delivery, (ii) on the next business day if served by facsimile transmission when sender has machine confirmation that facsimile was transmitted to the correct fax number listed below, and (iii) fifteen business days after mailing if sent by certified, first class mail, return receipt requested.

To DCI: Drummond Company, Inc.  
1000 Urban Center Drive, Ste. 300  
Vestavia Hills, Alabama 35242  
Attn: Jack Stilwell  
Fax: 205 945-4254

To Seller: Interocean Coal Sales, LDC  
c/o Drummond Coal Sales, Inc.  
1000 Urban Center Drive, Ste. 300  
Vestavia Hills, Alabama 35242  
Attn: George E. Wilbanks  
Fax: (205) 945-6440

To Buyer: Progress Fuels Corporation  
200 Central Avenue  
One Progress Plaza  
St. Petersburg, Florida 33701

The Buyer and Seller may mutually agree to modify the Contract, extend the time of performance, payment or otherwise modify the terms of payment of any of the Obligations, without in any way impairing or affecting this Guarantee.

Neither DCI nor Buyer may assign its rights hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld and any purported assignment absent such consent is void.

No provision of this Guarantee may be amended or waived except by a written instrument executed by DCI and Buyer. This Guarantee shall bind and benefit the successors and assigns of DCI and Buyer. This Guarantee shall not be deemed to benefit any person except Buyer and its successors and assigns. This Guarantee is not intended to benefit any holder of a collateral security interest in Buyer's rights under this Guarantee. This Guarantee itself shall be construed in accordance with and enforced under the laws of the State of Alabama, notwithstanding that arbitration under the Contract may be conducted, and finally settled, pursuant to the Rules of Arbitration of the American Arbitration Association (AAA) in Tampa, Florida.

Very truly yours,

**DRUMMOND COMPANY, INC.**

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

Its: \_\_\_\_\_

# INTEROCEAN COAL SALES, LDC

c/o Truman Bodden & Company  
P. O. Box 866  
George Town, Grand Cayman  
Cayman Islands, B.W.I.

*Drummond/Inter-  
Ocean Colombian  
Coal Offer  
and Evaluations*

April 30, 2004

Mr. A. W. Pitcher  
VP - Coal Procurement  
Progress Energy  
200 Central Avenue  
St. Petersburg, FL 33701

Dear Al:

For good business sake, please confirm our business for 2005 and 2006.

Term: January 1, 2005 through December 31, 2006

Volume: 2005 - 800,000 net tons  
2006 - 1,000,000 net tons

Specifications: as received basis

Moisture	14.00% max.
Ash	5.50% max
Sulfur	1.20 # SO <sub>2</sub> /mmBtu max.
Volatile	32.00% min.
Btu	11,700 Btu min.
Fusion	2500 degrees F
Grind	43 min.
Size	3" x 0" w/max 45% less than 1/4"

Price 2005 - [REDACTED] NT FOB barge, Mobile, AL  
2006 - [REDACTED] NT FOB barge, Mobile, AL

All other terms and conditions as per 2004 contract between Florida Progress and Interocean Coal Sales LDC.

If you are in agreement please confirm by signing below.

---

Mr. A. W. Pitcher

Sincerely,



Dennis J. Steul

**Pitcher, AI (PFC)**

**From:** Pitcher, AI (PFC)  
**Sent:** Thursday, March 25, 2004 9:27 AM  
**To:** 'Steul, Dennis J.'  
**Subject:** RE: 2005 and 2006 Offer  
**Importance:** High

**Tracking:**    **Recipient**            **Read**  
                  'Steul, Dennis J.'  
                  Crake, Kyle (Energy) Read: 3/25/2004 9:37 AM

*Split the  
 Sh/Hunter  
 Agreed on*

I am sorry I missed your call yesterday, but I was in meetings most of the day. Also, I am available to meet with you on Friday morning. Just let me know what time. Further, I appreciate your quick response regarding 2005 and 2006. I have discussed this proposal with the plant as I indicated I would. They are agreeable to the 2005 pricing as we discussed; but because all projections for the 2006 period indicate several dollars of price erosion, they would approve the following:

YEAR	TONS	PRICE
2005	600,000	\$[REDACTED] FOB MOBILE
2006	1,000,000	\$[REDACTED] FOB MOBILE

*3*

The net affect is \$[REDACTED] per ton for the two years; providing an average of \$[REDACTED]. Because all forecast indicate the price erosion, PFC prefers to have the pricing noted above as opposed to a fixed \$[REDACTED] for two years. We are currently proceeding with Risk Committee and management approval. No problems are anticipated and we will have an answer before the expiration of the bid. Please advise regarding the above pricing and tonnage.

*2  
 3  
 4  
 5*

*Al Pitcher*

-----Original Message-----

**From:** Steul, Dennis J. [mailto:djsteul@drummondco.com]  
**Sent:** Thursday, March 25, 2004 8:47 AM  
**To:** Pitcher, AI (PFC)  
**Subject:** RE: 2005 and 2006 Offer

AI,  
 Sorry I missed you yesterday. Yesterday when I called, I had wanted to address your response to our offer. I will take the opportunity to do it below.

Actually the business recently confirmed with others was at the [REDACTED] and for two years (2005 & 2006) with escalation, however George spoke to Garry and he would agree to a fixed price of [REDACTED] for 2005 and 2006 at the volumes you indicate below (we would need to nail down the volume for 2006).

*6  
 7*

You are correct, there isn't any fuel adjustment component in our offer nor will there be in any agreement.

Yes we would offer a Drummond letter of guarantee if we are required to sign an agreement under our subsidiary Intercoastal Coal Sales.

I will try to call you this morning.

Best regards,  
 Dennis

-----Original Message-----

3/26/2004

**From:** Pitcher, Al (PFC) [mailto:APitcher@progressfuels.com]  
**Sent:** Tuesday, March 23, 2004 2:41 PM  
**To:** Steul, Dennis J.  
**Subject:** 2005 and 2006 Offer  
**Importance:** High

Before I proceed further, with the discussions at the plant regarding additional Mina Pribbenow coal, I need to clarify several observations I have regarding your recent unsolicited 2005 and 2006 offer.

- While we are currently experiencing historically high coal prices, both in the domestic and foreign markets, the view of most industry experts project a slight retreat of coal prices sometime during the latter part of 2005 and a further retreat during 2006.
- Our discussions in Cartagena led me to believe that the price you have offered was a 2005 price and that a lower price could be in the offing for a multi-year arrangement. Your price of \$ [REDACTED] which escalates to slightly over \$ [REDACTED], at the end of 2006, certainly does not reflect this concept.
- ✓ I believe the [REDACTED] escalation each six months to be excessive given the high beginning price offered and the escalations, or should I say the lack thereof, in other contract offers for the same time frame.
- I fully understand why Drummond has established the Inter-Ocean Coal Sales, LDC, but Progress Fuels Corporation will need to either contract with Drummond Coal (the preferential method) or have a parent guarantee from Drummond Coal (the least preferred method).
- ✓ There is no mention I would assume there is none anticipated of a fuel adjustment for the transportation component of your offer.
- Going directly to the bottom line, I believe the plant would entertain a continuation of the supply of Mina Pribbenow at \$ [REDACTED] fixed for the term of 2005 and 2006. The tonnage could be 600,000 tons for 2005 and up to 1.0 million tons for 2006.
- ✓ All of this of course is subject to approval within our organization, but I wanted to determine if further discussions are warranted between Drummond and Progress Fuels Corporation.

Please review and call at your convenience.

*Al Pitcher*

3/26/2004

**Pitcher, Al (PFC)**

**From:** Steul, Dennis J. [djsteul@drummondco.com]  
**Sent:** Thursday, March 25, 2004 8:47 AM  
**To:** Pitcher, Al (PFC)  
**Subject:** RE: 2005 and 2006 Offer

Al,  
 Sorry I missed you yesterday. Yesterday when I called, I had wanted to address your response to our offer. I will take the opportunity to do it below.

Actually the business recently confirmed with others was at the \$ [REDACTED] and for two years (2005 & 2006) with escalation, however George spoke to Garry and he would agree to a fixed price of [REDACTED] for 2005 and 2006 at the volumes you indicate below (we would need to nail down the volume for 2006).

You are correct, there isn't any fuel adjustment component in our offer nor will there be in any agreement.

Yes we would offer a Drummond letter of guarantee if we are required to sign an agreement under our subsidiary Interocean Coal Sales.

I will try to call you this morning

Best regards,  
 Dennis

-----Original Message-----

**From:** Pitcher, Al (PFC) [mailto:APitcher@progressfuels.com]  
**Sent:** Tuesday, March 23, 2004 2:41 PM  
**To:** Steul, Dennis J.  
**Subject:** 2005 and 2006 Offer  
**Importance:** High

Before I proceed further, with the discussions at the plant regarding additional Mina Pribbenow coal, I need to clarify several observations I have regarding your recent unsolicited 2005 and 2006 offer.

- While we are currently experiencing historically high coal prices, both in the domestic and foreign markets, the view of most industry experts project a slight retreat of coal prices sometime during the latter part of 2005 and a further retreat during 2006.
- Our discussions in Cartagena led me to believe that the price you have offered was a 2005 price and that a lower price could be in the offing for a multi-year arrangement. Your price of [REDACTED], which escalates to slightly over [REDACTED], at the end of 2006, certainly does not reflect this concept.
- I believe the [REDACTED] escalation each six months to be excessive given the high beginning price offered and the escalations, or should I say the lack thereof, in other contract offers for the same time frame.
- I fully understand why Drummond has established the Inter-Ocean Coal Sales, LDC, but Progress Fuels Corporation will need to either contract with Drummond Coal (the preferential method) or have a parent guarantee from Drummond Coal (the least preferred method).
- There is no mention I would assume there is none anticipated of a fuel adjustment for the transportation component of your offer.
- Going directly to the bottom line, I believe the plant would entertain a continuation of the supply of Mina

3/25/2004



Pribbenow at \$ [REDACTED] fixed for the term of 2005 and 2006. The tonnage could be 600,000 tons for 2005 and up to 1.0 million tons for 2006.

- All of this of course is subject to approval within our organization, but I wanted to determine if further discussions are warranted between Drummond and Progress Fuels Corporation.


Please review and call at your convenience.

*Al Pitcher*

3/25/2004

# INTEROCEAN COAL SALES, LDC

c/o Truman Bodden & Company  
P. O. Box 866  
George Town, Grand Cayman  
Cayman Islands, B.W.I.

*Forwarded to  
Kyle for  
approval process.*  
  
*3/25/04*

March 22, 2004

Mr. Al Pitcher  
V. P. Coal Procurement  
Progress Fuels Inc  
One Progress Plaza  
P. O. Box 15208  
St. Petersburg, FL 33701

Dear Al:

I thought it would be informative to give you an update on Drummond's Colombian coal availability for 2004 and 2005.

## 2004

Production:	21.34 mm MT		
Confirmed Sales:	21.27 mm MT		
Percentage Availability:	< 1%		

## 2005

Production:	25.50 mm MT
Confirmed Sales:	24.05 mm MT
Percentage Availability:	5.7%

Even though we have approximately 1.45 mm MT of coal available, we have requests for over 3.0 mm MT. The 1.45mm MT of coal is being held for certain customers such as Florida Progress.

Presented below is our unsolicited offer of coal as was discussed in our meeting in Cartagena, Colombia last week.

### Calendar 2005/2006

### January 1, 2005 - December 31, 2006

#### Quantity:

CY 2005	600,000 net tons +/- 5% for shipping purposes only
CY 2006	1,000,000 net tons +/- 5% for shipping purposes only

Specifications: As received basis, ASTM standards, FOB barge – Mobile

Moisture	14.00% maximum
Ash	5.50% maximum
Sulfur	1.20 lbs. SO <sub>2</sub> /mmbtu
Volatile	32.00% minimum
Btu	11,700 minimum
Grind	43 minimum
Size	3" x 0 w/ max of 45% less than one-quarter inch
Fusions	2375 F – Initial minimum 2500 F – Softening minimum 2550 F – Hemispherical minimum 2580 F – Fluid minimum

Price: \$ [REDACTED] per net ton loaded into Buyer's barge(s) at the  
Alabama State Docks – Mc Duffie Coal Terminal

Escalation: [REDACTED] every six months commencing July 1, 2005.

Sampling & Analysis: Loadport (Puerto Drummond) sampling and analysis by SGS.  
Cost is for Interocean's account.

Weight Determination: Loadport (Puerto Drummond) vessel draft survey performed by  
SGS. Cost is for Interocean's account.

Actual terms and conditions to be mutually agreed upon by both Progress Energy Inc., and  
Interocean Coal Sales, LDC.

This offer is valid through the close of business Friday, March 26, 2004.

Interocean Coal Sales appreciates this opportunity to quote our Colombia coal to the Progress  
Energy Inc.

Sincerely,

George E. Wilbanks  
Attorney in Fact



PROGRESS FUELS CORPORATION


MARKET EVALUATION  
FOB BARGE

Per United Power, Inc.


**A**

**B**




**C**

12,000 Btu, 1.2LB SO<sub>2</sub>  
Btu Adjustment to 12,500 @ /100


2005






2006

1-23

12,000 Btu, 1.6LB SO<sub>2</sub>  
Sulfur Adjustment  
Btu Adjustment to 12,500 @ /100

2-6-04

<sup>(1)</sup>Midpoint of Bid/Ask

Estimated 2005 Market at \$ ; 2006 Market at \$ 

2



PROGRESS FUELS CORPORATION

EVALUATION  
DRUMMOND COAL

Estimated Delivered Price to Crystal River—Domestic Water

Coal 12,500 Btu, 1.2LB SO<sub>2</sub>  
River Barge  
IMT  
Gulf Barge  
\$/Ton  
\$/MMBtu  
  
Equate Import Coal @ 11,700 Btu  
Less Gulf Barge  
  
Average  
  
Offer fixed for two years

**A**  
2005

**B**  
2006

10.50  
11.00  
11.50  
12.00  
12.50  
13.00  
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# IMPORTANT MESSAGE

FOR RL  
 DATE 3-24 TIME 10:09 A.M.  
 M Dennis Steul  
 OF Cell -> 205-903-8705  
 PHONE/  
 MOBILE 205-945-6411

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input checked="" type="checkbox"/>
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE Will be in Florida  
and would like to  
meet w/you briefly  
some time Friday morning

SIGNED

RL a  
 1184



PROGRESS  
 FUELS  
 CORPORATION

March 24, 2004

10:09AM

At

Dennis Steul just phoned and said you were waiting on the following information to for your meeting with Kyle this morning.

They are agreeable to your counter proposal at \$56.50 per net ton fixed for 2006 and 2006.

Robin

1 One Progress Plaza, Suite 1100  
 200 Central Avenue, St. Petersburg, FL 33701  
 Phone No. 727/324-6692 Fax No. 727/324-6501

1  
 2

Pitcher, Al (PFC)

From: Pitcher, Al (PFC)  
 Sent: Tuesday, March 23, 2004 3:41 PM  
 To: 'Steul, Dennis J.'  
 Subject: 2005 and 2006 Offer  
 Importance: High

*Waiting for a  
 call back  
 from Dennis  
 Steul*

Before I proceed further, with the discussions at the plant regarding additional Mina Pribbenow coal, I need to clarify several observations I have regarding your recent unsolicited 2005 and 2006 offer.

- While we are currently experiencing historically high coal prices, both in the domestic and foreign markets, the view of most industry experts project a slight retreat of coal prices sometime during the latter part of 2005 and a further retreat during 2006.
- Our discussions in Cartagena led me to believe that the price you have offered was a 2005 price and that a lower price could be in the offing for a multi-year arrangement. Your price of [REDACTED], which escalates to slightly over \$ [REDACTED], at the end of 2006, certainly does not reflect this concept.
- I believe the [REDACTED]% escalation each six months to be excessive given the high beginning price offered and the escalations, or should I say the lack thereof, in other contract offers for the same time frame.
- I fully understand why Drummond has established the Inter-Ocean Coal Sales, LDC, but Progress Fuels Corporation will need to either contract with Drummond Coal (the preferential method) or have a parent guarantee from Drummond Coal (the least preferred method).
- There is no mention I would assume there is none anticipated of a fuel adjustment for the transportation component of your offer.
- Going directly to the bottom line, I believe the plant would entertain a continuation of the supply of Mina Pribbenow at \$ [REDACTED] fixed for the term of 2005 and 2006. The tonnage could be 600,000 tons for 2005 and up to 1.0 million tons for 2006.
- All of this of course is subject to approval within our organization, but I wanted to determine if further discussions are warranted between Drummond and Progress Fuels Corporation.

Please review and call at your convenience.

Al Pitcher

*Per discussions with the plant  
 and Kyle, they agree with  
 my assessment; but given the  
 uncertainty of 2006 pricing approval  
 to gain at [REDACTED] for 2005 and  
 [REDACTED] for 2006. will call Drummond*

*AP  
 3/24/04*

3/23/2004

# INTEROCEAN COAL SALES, LDC

c/o Truman Bodden & Company

P. O. Box 866

George Town, Grand Cayman

Cayman Islands, B.W.I.

March 22, 2004

Mr. Al Pitcher  
V. P. Coal Procurement  
Progress Fuels Inc  
One Progress Plaza  
P. O. Box 15208  
St. Petersburg, FL 33701

Dear Al:

I thought it would be informative to give you an update on Drummond's Colombian coal availability for 2004 and 2005.

## 2004

Production:	21.34 mm MT
Confirmed Sales:	21.27 mm MT
Percentage Availability:	< 1%

## 2005

Production:	25.50 mm MT
Confirmed Sales:	24.05 mm MT
Percentage Availability:	5.7%

Even though we have approximately 1.45 mm MT of coal available, we have requests for over 3.0 mm MT. The 1.45mm MT of coal is being held for certain customers such as Florida Progress.

Presented below is our unsolicited offer of coal as was discussed in our meeting in Cartagena, Colombia last week.

### Calendar 2005/2006

### January 1, 2005 - December 31, 2006

Quantity:

CY 2005

600,000 net tons +/- 5% for shipping purposes only

CY 2006

1,000,000 net tons +/- 5% for shipping purposes only

*Per Dennis 1.2 million available for  
2006*



Specifications:

As received basis, ASTM standards, FOB barge – Mobile

Moisture	14.00% maximum
Ash	5.50% maximum
Sulfur	1.20 lbs. SO <sub>2</sub> /mmbtu
Volatile	32.00% minimum
Btu	11,700 minimum
Grind	43 minimum
Size	3" x 0 w/ max of 45% less than one-quarter inch

Fusions	2375 F – Initial minimum
	2500 F – Softening minimum
	2550 F – Hemispherical minimum
	2580 F – Fluid minimum

Price: \$ [REDACTED] per net ton loaded into Buyer's barge(s) at the  
Alabama State Docks – Mc Duffie Coal Terminal

Escalation: [REDACTED] every six months commencing July 1, 2005.

Sampling & Analysis: Loadport (Puerto Drummond) sampling and analysis by SGS.  
Cost is for Interocean's account.

Weight Determination: Loadport (Puerto Drummond) vessel draft survey performed by  
SGS. Cost is for Interocean's account.

Actual terms and conditions to be mutually agreed upon by both Progress Energy Inc., and  
Interocean Coal Sales, LDC.

This offer is valid through the close of business Friday, March 26, 2004.

Interocean Coal Sales appreciates this opportunity to quote our Colombia coal to the Progress  
Energy Inc.

Sincerely,

[REDACTED]  
George E. Wilbanks  
Attorney in Fact

# Progress Fuels Evaluation Drummond Coal

A

2005

3/23/04  
B

2006

Estimated Delivered  
Price to CR-Domestic Water

COG 12500 BTU/lb #2	\$		\$	1
River Barge				2
IMT				3
Gulf Barge				4
				5
\$/TON				6
\$/mmBTU				

Export Import  
Coal @ 11,700 BTU

Less Gulf/Txt

\$		\$	7
			8
			9

Average

Offer Two Year Fixed \$ and \$ 11

Progress Fuels  
Market Evaluation  
FOB Borge

3/23/04

Per United Power Inc

A

B

	2005	2006	
12000 BTU/1.2# SO <sub>2</sub>	[REDACTED]	[REDACTED]	1
BTU Adjustment to 12500	[REDACTED]	[REDACTED]	2
@ .25/100	[REDACTED]	[REDACTED]	3
12000 BTU/1.6# SO <sub>2</sub>	[REDACTED] <sup>(1)</sup>	[REDACTED] <sup>(1)</sup>	4
Sulfur Adjustment	[REDACTED]	[REDACTED]	5
BTU Adjustment to 12500	[REDACTED]	[REDACTED]	6
@ .25/100	[REDACTED]	[REDACTED]	7

(1) Mid Point of Bid/Ask

Estimated 2005 market \$ [REDACTED], 2006 \$ [REDACTED] 8

Note The United Coal prices are estimates for normal quantities of NYMEX and OTC trades usually 15,000 - 20,000 tons/mo or less than 250,000 tons per year. Prices could be at least [REDACTED] 9 per ton for 1.0 million tons.

Pitcher, AI (PFC)

From: fgarcia-cmc@cerrejoncoal.com on behalf of Francisco.Garcia@cmc-coal.ie

Sent: Tuesday, April 06, 2004 3:20 PM

To: Pitcher, AI (PFC)

Subject: CMC 2005

AI:

It was nice talking to you over the phone.

We look forward for your RFP, to be released April 12.

For 2005 we have coal available of our different qualities i.e A of 12100 Btu, B of 11800 Btu, C of 11600 Btu and D of 11300 Btu.

As an indication, for next year CIF prices in the US Gulf could be in the range of \$ [REDACTED] per net ton, basis 11300 Btu. Firm CIF prices would depend on the coal quality finally offered and on the freight rate we are able to secure from Puerto Bolivar to either IMT/Electrocoal or McDuffie. Both aspects will be worked out in detail in response to your coming solicitation.

Regards,  
Francisco J. Garcia  
CMC -Coal Marketing Company Ltd-  
Marketing Manager  
Carrera 54 # 72-80, P. 20, Barranquilla, Colombia  
Phone: 57-5-350-2123 Fax: 57-5-350-2475 Mob: 57-315-724-9572  
International Mob: 353-861-708-117  
e-mail: francisco.garcia@cmc-coal.ie

This quote was  
requested on 3/23.  
Response was received  
after a 2nd call was  
made.

Assume [REDACTED] @ 11300 BTU  
Adjustment for BTU @ [REDACTED]  
equates to [REDACTED] for an 11700 BTU  
either at NOLA or Mobile.  
Delivered therefore equates Drummond

4/6/04

4/6/2004



December 15, 2003

SENT VIA FAX NO. 205/945-6440

Mr. Dennis J. Steul  
Director, North American Sales  
Drummond Coal Sales, Inc.  
530 Beacon Pkwy. W., Ste. 800  
Birmingham, Alabama 35209

Dear Dennis:

This letter will confirm our acceptance of your offer dated December 2, 2003, wherein Drummond Coal Sales, Inc. (Drummond) offered to sell and Progress Fuels Corporation (PFC) agreed to purchase 300,000 tons of 1.2 LB/SO<sub>2</sub> "compliance" coal during the period February through December 2004.

This coal shall be prepared so as to be free of excess quantities of bone, slate, shale, fire clay, wood, rock, loose clay, and other impurities and are expected to meet the following specifications on an "as-received" basis:

SPECIFICATION	REQUIREMENT
MOISTURE	14.0% MAXIMUM
ASH	5.5% MAXIMUM
SULFUR	1.2 LB/MMBTU SO <sub>2</sub> MAXIMUM
BTU	11,700/LB MINIMUM
VOLATILE	32.0% MINIMUM
ASH HEMISPHERICAL TEMPERATURE	2500 DEGREES FAHRENHEIT MINIMUM
GRIND	43 MINIMUM
SIZE	3" X 0" WITH MAXIMUM OF 45% LESS THAN 1/4" FINES

The price on this coal will be [REDACTED] per net ton loaded into PFC-supplied ocean-going barges at McDuffie Island, ASD, Mobile, Alabama. This price is based on a guarantee of 11,700 Btu/LB. Premium/penalty, if any, will be computed at the rate of [REDACTED] per 100 Btu. Invoices, *reflecting premium/penalty calculations*, are payable fifteen (15) days from receipt and should be sent to the attention of Ms. Carrie Leonard, Senior Accountant, at Progress Fuels Corporation, Post Office Box 15208, St. Petersburg, Florida, 33733.

Progress Fuels Corporation  
200 Central Avenue  
St. Petersburg, FL 33701

1  
2

Mr. Dennis J. Stuel  
December 15, 2003  
Page 2

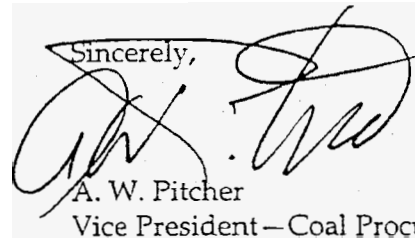
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Sampling and analysis and barge draft survey shall be performed by SGS at load port and shall be for Seller's account.

Coordination of these shipments will be made with PFC's Mrs. Tina McRoberts at 727/824-6682. Coordination of sampling related matters will be with PFC's Mr. Roy F. Potter at 727/824-6684.

If you are in agreement with this letter and the attached terms and conditions, please indicate so by signing in the appropriate acceptance blocks and returning one original for our files.

If you have any questions, please do not hesitate to contact us

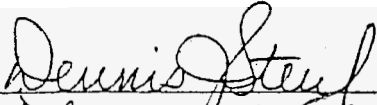
Sincerely,  
  
A. W. Pitcher  
Vice President - Coal Procurement

AWP/ro

cc: Ms. C. R. Clarke  
Mrs. D. M. Davis  
Mrs. M. J. Kuderick  
Mr. F. M. Lelak  
Ms. C. A. Leonard  
Mrs. T. M. McRoberts  
Mrs. V. M. Muehlendyck  
Mr. R. F. Potter

Agreed to and accepted this the 15 day of December, 2003.

Drummond Coal Sales, Inc.

By:   
Its: DIRECTOR OF SALES

**TERMS AND CONDITIONS  
MADE A PART OF  
LETTER AGREEMENT DATED DECEMBER 15, 2003**

These Terms and Conditions shall be a part of, and incorporated in, the above-identified Letter Agreement. Commencement of deliveries by Seller shall constitute acceptance of all the terms stated in the Letter Agreement, as well as all of the following General Terms and Conditions even advance of Seller's signature.

All coal purchased hereunder shall be received subject to Purchaser's right of inspection and rejection. Rejected coal will be held at Seller's risk for a reasonable time and will be returned or disposed of according to Seller's instructions and at Seller's expense. The net proceeds of any such disposition will be credited to Seller's account. Payment in whole or in part by Purchaser for coal purchased hereunder shall not constitute an acceptance of coal, which is rightfully rejected.

Should Seller default in whole or in part as to quantity or quality of coal under this Letter Agreement, Purchaser shall have, in addition to any other rights it may have at law or in equity, the right to acquire suitable substitute or replacement coal. In such event, Seller shall reimburse Purchaser for the amount by which the cost of substitute or replacement coal exceeds the price of coal under the Letter Agreement. The quality analysis performed by an independent certified testing company selected by Purchaser would be final and binding as to all questions of quality.

If shipment is not made of coal to be supplied hereunder by the date specified on the front of the Letter Agreement and deferred shipment has not been approved by Purchaser, Purchaser shall not be required to accept delivery of such shipments or Purchaser may elect to accept such shipments without prejudice to its rights hereunder. If at any time, Seller has reason to believe that deliveries will not be made as scheduled, he shall immediately give written notice setting forth the cause of the anticipated delay. Seller shall be responsible for any demurrage as the result of this delay.

For purposes of these Terms and Conditions, a "shipment" shall mean the quantity actually received in any vessel, barge, or unit train. If the coal delivered hereunder in any single shipment fails to meet any of the specifications set out in the Letter Agreement other than sulfur content, Purchaser shall have each of the following options to be exercised in its sole discretion:

1. Purchaser may notify Seller that Purchaser will accept such coal subject to and in accordance with the provisions set forth in the Letter Agreement; provided, however, that Purchaser's exercise of this option shall in no way constitute a waiver of Purchaser's right at any time thereafter to exercise any of the other options set forth herein with respect to subsequent deliveries of coal hereunder; or
2. Purchaser will have the option to reject any shipment which exceeds any of the minimum/maximum specifications listed in the Letter Agreement, and Purchaser may notify Seller to suspend further deliveries of coal hereunder until Seller demonstrates to Purchaser's sole satisfaction that it can deliver coal that will conform on a per shipment basis to the specifications set forth in Letter Agreement; provided, however, that

Purchaser's exercise of this option shall in no way constitute a waiver of Purchaser's right at any time thereafter to exercise any of the other options set forth herein with respect to subsequent deliveries of coal hereunder. If Seller fails to make the above demonstration to Purchaser's satisfaction within thirty (30) days after notice by Purchaser, Purchaser shall have the right to terminate or cancel this Agreement and, in addition, pursue every other remedy provided by law or equity. Should legal proceedings be instituted by Purchaser to recoup its losses or damage hereunder, it shall, in addition, be entitled to recover from Seller all court costs, reasonable attorney's fees and any expenses incurred by Purchaser, incident to such proceeding.

Should Seller become insolvent, or a voluntary or involuntary petition is filed as to Seller under the United States Bankruptcy Code, or a receivership or similar proceeding be filed as to Seller, the Purchaser may, at its option and in its sole discretion anytime thereafter upon giving written notice, terminate the Letter Agreement in whole or in part. The foregoing remedy of Purchaser is not to be considered exclusive, but shall be cumulative and be in addition to any other remedies of Purchaser as provided herein.

As used herein, the term "force majeure" shall mean any event beyond the control and without fault or negligence of the party affected thereby and which, by the exercise of reasonable diligence or the incurring of reasonable expense, such party is unable to prevent or overcome, regardless of whether such event was foreseeable, including, without limitation, act of God, act of public authorities (including courts and commissions of competent jurisdiction), act of the public enemy, insurrection, riot, labor dispute, labor or material shortage, fire, explosion, flood, breakdown of or damage to plant equipment or facilities (including emergency outages of equipment or facilities to make repairs to avoid breakdowns thereof or damage thereto), interruption to transportation or transportation delay, river freeze-up, embargo, order or act of civil or military authority, legislative, regulatory, permitting, judicial rule or order adopted, amended or newly interpreted subsequent to the date of the Letter Agreement and any other event of a similar or dissimilar nature which wholly or partially prevents the mining, hauling, handling, processing or loading of coal by Seller or the receiving, handling, transporting and/or delivering by Purchaser's carrier thereof or the accepting, handling, utilizing and/or unloading thereof by Purchaser or Purchaser's intended buyer, Progress Energy Florida (PEF).

In the event performance of Seller's obligations hereunder or Purchaser's obligations hereunder is made impossible, impractical or illegal by reason of force majeure (other than obligations to pay or expend money for or in connection with the performance of the transactions contemplated by the Letter Agreement) and such party promptly gives to each other party hereto written notice of the details thereof, then the obligations of the parties hereto shall be totally excused to the extent made necessary by such force majeure and during its continuance; provided, however, that such party giving such notice shall use its best efforts to eliminate such force majeure to the extent economically feasible to do so and with a minimum of delay. Any deficiencies in deliveries of coal hereunder as a result of force majeure shall not be made up except at the sole discretion of the Purchaser. In the event force majeure results in a partial reduction in the total quantity of coal Seller is obligated to deliver hereunder, the quantity of coal Seller shall be obligated to deliver to Purchaser hereunder during the continuance of such force majeure shall be limited to the amount of coal required to be delivered during such period but for this section multiplied by a fraction, the denominator of which is the production capacity of the Coal Property immediately prior to such force majeure and the numerator of which is the production capacity of the Coal Property during the continuance of such force majeure.



In the event that restrictions are imposed during the term of the Letter Agreement by governmental bodies, agencies, entities, officials or courts which preclude or restrict PEF from burning coal of the specifications hereunder, such restriction shall be deemed to be an event of force majeure under the Letter Agreement unless its effect can be avoided in a lawful manner and will not, in PEF's sole judgment, result in unreasonable expense to PEF, the obligations of the parties hereto shall be totally excused during the continuance of such force majeure.

Seller shall not, without Purchaser's prior written consent, which consent will not unreasonably be withheld, (i) make any assignment or transfer of the Letter Agreement, by operation of law or otherwise, including without limitation any assignment, encumbrance or transfer as security for any obligation, or (ii) assign or transfer the right or duty to perform any obligation of Seller hereunder; provided, however, that Seller may assign the right to receive payments for coal sold hereunder directly from Purchaser to a lender as part of any accounts receivable financing or other revolving credit arrangement which Seller may have now or at any time during the term of the Letter Agreement. Seller may assign the Letter Agreement to an affiliate of Seller, or as part of a merger or consolidation, involving Seller, provided, however, that in the case of an assignment to an affiliate, Seller shall remain liable for the performance and for the obligations of the assignee.

The terms and provisions hereof shall be construed and enforced in accordance with the laws of the state of West Virginia.

Each party shall maintain the terms of the Letter Agreement and any information or data relating hereto, including site visits, in confidence and, except as may be required by law, shall not disclose such information or data or any other information concerning the performance or administration of the Letter Agreement to any other party other than a party's officers, directors, members, employees, contractors, agents, attorneys, accountants or financial advisers who have a need to have access thereto or as required by applicable law, regulation or judicial or governmental order. If either party is required to disclose any information required by this Section to be maintained as confidential in a judicial, administrative or governmental proceeding, such party shall give the other party at least ten (10) days prior written notice (unless less time is permitted by the applicable proceeding) before disclosing any such information in any such said proceeding and, in making such disclosure, the party required to disclose the information shall disclose only that portion thereof required to be disclosed and shall take all reasonable efforts to preserve the confidentiality thereof, including obtaining protective orders and supporting the other party in intervention. Nothing contained herein shall obligate either party to disclose to the other party any information that would be prohibited from disclosure under confidentiality agreements with third parties, including, without limitation, licenses; and any such information shall only be disclosed to the other party after appropriate confidentiality agreements have been entered into or appropriate consents obtained. The terms and provisions of this Section shall survive the termination of the Letter Agreement for a period of two (2) years.

The terms and conditions set forth herein constitute a complete and exclusive statement of agreement between the parties hereto, regardless of any terms contained in any order, acknowledgment or any other instrument. No statements or agreements, oral or written, not contained herein shall vary or modify the terms hereof. Neither party shall claim any amendments, modifications, or release from any provisions hereof unless the same is in writing signed by each of the parties hereto and specifically states the same is an amendment to the Letter Agreement. Waiver by either party hereto of any breach by the other party of the terms and conditions hereof shall not be construed as a waiver of any other breach.

Seller, for itself and its successors and assigns, agrees to indemnify, defend and hold Purchaser and its affiliates and their respective directors, officers, employees and agents harmless from and against all (a) claims, demands, damages, actions and causes of actions, and costs and expenses in connection therewith or related thereto (including without limitation attorney's fees and court costs) arising from property damage, bodily injury or death of third parties, directly caused by Seller's unlawful or negligent performance under the Letter Agreement, and (b) all fines, penalties, costs, losses or expenses incurred by Purchaser by reason of Seller's violation of any applicable federal, state and local laws, ordinances or regulations directly related to producing, supplying, transporting, delivering or using coal under the Letter Agreement. Purchaser shall give Seller prompt written notice of any claim, demand or suit of which Purchaser receives notice arising out of or in connection with the Letter Agreement and covered by this indemnity. Purchaser shall have the right to reasonably participate in any defense provided by Seller, including the selection of local counsel. The indemnification provision shall survive the expiration or earlier termination of the Letter Agreement.

Seller agrees to conform to Purchaser's environmental, health, and safety standards as follows:

1. **Compliance and Indemnification.** Seller shall comply with all applicable EHS laws and shall indemnify Purchaser against any EHS claims and costs arising from Seller's performance under the Letter Agreement.
2. **Audits.** Purchaser may audit Seller's EHS compliance. Within thirty (30) days of Purchaser's request, Seller shall deliver to Purchaser (1) all records regarding (a) Seller's actual or alleged violations of EHS laws and (b) EHS claims asserted against Seller, in each case in the five year period preceding Purchaser's request and (2) any executed consent form(s) necessary for Purchaser to obtain from regulatory agencies and other third parties information regarding Seller's EHS compliance.
3. **Definitions (as used in the Letter Agreement).**
  - a. **Claim** means administrative, regulatory or judicial action, suite, dispute, liability, judgment, penalty, damages, directive, order or claim.
  - b. **EHS** means relating to the management of any material or the protection of human health, public safety, occupational/mine safety and health, the environment or natural resources.
  - c. **Indemnify** means to indemnify, defend, and reimburse the indemnitee and its successors and assigns on an after-tax basis.
  - d. **Law** means any binding authority, demand, or permitting requirement issued by a legislative, judicial, or executive governmental body.
  - e. **Manage or management, with respect to any material,** means the manufacture, disturbance, generation, use, transportation, emission, discharge, treatment, storage, disposal, release, or threatened release thereof.

Further (a) Notwithstanding any provision in the Letter Agreement to the contrary, neither party shall be liable hereunder for incidental, special, punitive, consequential or other indirect loss or damage, or for lost profits, business, tax credits or any other special or incidental loss or

damage. The parties further agree that the waivers and disclaimers of liability expressed in this Letter Agreement shall survive termination of the Letter Agreement, and shall apply whether in contract, equity, tort or otherwise, even in the event of the fault, negligence, including sole negligence, strict liability or breach of warranty of any party released or whose liabilities are waived or disclaimed. Except as otherwise provided, neither party makes any warranties or guarantees to the other, either express or implied, with respect to the subject matter of the Letter Agreement, and both parties disclaim and waive any implied warranties or warranties imposed by law, (b) Notwithstanding any provision of the Letter Agreement to the contrary, the parties recognize the Purchaser is a corporation formed under the laws of the State of Florida and the Seller is a company formed under the laws of the State of Delaware and that no past, present or future shareholder, officer, director, member or manager of either party shall have any personal liability for any obligation whatsoever or howsoever arising (including under contract or in tort or equity) under or with respect to the Letter Agreement or the transaction contemplated hereby, or applicable law with respect thereto. Neither Purchaser nor Seller shall (i) assert or seek to assert any claim against, (ii) name in any civil action or proceeding or arbitration, or (iii) seek or obtain any judgment, order or decree against any member, manager, shareholder, officer, employee, agent or representative of Purchaser or Seller, with respect to Purchaser's or Seller's obligations under the Letter Agreement.

If Purchaser and Seller are each required to pay any amount to each other, then such amounts with respect to each other may be aggregated and the Purchaser and Seller may discharge their obligations to pay through netting, in which case the Purchaser or Seller, if any, owing the greater aggregate amount may pay to the other party the difference between the amounts owed. The Purchaser or Seller reserves to itself all rights, setoffs, counterclaims, and other remedies and defenses consistent with this Letter Agreement, to the extent not expressly herein waived or denied, which the Purchaser or Seller has or may be entitled to arising from or out of this Letter Agreement. The obligations to make payment under this Letter Agreement may be offset against each other, setoff or recouped there from. For the purpose of this section only, Purchaser and Seller shall also mean any affiliates, subsidiaries, or other related entities of Purchaser and Seller.

Additionally, Seller represents to and covenants with Purchaser that it has obtained and will maintain or cause to be maintained at its expense:

1. At a minimum, Automobile Liability Insurance applying to own, non-owned and hired vehicles with a limit of \$1 Million combined single limit coverage per occurrence. Additionally, Umbrella Liability coverage with a minimum of \$1 Million limit per occurrence is desired.
2. Workers' Compensation, Employees' Liability insurance with a minimum of \$500,000 Accident, \$500,000 Disease and \$500,000 Employee coverage.
3. Employers' Liability Insurance with a minimum of \$1 Million coverage per claim.

The Letter Agreement dated December 15, 2003, and these Terms and Conditions constitute the agreement in total between the parties. Neither party hereto shall claim any amendments, modifications, or release from any of the provisions hereof unless the same is in writing, signed by each of the parties hereto and specifically states the same is an amendment to the Letter Agreement and these Terms and Conditions. Waiver by either party of any part of the Letter Agreement or these Terms and Conditions shall not be construed as a waiver of any other breach.

These Terms and Conditions may be executed in any number of counterparts, including by means of facsimile signatures, each of which shall be an original, but all of which together shall constitute one and the same instrument.

Agreed to and accepted this 15<sup>th</sup> day of December, 2003.

"Purchaser"

By: 

Its: Vice President

Coal Procurement

"Seller"

By: 

Its: DIRECTOR OF SALES



COAL SOLICITATION—"A" COAL  
CRYSTAL RIVER UNITS 1 & 2

RFP'S RELEASED 04/12/04

WORKPAPERS

COPIES



**PROGRESS  
FUELS**  
Corporation

## INTER-OFFICE CORRESPONDENCE

Fuel Transportation  
Office

BT10E  
MAC

727/824-6692  
Phone No.

**SUBJECT: 2005-2007 REQUEST FOR PROPOSALS (RFP), PURCHASE ACTIVITY AND  
CONTRACT RE-OPENERS (RE-OPENERS)**

**TO: Charlie Gates**

**DATE: June 22, 2004**

Since the beginning of the year, coal prices have continued to escalate to unprecedented levels. At the present time, there does not appear to be anything that will allow these prices to recede from their current levels. Most projections show a very strong coal market, at least through 2005 and probably well into 2006. Coal has been affected, like other fuels, by a worldwide mix of uncertainties, regulatory indecision, improving and in some cases "booming" (China) economies, transportation shortages and inefficiencies, and regional coal supply shortages. As discussed during each of our past meetings, we at Progress Fuels Corporation (PFC) are committed to continue to seek the most opportune times to enter the coal market to insure the competitiveness of the Crystal River plants. In addition to participating in the 2004 spot coal market, when we deemed it advantageous, PFC successfully renegotiated agreements with various suppliers in conjunction with their contract price re-opener provisions. Additionally, PFC has just completed evaluating and purchasing coal from the results of the 2005-2007 Request for Proposals (RFP).

Last year, we had eight contracts with price re-openers, five of which were for the Delta coal and three of which were for the Alpha coal. We successfully renegotiated six contracts (three Alpha and three Delta) and were unsuccessful with two Delta suppliers. A portion of the tonnage for the unsuccessful contracts was placed with other existing suppliers and the balance was secured in the 2004 spot market. More importantly, we negotiated renewed prices, tons, and two-year terms (2004 and 2005) with two suppliers; and in each case, we have re-openers for 2006. Our 2004 RFP purchases and the renegotiated contracts are currently at least \$ [REDACTED] below the current market.

Our challenge this year was to attempt timing the market for our 2005-2007 RFP and any other purchases that we deemed of value. Although the prices are dramatically higher than last year, we were able to time the market such that the purchases we made, based on the results of the RFP just one month ago, are [REDACTED] dollars below the current market; and in the case of the March Colombian purchase, it is at least [REDACTED] below the current market for that coal.

The remainder of this memo will address the results from the 2005-2007 RFP and the Drummond Colombian coal purchase noted above. The 2005-2007 RFP provided PFC a reasonable selection of potential suppliers. We received bids from 20 domestic and foreign suppliers who submitted 37 bids. Last year we received bids from 21 domestic and foreign suppliers, submitting approximately 75 bids. This year we were offered 33.0 million tons of which 13% were foreign offers and 87% were water, rail-eastern, and rail-western offers. Last year we were offered 42.0 million tons spread fairly evenly between the foreign and domestic suppliers.

Because of the strength of the current market, we only purchased for 2005 and 2006. Our plan is to watch the market, and re-enter for both spot and contract coal during late 2004 and early 2005. I have enclosed with this memo the purchases and the economic evaluation from the RFP (See Attachment "A"), a Supply Assessment for 2005 and 2006 (See Attachment "B"), and the 2005 and 2006 scheduled purchases including their economic evaluations (See Attachment "C").

As always, we attempted to improve the economics, as compared to the prices offered, while increasing the tonnage purchased and the term offered.

## **2005-2006 PURCHASES**

### FOREIGN WATER

#### Choice:

- During the latter part of March and early April, we began negotiations with Drummond for an extension of our 2004 agreement. This decision was made because all indicators pointed to the beginning of another round of price increases and supply shortages for both domestic and foreign coals. We purchased 800,000 tons for 2005 and 1 million tons for 2006 from Drummond's Mina Pribbenow mines; this is "Delta" coal. The delivered cost to Crystal River (CR) is [REDACTED]/MMBTU and [REDACTED]/MMBTU, respectively. 1

No additional purchases were made for foreign coal from the RFP because the prices submitted from other foreign suppliers were not competitive. Their prices ranged from [REDACTED] to [REDACTED]\$/MMBTU. These prices compared to [REDACTED] to [REDACTED]\$/MMBTU, for offers from the domestic suppliers. 2

#### Explanation:

During 2004, we began shipments of Drummond's Colombian coal. The results economically, environmentally, and operationally have been excellent. This coal, besides being very low in ash and sulfur, reduces NO<sub>x</sub> emissions by almost 25%. This purchase will assist CR in achieving their NO<sub>x</sub> goals, while providing them with a competitively priced product.

### DOMESTIC WATER

#### Choices:

- We purchased "Delta" coal from two suppliers for delivery on the river system. We were offered and purchased 300,000 tons per year for 2005 and 2006 from Central Coal Company. This "Delta" coal will ship via truck to the Kanawha River and will deliver into CR at [REDACTED]\$/MMBTU. We also purchased 360,000 and 180,000 tons of "Delta" coal for 2005 and 2006 from Massey Energy. This coal will be rail-delivered to the Ohio River, and it will deliver into CR at [REDACTED]\$/MMBTU. 3  
4

Explanation:

- We have had previous experience with both of these suppliers and are very satisfied they will meet or exceed the specifications bid.

DOMESTIC RAIL

Choices:

- We purchased "Delta" coal from two companies and "Alpha" coal from three others. We have previous experience with three of the suppliers and have added two new companies.

"DELTA COAL"

We purchased 360,000 for 2005 and 180,000 tons for 2006 from Massey Energy. This coal will deliver into CR at [REDACTED] \$/MMBTU. We also purchased 360,000 each year from Progress Fuels-Marketing and Trading. This product will deliver into CR at [REDACTED] \$/MMBTU.

1  
2

"ALPHA COAL"

We purchased 720,000 tons for 2005 and 360,000 for 2006 from Massey Energy. This coal will deliver into CR at [REDACTED] \$/MMBTU. We purchased 120,000 tons for 2005 and 240,000 tons for 2006 from Sequoia Energy LLC. This coal will deliver into CR at [REDACTED] \$/MMBTU. Also, we purchased 240,000 tons for each year (2005 and 2006) from B&W Resources. This coal will deliver into CR at [REDACTED] \$/MMBTU.

3  
4  
5

Explanation:

- Massey Energy has been a consistently reliable supplier over the past 20 years. Progress Fuels-Marketing & Trading has very good quality coal and a reliable track record. Because of the shortage of coals in the Central Appalachian region, we felt it imperative to add to our base of suppliers. Both Sequoia Energy and B&W Resources will fulfill this need. Prior to contracting with them we had our field representative visit their mining operations, and we called other utility buyers to verify their performance. No problems were noted in either case.

**2004 RE-OPENERS**

We have only one contract with a re-opener during 2004. Consol Energy (Consol) has a price, quantity, and terms re-opener, which needs to be completed by November 1, 2004. We have already had several discussions with Consol regarding tonnage for next year. Current estimates are that they will have 750,000 to 1 million tons to offer. The current contract is for 1 million tons.



**SUMMARY OF 2005 and 2006 PURCHASES**

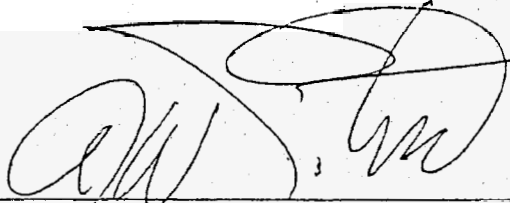
We anticipate a burn of 2.3 million tons for Crystal River Units 1 and 2 for both 2005 and 2006 and 4.3 and 4.4 million tons for Crystal River Units 4 and 5 for 2005 and 2006, respectively. The total burn is estimated at 6.6 million tons for 2005 and 6.7 million tons for 2006.

Our CR 1 & 2 open position for 2005 is approximately 330,000 tons, while it is 1.9 million tons for 2006; and it will be delivered 100 percent via rail.

Regarding Crystal River Units 4 and 5, our open position for 2005 is approximately 230,000 tons and approximately 920,000 tons for 2006. We will deliver 2.3 million tons via barge each year and 2.0-2.1 million tons by rail.

We will continue to fulfill the open positions from the spot and contract markets.

I would like to schedule a meeting with you at your earliest convenience to discuss the details of this report and answer any questions you may have.

  
A. W. Pitcher

AWP/ro

Attachments

cc/att: Rufus Jackson  
Kyle Crake



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COAL PRODUCERS' SOLICITATION FORM  
Crystal River 1 & 2  
PAGE 2 OF 3

**CURRENT QUALITY**

DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %	7.5	8.0	8.0% MAX.
SURFACE MOISTURE %	5.0	5.0	5.0% MAX.
ASH %	11.0	12.0	12% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	1.6	1.5	2.1 LB/MAX. <sup>1</sup>
BTU/LB	12,400	12,300	12,000/LB MIN
ASH SOFTENING DEGREES FAHRENHEIT H=W (R)	2700	2500	2,500 MIN
VOLATILE %	34.0	32.0	31.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	48	45	42 MIN. <sup>3</sup>
SIZE	2" X 0	2" X 0	2" X 0"
FINES (-1/4" X 0")	45	45	45% MAX. <sup>4</sup>
FIXED CARBON %	52.0	50.0	
HYDROGEN %	4.8	4.5	
NITROGEN %	1.4	1.5	
CHLORINE %	.15	.20	
OXYGEN %	6.5	7.0	

<sup>1</sup> MUST BE MET ON AN INDIVIDUAL SHIPMENT BASIS.

<sup>2</sup> ADJUSTABLE IN DIRECT PROPORTION TO BTU.

<sup>3</sup> ADJUSTABLE IN INVERSE PROPORTION TO BTU.

<sup>4</sup> PREFERRED VALUE, COALS NOT MEETING THIS SPECIFICATION WILL BE CONSIDERED

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV
P <sub>2</sub> O <sub>5</sub>	.18	.05	Antimony		
SiO <sub>2</sub>	54.18	3.0	Arsenic		
Fe <sub>2</sub> O <sub>3</sub>	8.38	1.5	Beryllium		
Al <sub>2</sub> O <sub>3</sub>	27.36	2.0	Cadmium		
TiO <sub>2</sub>	1.50	.30	Chromium		
CaO	2.51	.50	Cobalt		
MgO	.99	.20	Fluorine		
SO <sub>2</sub>	2.03	.30	Lead		
K <sub>2</sub> O	2.21	.50	Lithium		
Na <sub>2</sub> O	.46	.05	Manganese		
Undetermined	.04	.01	Mercury		
Base/Acid Ratio	.18	.05	Nickel		
Maximum Base/Acid Ratio	.30	.05	Selenium		

The logo for Coal Marketing Company Ltd (CMC) features the letters "CMC" in a bold, sans-serif font.

Coal Marketing Company Ltd



Francisco J. Garcia  
Marketing Manager

May 12, 2004

Mr. Al W. Pitcher  
Vice President Coal Procurement  
Progress Energy  
St. Petersburg, Florida 33701  
USA

Dear Al:

We appreciate the opportunity to make the following proposal for the supply of Cerrejon coal to Progress Energy, for its Crystal River Plant in Florida, under the following terms and conditions:

**Term**

CMC would be willing to negotiate and enter into a mutually agreeable coal sale and purchase contract (Contract) to supply coal from January 1 to December 31, 2005.

**Source**

Coal would be supplied from the Cerrejon mines and would be loaded at Puerto Bolivar, Republic of Colombia, South America.

**Tonnage**

CMC would be willing to supply 400,000 short tons of Quality C coal and 200,000 short tons of Quality B coal during calendar year 2005, at final dates to be mutually agreed.

**Delivery**

Coal would be supplied either CIF Electrocoal Terminal, New Orleans, or CIF McDuffie, Mobile. Except as provided otherwise herein, the provisions of Incoterms 2000 would apply.

**Quality**

Coal would be unwashed, crushed, and would have typical specifications as shown below on an "as received" basis as sampled at Puerto Bolivar. The average quality of Buyer's coal may vary due to deviations in the quality of coal being mined at the time of loading. The term "as received" basis has that meaning defined in ASTM specifications D3180.

<b><u>Typical Coal Analysis</u></b>	<b><u>Typical</u></b>	<b><u>Typical</u></b>	<b><u>ASTM Test Nr.</u></b>
Calorific value (Btu/lb gar)	11,800	11,600	D1989
Total moisture (wt percent)	11.4	11.6	D3302
Ash (wt percent)	7.3	8.2	D3174
Volatile Matter (wt percent)	34.0	33.4	D3175
Sulfur (wt percent)	0.6	0.6	D4239C
Hardgrove Index	48	48	D409
Nominal Top Size (mm)	50	50	D4749
% below 1/4 inch	45	45	
SO <sub>2</sub> /MBTU	1.0	1.12	
Carbon (wt percent)	65.5	65.2	
Hydrogen (wt percent)	4.6	4.6	
Nitrogen (wt percent)	1.2	1.2	
Chlorine (wt percent)	0.03	0.03	
Oxygen (wt percent)	8.1	8.1	

**Note:** CMC recognizes that our B coal does not comply with your pyritic sulfur restrictions for non compliance coal, but offers this quality as an alternative

**Price**

CMC would supply low sulfur thermal coal, as stated in your bid forms, at the price of:

- US\$ [REDACTED] per short ton CIF Electrocoal Terminal, New Orleans at 11,800 Btu/lb gar 1
- US\$ [REDACTED] per short ton CIF McDuffie, Mobile at 11,800 Btu/lb gar 2
- US\$ [REDACTED] per short ton CIF Electrocoal Terminal, New Orleans at 11,600 Btu/lb gar 3
- US\$ [REDACTED] per short ton CIF McDuffie, Mobile at 11,600 Btu/lb gar 4

These are indicative prices, valid 20 days after May 12, 2004, subject to CMC's Board approval

#### Scheduling

Delivery schedule would be mutually agreed.

#### Other

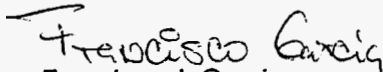
This offer shall not be binding on either party until the parties reach a mutual agreement on each of the terms proposed above, as well as other contractual clauses covering payment terms, passage of title, scheduling and shipping, weighing, sampling and analysis, quality adjustments, taxes, insurance, force majeure, limitation of warranties, no consequential damages, applicable law, arbitration, assignment, and confidentiality. This offer shall not be binding on either party until a definitive agreement has been approved by the management of each company and executed by an authorized representative of each party.

#### Expiration

This indicative proposal is valid 20 days after May 12, 2004. We request that you treat this proposal and supporting information as confidential.

We will be glad to further discuss our offer, at your convenience.

Sincerely,

  
Francisco J. Garcia



**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
Crystal River 1 & 2  
PAGE 1 OF 3

PRODUCER NAME: Coal Marketing Company Ltd -CMC-		
STREET ADDRESS: 7 Bachelor's Walk, Dublin 1, Ireland		
CONTACT: Francisco J. Garcia -Marketing Manager-		TELEPHONE NO. 57-5-350-2123
MINE(S): Cerrejon, Colombia	BOM DISTRICT: N/A	COUNTY: N/A STATE: N/A
ORIGIN RAILROAD(S)/DISTRICT: EK ____ CV ____ Big Sandy ____ Other: Imported coal		R/R TIPPLE DESIGNATION/NUMBER: N/A
TYPE OF LOADING FACILITY: Imported coal		
UNIT TRAIN: N/A	SINGLE CAR: N/A	TRAINLOAD: N/A
MAXIMUM LOADING CAPACITY: N/A TONS _____ HOURS _____ TRACK CAPACITY _____		
WATER DELIVERY CAPABILITY: <input checked="" type="checkbox"/> YES _____ NO IMPORT COAL: Cerrejon, Colombia LOAD PORT: Puerto Bolivar, Colombia		
SHIP THROUGH: _____ DOCK		LOAD RATE: 6,000 short tons per hour
TOTAL PRODUCTION CAPACITY PER MONTH: 2.5 Million short TONS		
SEAMS: Multiseam operation		
BLEND RATIOS		
TYPE OF LABOR CONTRACT(S): Union		
DATE FOR RENEGOTIATION: 2005		
TYPE OF COAL WEIGHING: Vessel draft survey		SCALE CERTIFIED? _____ YES _____ NO
PERIOD	TONNAGE	BASE PRICE PER TON FOB MINE
January 1 - December 31, 2005	400,000 short tons	_____ per short ton CIF NOLA @ 11,600 Btu/lb gar Indicative price, valid for 20 days after May 12, 2004, subject to CMC's Board approval
IF THIS COAL IS OFFERED BY A COMPANY OR INDIVIDUAL WHICH IS NOT THE PRODUCER PLEASE INDICATE SO BY MAKING AN "X" IN THIS SPOT		
PRODUCER'S COMMENTS:		
CREDIT REFERENCES (Minimum two):		
CUSTOMER REFERENCES (Minimum four): JEA, Southern Company, Nova Scotia Power, New Brunswick Power		
Francisco J. Garcia		TITLE: Marketing Manager
		DATE: May 12, 2004



**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
Crystal River 1 & 2  
PAGE 2 OF 3

MRS. ROBIN OTT  
PROGRESS FUELS CORPORATION  
ONE PROGRESS PLAZA, SUITE 600  
ST. PETERSBURG, FLORIDA 33701

OR

MRS. ROBIN OTT  
PROGRESS FUELS CORPORATION  
POST OFFICE BOX 15208  
ST. PETERSBURG, FLORIDA 33733

**CURRENT QUALITY**

PHONE NO. 727/824-5670  
FAX NO. 727/824-6601

DESCRIPTION	OFFERED COAL SPECIFICATIONS CERREJON "C" COAL		REQUIRED COAL SPECIFICATIONS
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %	11.6	12.3	8.0% MAX.
SURFACE MOISTURE %	2.5	3.0	5.0% MAX.
ASH %	8.2	9.2	12% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	1.12	1.34	2.1 LB/MAX. <sup>1</sup>
BTU/LB	11,600	11,600	12,000/LB MIN.
ASH SOFTENING DEGREES FAHRENHEIT H=W (R)	2350	2290	2,500 MIN.
VOLATILE %	33.4	32.0	31.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	48	45	42 MIN. <sup>3</sup>
SIZE	2"X 0"	2"X 0"	2" X 0"
FINES (-1/4" X 0") %	45	51	45% MAX. <sup>4</sup>
FIXED CARBON %	46.8		-----
HYDROGEN %	4.6		-----
NITROGEN %	1.2		-----
CHLORINE %	0.03		-----
OXYGEN %	8.3		-----

<sup>1</sup> MUST BE MET ON AN INDIVIDUAL SHIPMENT BASIS.

<sup>2</sup> ADJUSTABLE IN DIRECT PROPORTION TO BTU.

<sup>3</sup> ADJUSTABLE IN INVERSE PROPORTION TO BTU.

<sup>4</sup> PREFERRED VALUE, COALS NOT MEETING THIS SPECIFICATION WILL BE CONSIDERED

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV.
P <sub>2</sub> O <sub>5</sub>	0.22	0.02	Antimony	0.9	
SiO <sub>2</sub>	60.4	0.8	Arsenic	3.0	
Fe <sub>2</sub> O <sub>3</sub>	8.4	0.4	Beryllium	0.7	
Al <sub>2</sub> O <sub>3</sub>	20.1	1.0	Cadmium	0.4	
TiO <sub>2</sub>	1.0	0.13	Chromium	11	
CaO	2.3	0.3	Cobalt	1.0	
MgO	2.2	0.3	Fluorine	51	
SO <sub>3</sub>	2.1	0.35	Lead	3.0	
K <sub>2</sub> O	2.2	0.4	Lithium	1.9	
Na <sub>2</sub> O	0.6	0.15	Manganese	69	
Undetermined	0.48		Mercury	<0.1	



**PROGRESS  
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Base/Acid Ratio	0.19	0.02	Nickel	10	
Maximum Base/Acid Ratio	0.23		Selenium	3.0	<b>PROJECTED QUALITY</b>

DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %	11.6	12.3	8.0% MAX.
SURFACE MOISTURE %	2.5	3.0	5.0% MAX.
ASH %	8.2	9.2	12% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	1.12	1.34	2.1 LB/MAX. <sup>1</sup>
BTU/LB	11,600	11,600	12,000/LB MIN
ASH SOFTENING DEGREES FAHRENHEIT H=W (R)	2350	2290	2,500 MIN.
VOLATILE %	33.4	32.0	31.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	48	45	42 MIN. <sup>3</sup>
SIZE	2" X 0"	2" X 0"	2" X 0"
FINES (-1/4" X 0")	45	51	45% MAX. <sup>5</sup>
FIXED CARBON %	46.8		-----
HYDROGEN %	4.6		-----
NITROGEN %	1.2		-----
CHLORINE %	0.03		-----
OXYGEN %	8.3		-----

<sup>1</sup> MUST BE MET ON AN INDIVIDUAL SHIPMENT BASIS.

<sup>2</sup> ADJUSTABLE IN DIRECT PROPORTION TO BTU.

<sup>3</sup> ADJUSTABLE IN INVERSE PROPORTION TO BTU.

<sup>4</sup> PREFERRED VALUE. COALS NOT MEETING THIS SPECIFICATION WILL BE CONSIDERED.

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV.
P <sub>2</sub> O <sub>5</sub>	0.22	0.02	Antimony	0.9	
SiO <sub>2</sub>	60.4	0.8	Arsenic	3.0	
Fe <sub>2</sub> O <sub>3</sub>	8.4	0.4	Beryllium	0.7	
Al <sub>2</sub> O <sub>3</sub>	20.1	1.0	Cadmium	0.4	
TiO <sub>2</sub>	1.0	0.13	Chromium	11	
CaO	2.3	0.3	Cobalt	1.0	
MgO	2.2	0.3	Fluorine	51	
SO <sub>3</sub>	2.1	0.35	Lead	3.0	
K <sub>2</sub> O	2.2	0.4	Lithium	1.9	
Na <sub>2</sub> O	0.6	0.15	Manganese	69	





**PROGRESS  
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COAL PRODUCERS' SOLICITATION FORM

Crystal River 1 & 2

PAGE 4 OF 3

Undetermined	0.48		Mercury	<0.1	
Base/Acid Ratio	0.19	0.02	Nickel	10	
Maximum Base/Acid Ratio	0.23		Selenium	3.0	
*NOTE: ADD SHEETS IF MORE THAN ONE SEAM					



Francisco J. Garcia  
Marketing Manager

May 12, 2004

Mr. Al W. Pitcher  
Vice President Coal Procurement  
Progress Energy  
St. Petersburg, Florida 33701  
USA

Dear Al:

We appreciate the opportunity to make the following proposal for the supply of Cerrejon coal to Progress Energy, for its Crystal River Plant in Florida, under the following terms and conditions:

**Term**

CMC would be willing to negotiate and enter into a mutually agreeable coal sale and purchase contract (Contract) to supply coal from January 1 to December 31, 2005.

**Source**

Coal would be supplied from the Cerrejon mines and would be loaded at Puerto Bolivar, Republic of Colombia, South America.

**Tonnage**

CMC would be willing to supply 400,000 short tons of Quality C coal and 200,000 short tons of Quality B coal during calendar year 2005, at final dates to be mutually agreed.

### **Delivery**

Coal would be supplied either CIF Electrocoal Terminal, New Orleans, or CIF McDuffie, Mobile. Except as provided otherwise herein, the provisions of Incoterms 2000 would apply.

### **Quality**

Coal would be unwashed, crushed, and would have typical specifications as shown below on an "as received" basis as sampled at Puerto Bolivar. The average quality of Buyer's coal may vary due to deviations in the quality of coal being mined at the time of loading. The term "as received" basis has that meaning defined in ASTM specifications D3180.

<b><u>Typical Coal Analysis</u></b>	<b><u>Typical</u></b>	<b><u>Typical</u></b>	<b><u>ASTM Test Nr.</u></b>
Calorific value (Btu/lb gar)	11,800	11,600	D1989
Total moisture (wt percent)	11.4	11.6	D3302
Ash (wt percent)	7.3	8.2	D3174
Volatile Matter (wt percent)	34.0	33.4	D3175
Sulfur (wt percent)	0.6	0.6	D4239C
Hardgrove Index	48	48	D409
Nominal Top Size (mm)	50	50	D4749
% below 1/4 inch	45	45	
SO <sub>2</sub> /MBTU	1.0	1.12	
Carbon (wt percent)	65.5	65.2	
Hydrogen (wt percent)	4.6	4.6	
Nitrogen (wt percent)	1.2	1.2	
Chlorine (wt percent)	0.03	0.03	
Oxygen (wt percent)	8.1	8.1	

**Note:** CMC recognizes that our B coal does not comply with your pyritic sulfur restrictions for non compliance coal, but offers this quality as an alternative

### **Price**

CMC would supply low sulfur thermal coal, as stated in your bid forms, at the price of:

- US [REDACTED] per short ton CIF Electrocoal Terminal, New Orleans at 11,800 Btu/lb gar 1
- US [REDACTED] per short ton CIF McDuffie, Mobile at 11,800 Btu/lb gar 2
- US [REDACTED] per short ton CIF Electrocoal Terminal, New Orleans at 11,600 Btu/lb gar 3
- US [REDACTED] per short ton CIF McDuffie, Mobile at 11,600 Btu/lb gar 4

These are indicative prices, valid 20 days after May 12, 2004, subject to CMC's Board approval

#### Scheduling

Delivery schedule would be mutually agreed.

#### Other

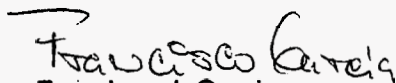
This offer shall not be binding on either party until the parties reach a mutual agreement on each of the terms proposed above, as well as other contractual clauses covering payment terms, passage of title, scheduling and shipping, weighing, sampling and analysis, quality adjustments, taxes, insurance, force majeure, limitation of warranties, no consequential damages, applicable law, arbitration, assignment, and confidentiality. This offer shall not be binding on either party until a definitive agreement has been approved by the management of each company and executed by an authorized representative of each party.

#### Expiration

This indicative proposal is valid 20 days after May 12, 2004. We request that you treat this proposal and supporting information as confidential.

We will be glad to further discuss our offer, at your convenience.

Sincerely,

  
Francisco J. Garcia



**PROGRESS  
FUELS  
CORPORATION**

**COAL PRODUCERS' SOLICITATION FORM**

Crystal River 1 & 2

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PRODUCER NAME: <u>Central Appalachia Mining LLC</u>		
STREET ADDRESS: <u>116 Main St. - P.O. Box 1169 - Pikeville</u>		
CONTACT: <u>Mike Goff</u>	TELEPHONE NO. <u>606/432-3900 ext 306</u>	
MINE(S): <u>Damron Fork</u>	BOM DISTRICT: <u>8</u>	COUNTY: <u>Pike</u> STATE: <u>KY</u>
ORIGIN RAILROAD(S)/DISTRICT: EK <input type="checkbox"/> CV <input type="checkbox"/> Big Sandy <input checked="" type="checkbox"/> Other <input type="checkbox"/>		R/R TIPPLE DESIGNATION/NUMBER: <u>84917</u>
TYPE OF LOADING FACILITY: UNIT TRAIN <input type="checkbox"/> SINGLE CAR: <input type="checkbox"/> TRAINLOAD: <input type="checkbox"/>		
MAXIMUM LOADING CAPACITY <u>14,000</u> TONS <u>4</u> HOURS <u>110</u> TRACK CAPACITY		
WATER DELIVERY CAPABILITY: <input type="checkbox"/> YES <input type="checkbox"/> NO IMPORT COAL: LOAD PORT <input type="checkbox"/>		
SHIP THROUGH: <input type="checkbox"/> DOCK <input type="checkbox"/> LOAD RATE: <input type="checkbox"/>		
TOTAL PRODUCTION CAPACITY PER MONTH: <u>450,000</u> TONS		
PRODUCTION PER MONTH—MEETING OUR COAL SPECIFICATIONS: <u>30,000</u> TONS		
TYPE OF MINE: <u>50</u> % DEEP <u>50</u> % STRIP <input type="checkbox"/> % AUGER		
SEAMS: <input type="checkbox"/> BLEND RATIOS: <input type="checkbox"/>		
COAL PREPARATION: <input type="checkbox"/> RAW <input type="checkbox"/> WASHED <input checked="" type="checkbox"/> COMBINATION		
TYPE OF COAL WASHER, IF WASHED: <u>Heavy media Washer - Heavy Media Cyclones - Spirals, Froth Flotation Cells</u>		
TYPE OF COAL SAMPLING: <u>Three Stage Belt Sweep</u>		
TYPE OF LABOR CONTRACT(S): <u>None</u> DATE FOR RENEGOTIATION: <input type="checkbox"/>		
TYPE OF COAL WEIGHING: <u>Kanawha Batch Weighing</u> SCALE CERTIFIED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		
PERIOD	TONNAGE	BASE PRICE PER TON FOB MINE
<u>Jan. 1, 2005 - Dec. 31, 2007</u>		
IF THIS COAL IS OFFERED BY A COMPANY OR INDIVIDUAL WHICH IS NOT THE PRODUCER PLEASE INDICATE SO BY MAKING AN "X" IN THIS SPOT.		
PRODUCER'S COMMENTS:		
CREDIT REFERENCES (Minimum two): <u>[Redacted]</u> <u>7 - Phone 606/432-1414</u>		
<u>Rogers Petroleum - 606/432-1421 - P.O. Box 162 - Pikeville, KY 41502</u>		
<u>Nelson Brothers - 800/972-2684 - 820 Shades Creek Parkway Suite 2000 - Birmingham, AL</u>		
CUSTOMER REFERENCES (Minimum four): <u>1) Gainesville Regional Utilities - Thomas Fox 352/334-3400</u>		
<u>2) East KY Power - Ernie Huff 859/744-4864 Ext 853</u>		
<u>3) Duke Energy - Elliott Batson 704/382-6132</u>		
<u>4) MIRANT - Mark Canon 678/579-3073</u>		
<u>5) Koch Carbon - Rob Nelson 713/544-5031</u>		
SIGNATURE: <u>Mike Goff</u>	TITLE: <u>Sales &amp; Marketing Manager</u>	DATE: <u>5/11/04</u>

MAIL THIS FORM AND ANY ADDITIONAL INFORMATION TO:

MRS. ROBIN OTT  
PROGRESS FUELS CORPORATION  
ONE PROGRESS PLAZA, SUITE 600  
ST. PETERSBURG, FLORIDA 33701

OR

MRS. ROBIN OTT  
PROGRESS FUELS CORPORATION  
POST OFFICE BOX 15208  
ST. PETERSBURG, FLORIDA 33733

PHONE NO. 727/824-6670  
FAX NO. 727/824-6601



**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
Crystal River 1 & 2  
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**CURRENT QUALITY**

DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %	7.0	8.0 <sup>4</sup>	8.0% MAX.
SURFACE MOISTURE %	4.0	5.0	5.0% MAX.
ASH %	11.00	12% <sup>4</sup>	12% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	2.0	2.1 LB/MAX	2.1 LB/MAX. <sup>1</sup>
BTU/LB	12,600	12,500 <sup>4</sup>	12,000/LB MIN.
ASH SOFTENING DEGREES FAHRENHEIT H=W (R)	2500°+	2500° MIN <sup>4</sup>	2,500 MIN.
VOLATILE %	34.0	32.0% MIN <sup>4</sup>	31.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	43-45	42 MIN <sup>4</sup>	42 MIN. <sup>3</sup>
SIZE	2" X 0"	2" X 0"	2" X 0"
FINES (-1/4" X 0")	40%	45%	45% MAX. <sup>4</sup>
FIXED CARBON %	53.00	53.00	—
HYDROGEN %	5.35	5.34	—
NITROGEN %	1.55	1.59	—
CHLORINE %	0.09	0.14	—
OXYGEN %	5.50	5.71	—

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV.
P <sub>2</sub> O <sub>5</sub>	0.15		Antimony	<1.0	
SiO <sub>2</sub>	53.02		Arsenic	3.22	
Fe <sub>2</sub> O <sub>3</sub>	9.00		Beryllium	2.10	
Al <sub>2</sub> O <sub>3</sub>	28.64		Cadmium	<0.2	
TiO <sub>2</sub>	1.19		Chromium	8.96	
CaO	1.61		Cobalt	4.55	
MgO	1.27		Fluorine	36.70	
SO <sub>3</sub>	0.20		Lead	2.59	
K <sub>2</sub> O	3.07		Lithium	14.0	
Na <sub>2</sub> O	0.62		Manganese	34.67	
Undetermined	1.23		Mercury	0.07	
Base/Acid Ratio	0.1879		Nickel	11.31	
Maximum Base/Acid Ratio	0.2030		Selenium	<1.0	

\*NOTE: ADD SHEETS IF MORE THAN ONE SEAM



DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %	7.0	8.0	8.0% MAX.
SURFACE MOISTURE %	4.0	5.0	5.0% MAX.
ASH %	11.00	12%	12% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	2.0	2.1 LB/MAX	2.1 LB/MAX. <sup>1</sup>
BTU/LB	12,600	12,500	12,000/LB MIN
ASH SOFTENING DEGREES FAHRENHEIT H=W (R)	2500°+	2500° MIN	2,500 MIN
VOLATILE %	34.0	32.0% min	31.0% MIN <sup>1</sup>
GRINDABILITY, HARDGROVE	43-45	42 MIN	42 MIN. <sup>3</sup>
SIZE	2" x 0"	2" x 0"	2" x 0"
FINES (-1/4" x 0")	40%	45%	45% MAX. <sup>4</sup>
FIXED CARBON %	53.00	53.00	—
HYDROGEN %	5.35	5.34	—
NITROGEN %	1.55	1.59	—
CHLORINE %	0.09	0.14	—
OXYGEN %	5.50	5.71	—

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV.
P <sub>2</sub> O <sub>5</sub>	0.15		Antimony	<1.0	
SiO <sub>2</sub>	53.02		Arsenic	3.22	
Fe <sub>2</sub> O <sub>3</sub>	9.00		Beryllium	2.10	
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SO <sub>3</sub>	0.20		Lead	2.59	
Li <sub>2</sub> O	3.07		Lithium	14.0	
Na <sub>2</sub> O	0.62		Manganese	3467	
Indetermined	1.23		Mercury	0.07	
Base/Acid Ratio	0.1879		Nickel	11.31	
Maximum Base/Acid Ratio	0.2030		Selenium	<1.0	

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**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
Crystal River 1 & 2  
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PRODUCER NAME: Coal Marketing Company Ltd -CMC-		
STREET ADDRESS: 7 Bachelor's Walk, Dublin 1, Ireland		
CONTACT: Francisco J. Garcia -Marketing Manager-		TELEPHONE NO. 57-5-350-2123
MINE(S): Cerrejon, Colombia	BOM DISTRICT: N/A	COUNTY: N/A STATE: N/A
ORIGIN RAILROAD(S)/DISTRICT: EK ____ CV ____ Big Sandy ____ Other: Imported coal		R/R TIPPLE DESIGNATION/NUMBER: N/A
TYPE OF LOADING FACILITY: Imported coal UNIT TRAIN: N/A SINGLE CAR: N/A TRAINLOAD: N/A		
MAXIMUM LOADING CAPACITY: N/A TONS _____ HOURS _____ TRACK CAPACITY _____		
WATER DELIVERY CAPABILITY: <input checked="" type="checkbox"/> YES _____ NO IMPORT COAL: Cerrejon, Colombia LOAD PORT: Puerto Bolivar, Colombia		
SHIP THROUGH: _____ DOCK		LOAD RATE: 6,000 short tons per hour
TOTAL PRODUCTION CAPACITY PER MONTH: 2.5 Million short TONS		
PRODUCTION PER MONTH—MEETING OUR COAL SPECIFICATIONS: 1.0 Million short TONS		
TYPE OF MINE: _____ % DEEP <input checked="" type="checkbox"/> % STRIP _____ % AUGER		
SEAMS: Multiseam operation		BLEND RATIOS:
COAL PREPARATION: <input checked="" type="checkbox"/> RAW _____ WASHED _____ COMBINATION		
TYPE OF COAL WASHER, IF WASHED:		
TYPE OF COAL SAMPLING: Automatic sweep arm type, manufactured by J. B. Long		
TYPE OF LABOR CONTRACT(S): Union		DATE FOR RENEGOTIATION: 2005
TYPE OF COAL WEIGHING: Vessel draft survey		SCALE CERTIFIED? _____ YES _____ NO
PERIOD	TONNAGE	BASE PRICE PER TON FOB MINE
January 1 – December 31, 2005	400,000 short tons	_____ per short ton CIF McDuffie @ 11,600 Btu/lb gar Indicative price, valid for 20 days after May 12, 2004, subject to CMC's Board approval
IF THIS COAL IS OFFERED BY A COMPANY OR INDIVIDUAL WHICH IS NOT THE PRODUCER PLEASE INDICATE SO BY MAKING AN "X" IN THIS SPOT.		
PRODUCER'S COMMENTS:		
CREDIT REFERENCES (Minimum two):		
CUSTOMER REFERENCES (Minimum four): JEA, Southern Company, Nova Scotia Power, New Brunswick Power		
SIGNATURE: Francisco Garcia		TITLE: Marketing Manager DATE: May 12, 2004





**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM

Crystal River 1 & 2

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MRS. ROBIN OTT  
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ONE PROGRESS PLAZA, SUITE 600  
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OR

MRS. ROBIN OTT  
PROGRESS FUELS CORPORATION  
POST OFFICE BOX 15208  
ST. PETERSBURG, FLORIDA 33733

**CURRENT QUALITY**

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FAX NO. 727/824-6601

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Al <sub>2</sub> O <sub>3</sub>	20.1	1.0	Cadmium	0.4	
TiO <sub>2</sub>	1.0	0.13	Chromium	11	
CaO	2.3	0.3	Cobalt	1.0	
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**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
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Base/Acid Ratio	0.19	0.02	Nickel	10	
Maximum Base/Acid Ratio	0.23		Selenium	3.0	<b>PROJECTED QUALITY</b>

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	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %	11.6	12.3	8.0% MAX.
SURFACE MOISTURE %	2.5	3.0	5.0% MAX.
ASH %	8.2	9.2	12% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	1.12	1.34	2.1 LB/MAX. <sup>1</sup>
BTU/LB	11,600	11,600	12,000/LB MIN.
ASH SOFTENING DEGREES FAHRENHEIT H=W (R)	2350	2290	2,500 MIN.
VOLATILE %	33.4	32.0	31.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	48	45	42 MIN. <sup>3</sup>
SIZE	2" X 0"	2" X 0"	2" X 0"
FINES (-1/4" X 0")	45	51	45% MAX. <sup>5</sup>
FIXED CARBON %	46.8		-----
HYDROGEN %	4.6		-----
NITROGEN %	1.2		-----
CHLORINE %	0.03		-----
OXYGEN %	8.3		-----

<sup>1</sup> MUST BE MET ON AN INDIVIDUAL SHIPMENT BASIS.

<sup>2</sup> ADJUSTABLE IN DIRECT PROPORTION TO BTU.

<sup>3</sup> ADJUSTABLE IN INVERSE PROPORTION TO BTU.

<sup>4</sup> PREFERRED VALUE, COALS NOT MEETING THIS SPECIFICATION WILL BE CONSIDERED.

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV.
P <sub>2</sub> O <sub>5</sub>	0.22	0.02	Antimony	0.9	
SiO <sub>2</sub>	60.4	0.8	Arsenic	3.0	
Fe <sub>2</sub> O <sub>3</sub>	8.4	0.4	Beryllium	0.7	
Al <sub>2</sub> O <sub>3</sub>	20.1	1.0	Cadmium	0.4	
TiO <sub>2</sub>	1.0	0.13	Chromium	11	
CaO	2.3	0.3	Cobalt	1.0	
MgO	2.2	0.3	Fluorine	51	
SO <sub>3</sub>	2.1	0.35	Lead	3.0	
K <sub>2</sub> O	2.2	0.4	Lithium	1.9	
Na <sub>2</sub> O	0.6	0.15	Manganese	69	



**PROGRESS  
FUELS**  
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COAL PRODUCERS' SOLICITATION FORM  
Crystal River 1 & 2  
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Undetermined	0.48		Mercury	<0.1	
Base/Acid Ratio	0.19	0.02	Nickel	10	
Maximum Base/Acid Ratio	0.23		Selenium	3.0	



Lexington, Kentucky 40513  
Phone: (859) 219-1250  
Fax: (859) 219-2031  
Cell: (606) 923-2932  
E-Mail: tmonson@insightbb.com

May 11, 2004

Mrs. Robin Ott  
Progress Fuels Corporation  
One Progress Plaza, Suite 600  
St. Petersburg, FL 33701

Dear Mrs. Ott:

Horizon Natural Resources Sales Company is pleased to submit its coal quotation from its Evergreen Mining Company to the Progress Fuels Corporation for Crystal River Units 1 and 2 in accordance with the following terms and conditions.

**SELLER:** Horizon Natural Resources Sales Company  
2000 Ashland Drive  
Ashland, KY 41101

**FEDERAL TAX I.D.** 61-1331912

**PRODUCER:** Evergreen Mining Company  
P.O. Box 972  
Cowen, WV 26206

**QUANTITY:** 500,000 tons per year at a rate of approximately  
(4) four trains per month.

**TERM:** January 1 through December 31, 2005  
with "a price re-opener for 2006 and  
2007

**PRICE, (F.O.B. Origin)\*:** [REDACTED] per net ton, fixed for calendar 2005.

**\* Pricing for CY 2006 and CY 2007 would be  
determined as follows:**

The price for coal during calendar year 2006  
shall be equal to the 2005 contract price, unless  
**either party** requests in writing on or before

August 1, 2005 to re-negotiate such price. If renegotiation is requested and the parties agree on a new price, that price shall take effect on January 1, 2006. If, however, the parties are unable to agree on the 2006 price by September 15, 2005, then on or before September 30, 2005: (a) Seller would have the right to cause the agreement to be extended through 2006 by stipulating a 2006 contract price equal to the 2005 contract price minus ten percent (10%), by written notice to Progress Fuels Corporation or (b) Progress Fuels Corporation would have the right to cause the agreement to be extended as set forth above by stipulating a 2006 contract price being equal to the 2005 contract price plus ten percent (10%), by written notice to Seller. If neither Buyer nor Seller elects to lock in the agreement as set forth above on or before September 30, 2005, the agreement shall expire at 11:59 p.m., E.S.T., on December 31, 2005.

**THE SAME LANGUAGE WOULD APPLY FOR THE 2007 PRICING MECHANISM, USING THE 2006 PRICE AS THE BASE!**

<b>QUALITY "As Received"</b>	Moisture	8.00%
	Ash	13.00%
	Sulfur	1.29%
	SO <sub>2</sub> /Lbs.MMBTU	2.1 Lbs max. (To Govern)
	Volatile	31.00% minimum
	Heating Value	12,300 minimum
	Fusion, Red. F.	
	Softening (H=W)	2700+
	Hardgrove Index	45 +/- 3
	Size	2" X 0"
	Fines<1/4"	45.0% maximum

**SHIPPING POINT:** Evergreen  
CSX RR  
B & O Gauley North District  
Origin, CSX#78420  
Loading Time: 4 Hrs.  
Loaded Cars: 100

**MECHANICAL SAMPLER:** HS & S 3-Stage Mechanical

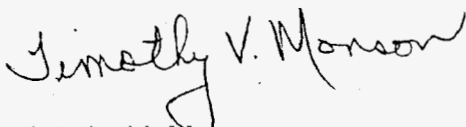
<b>METHOD OF MINING:</b>	Surface
<b>SAMPLING / ANALYSIS</b>	The coal is to be sampled at origin using the HS & S 3-stage mechanical sampler. The governing sample is to be taken and prepared according to ASTM procedures. An independent third party, certified laboratory selected according to mutual agreement will conduct the analytical results of the sample. The current laboratory is SGS/ Commercial Testing and Engineering, Charleston, WV.
<b>QUALITY PREMIUM / PENALTY:</b>	The calorific value adjusted price for coal will be calculated as follows: The "as received" calorific value shall be divided by the guaranteed calorific value. The resulting quotient, greater than or less than 1.00 shall be multiplied by the f.o.b. mine price of the coal to determine the premium or penalty adjusted price of the coal. The premium/ penalty will be calculated on an individual train basis.
<b>GOVERNMENTAL IMPOSITION:</b>	The Base Price includes costs of compliance with all governmental legislation and regulation as of January 1, 2005. If Seller incurs any new cost, which to the imposition of governmental legislation or regulation, or any changes in the interpretation and enforcement of existing governmental requirements after January 1, 2005, that impose or change in operating cost, tax, assessment or other governmental charge, the Base Price will be adjusted for such changes in cost.
<b>RAILROAD:</b>	CSXT
<b>WEIGHTS:</b>	At origin via the certified Kanawha Batch Weighing System
<b>PAYMENT INFORMATION: (Via Wire Transfer)</b>	Horizon Natural Resources Sales Co. Provident Bank Account: 0467-995 ABA: 042000424
<b>OTHER TERMS and CONDITIONS:</b>	Acceptance of this proposal is strictly limited to the terms of the proposal. All other terms subject to mutual agreement.

**QUOTATION  
EXPIRATION:**

This offer is made subject to the prior sale of the coal and to our credit approval of the Buyer. Any such agreement resulting from this proposal shall be subject to approval by the Horizon Board and bankruptcy court. **This offer shall remain open for the acceptance until 5 P.M on Friday, June 11, 2004,** at which time it shall be deemed revoked if Buyer has not given Seller written notice of acceptance.

We thank you for the opportunity to submit this quotation and look forward to receiving your favorable response.

Respectfully,



Timothy V. Monson  
Vice President

#PF24102

Attachments: 5

pc: BR, KY



**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
Crystal River 1 & 2  
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PRODUCER NAME: <u>HORIZON NATURAL RESOURCES SALES Co.</u>		
STREET ADDRESS: <u>2000 ASHLAND DRIVE, ASHLAND, KY 4</u>		
CONTACT: <u>TIM HANSON</u>	TELEPHONE NO: <u>859-219-1250</u>	
MINES: <u>EVERGREEN</u>	BOM DISTRICT: <u>8</u>	COUNTY: <u>WEBSTER</u> STATE: <u>WV</u>
ORIGIN RAILROAD(S) DISTRICT: <u>EK</u> CV: <u>Big Sandy</u> Other: <u>Gauley North</u>		RRT TITTLE DESIGNATION NUMBER: <u>78420</u>
TYPE OF LOADING FACILITY: UNIT TRAIN: <u>X</u> SINGLE CAR: _____ TRAINLOAD: _____		
MAXIMUM LOADING CAPACITY: <u>10,000</u> TONS <u>4</u> HOURS _____ TRACK CAPACITY		
WATER DELIVERY CAPABILITY: _____ YES <u>X</u> NO IMPORT COAL: LOAD PORT _____		
SHIP THROUGH: _____ DOCK LOAD RATE: _____		
TOTAL PRODUCTION CAPACITY PER MONTH: <u>250K</u> TONS		
PRODUCTION PER MONTH—MEETING OUR COAL SPECIFICATIONS: <u>125K</u> TONS		
TYPE OF MINE: _____ % DEEP <u>100</u> % STRIP _____ % AUGER		
SEAMS: <u>Upper + lower Clarion, Kittanning</u>		BLEND RATIOS: <u>Various</u>
COAL PREPARATION: _____ RAW _____ WASHED <u>X</u> COMBINATION		
TYPE OF COAL WASHER, IF WASHED: <u>HEAVY MEDIA</u>		
TYPE OF COAL SAMPLING: <u>H545-3-STAGE, Gamma metrics</u>		
TYPE OF LABOR CONTRACT(S): <u>Non-union</u>		DATE FOR RENEGOTIATION: <u>N/A</u>
TYPE OF COAL WEIGHING: <u>Kanawha Batch weigh system</u> SCALE CERTIFIED? <u>X</u> YES _____ NO		
PERIOD	TONNAGE	BASE PRICE PER TON FOR MINE
<u>1-1-2005-2006-12-31-2007</u>	<u>500,000 TPY - Pro Rata</u>	<u>_____</u>
IF THIS COAL IS OFFERED BY A COMPANY OR INDIVIDUAL WHICH IS NOT THE PRODUCER PLEASE INDICATE SO BY MAKING AN "X" IN THIS SPOT.		
PRODUCER'S COMMENTS: <u>SEE Letter Attachment for 2006-2007 Pricing</u>		
CREDIT REFERENCES (Minimum two): <u>Provident BANK, Cincinnati, OH, Paula Carroll 513-639-5469</u> <u>WHAYNE Supply, Ashland, Ky Charles Spradlin 606-928-3444</u>		
CUSTOMER REFERENCES (Minimum four): <u>ANKER ENERGY Corp, Morgantown, WV</u> <u>CRIMSON COAL, Lexington, KY</u> <u>PENNSYLVANIA Power + Light. (PP+L) Allentown, PA</u>		
SIGNATURE: <u>Timothy V. Monson</u>		TITLE: <u>Vice President</u> DATE: <u>5-11-04</u>

MAIL THIS FORM AND ANY ADDITIONAL INFORMATION TO:

MRS. ROBIN OTT  
PROGRESS FUELS CORPORATION  
ONE PROGRESS PLAZA, SUITE 600  
ST. PETERSBURG, FLORIDA 33701

OR

MRS. ROBIN OTT  
PROGRESS FUELS CORPORATION  
POST OFFICE BOX 15286  
ST. PETERSBURG, FLORIDA 33733

PHONE NO. 772/524-6670  
FAX NO. 772/524-6671





**PROGRESS  
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CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
Crystal River 1 & 2  
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**CURRENT QUALITY**

DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %	5.50	8.00	8.0% MAX.
SURFACE MOISTURE %			5.0% MAX.
ASH %	12.50	13.00	12% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	2.00	2.10	2.1 LB/MAX. <sup>1</sup>
BTU/LB	12,450	12,300	12,000 LB/MIN.
ASH-SOFTENING DEGREES FAHRENHEIT H-W (R)	2700	2,650	2,500 MIN.
VOLATILE %	32.00	31.00	31.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	45 +/- 3	45 +/- 3	42 MIN. <sup>3</sup>
SIZE	2" X 0"	2" X 0"	2" X 0"
FINES (-14" X 0")	45	45.0	45% MAX. <sup>4</sup>
FIXED CARBON %	51.0		—
HYDROGEN %	4.18		—
NITROGEN %	1.40		—
CHLORINE %	0.13		—
OXYGEN %	6.18		—

<sup>1</sup> MUST BE MET ON AN INDIVIDUAL SHIPMENT BASIS.

<sup>2</sup> ADJUSTABLE IN DIRECT PROPORTION TO BTU.

<sup>3</sup> ADJUSTABLE IN INVERSE PROPORTION TO BTU.

<sup>4</sup> PREFERRED VALUE, COALS NOT MEETING THIS SPECIFICATION WILL BE CONSIDERED.

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD. DEV.
P <sub>2</sub> O <sub>5</sub>	0.10		Antimony	< 2.0	
SiO <sub>2</sub>			Arsenic	5.0	
Fe <sub>2</sub> O <sub>3</sub>	3.96		Beryllium	2.0	
Al <sub>2</sub> O <sub>3</sub>	28.48		Cadmium	< 2.0	
TiO <sub>2</sub>	1.63		Chromium	28.0	
CaO	0.75		Cobalt	14.0	
MgO	0.71		Fluorine		
SO <sub>3</sub>	0.31		Lead	13.0	
K <sub>2</sub> O	2.60		Lithium	23.0	
Na <sub>2</sub> O	0.20		Manganese	78.0	
Undetermined	4.17		Mercury	0.13	
Base/Acid Ratio	0.13		Nickel	21.0	
Maximum Base/Acid Ratio			Selenium	< 2.0	

NOTE: ADD SHEETS IF MORE THAN ONE SEAM



**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM

Crystal River 1 & 2

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**PROJECTED QUALITY**

DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %	5.50	8.00	8.0% MAX.
SURFACE MOISTURE %	1		5.0% MAX.
ASH %	12.50	13.00	12% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	2.0	2.10	2.1 LB/MAX. <sup>1</sup>
BTU/LB	12,500	12,300	12,000 LB MIN.
ASH SOFTENING DEGREES FAHRENHEIT H-W (R)	2,700	2,650	2,500 MIN.
VOLATILE %	32.00	31.00	31.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	45 +/- 3	45 +/- 3	42 MIN. <sup>3</sup>
SIZE	2" X 0"	2" X 0"	2" X 0"
FINES (-14" X 0")	45%	45%	45% MAX. <sup>5</sup>
FIXED CARBON %	51.0		—
HYDROGEN %	4.18		—
NITROGEN %	1.40		—
CHLORINE %	0.13		—
OXYGEN %	6.18		—

<sup>1</sup> MUST BE MET ON AN INDIVIDUAL SHIPMENT BASIS.

<sup>2</sup> ADJUSTABLE IN DIRECT PROPORTION TO BTU.

<sup>3</sup> ADJUSTABLE IN INVERSE PROPORTION TO BTU.

<sup>4</sup> PREFERRED VALUE, COALS NOT MEETING THIS SPECIFICATION WILL BE CONSIDERED.

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV.
P <sub>2</sub> O <sub>5</sub>	0.10		Antimony	< 2.0	
SiO <sub>2</sub>			Arsenic	5.0	
Fe <sub>2</sub> O <sub>3</sub>	3.96		Beryllium	2.0	
Al <sub>2</sub> O <sub>3</sub>	28.48		Cadmium	< 2.0	
TiO <sub>2</sub>	1.63		Chromium	28.0	
CaO	0.75		Cobalt	14.0	
MgO	0.71		Fluorine		
SO <sub>2</sub>	0.31		Lead	13.0	
K <sub>2</sub> O	2.60		Lithium	23.0	
Na <sub>2</sub> O	0.20		Manganese	78.0	
Undetermined	4.17		Mercury	0.13	
Base/Acid Ratio	0.13		Nickel	21.0	
Maximum Base/Acid Ratio			Selenium	< 2.0	

\*NOTE: ADD SHEETS IF MORE THAN ONE SEAM



Lexington, Kentucky 40513  
Phone: (859) 219-1250  
Fax: (859) 219-2031  
Cell: (606) 923-2932  
E-Mail: tmonson@insightbb.com

May 11, 2004

Mrs. Robin Ott  
Progress Fuels Corporation  
One Progress Plaza, Suite 600  
St. Petersburg, FL 33701

Dear Mrs. Ott:

Horizon Natural Resources Sales Company is pleased to submit its coal quotation from its Leslie Resources Inc. to the Progress Fuels Corporation for Crystal River Units 1 and 2 in accordance with the following terms and conditions.

**SELLER:** Horizon Natural Resources Sales Company  
2000 Ashland Drive  
Ashland, KY 41101

**FEDERAL TAX I.D.** 61-1331912

**PRODUCER:** Leslie Resources, Inc.  
1021 Tori Drive  
Hazard, KY 41701

**QUANTITY:** 500,000 tons per year at a rate of approximately  
(4) four trains per month.

**TERM:** January 1 through December 31, 2005  
with "a price re-opener for 2006 and  
2007.

**PRICE (F.O.B. Origin)\*:** [REDACTED] per net ton, fixed for calendar 2005.

**\* Pricing for CY 2006 and CY 2007 would be  
determined as follows:**

The price for coal during calendar year 2006  
shall be equal to the 2005 contract price, unless  
either party requests in writing on or before

August 1, 2005 to re-negotiate such price. If renegotiation is requested and the parties agree on a new price, that price shall take effect on January 1, 2006. If, however, the parties are unable to agree on the 2006 price by September 15, 2005, then on or before September 30, 2005: (a) Seller would have the right to cause the agreement to be extended through 2006 by stipulating a 2006 contract price equal to the 2005 contract price minus ten percent (10%), by written notice to Progress Fuels Corporation or (b) Progress Fuels Corporation would have the right to cause the agreement to be extended as set forth above by stipulating a 2006 contract price being equal to the 2005 contract price plus ten percent (10%), by written notice to Seller. If neither Buyer nor Seller elects to lock in the agreement as set forth above on or before September 30, 2005, the agreement shall expire at 11:59 p.m., E.S.T., on December 31, 2005.

**THE SAME LANGUAGE WOULD APPLY FOR THE 2007 PRICING MECHANISM, USING THE 2006 PRICE AS THE BASE!**

<b>QUALITY "As Received"</b>	Moisture	8.00%
	Ash	13.00%
	Sulfur	1.27%
	SO <sub>2</sub> /Lbs.MMBTU	2.1 Lbs max. (To Govern)
	Volatile	31.00% minimum
	Heating Value	12,100 minimum
	Fusion, Red. F.	
	Softening (H=W)	2700
	Hardgrove Index	42 +/- 3
	Size	2" X 0"
	Fines<1/4"	45.0% maximum
<b>SHIPPING POINT:</b>	Typo	
	CSX RR	
	Hazard District	
	Origin, CSX#42621	
	Loading Time: 4 Hrs.	
<b>MECHANICAL SAMPLER:</b>	Loaded Cars: 110	
	Redding 3-Stage Mechanical	

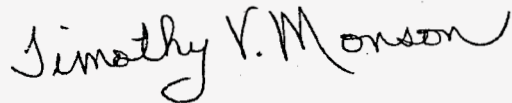
<b>METHOD OF MINING:</b>	Surface
<b>SAMPLING / ANALYSIS</b>	The coal is to be sampled at origin using the Redding 3-stage mechanical sampler. The governing sample is to be taken and prepared according to ASTM procedures. An independent third party, certified laboratory selected according to mutual agreement will conduct the analytical results of the sample. The current laboratory is Mineral Labs, Salyersville, KY.
<b>QUALITY PREMIUM / PENALTY:</b>	The calorific value adjusted price for coal will be calculated as follows: The "as received" calorific value shall be divided by the guaranteed calorific value. The resulting quotient, greater than or less than 1.00 shall be multiplied by the f.o.b. mine price of the coal to determine the premium or penalty adjusted price of the coal. The premium/ penalty will be calculated on an individual train basis.
<b>GOVERNMENTAL IMPOSITION:</b>	The Base Price includes costs of compliance with all governmental legislation and regulation as of January 1, 2005. If Seller incurs any new cost, which to the imposition of governmental legislation or regulation, or any changes in the interpretation and enforcement of existing governmental requirements after January 1, 2005, that impose or change in operating cost, tax, assessment or other governmental charge, the Base Price will be adjusted for such changes in cost.
<b>RAILROAD:</b>	CSXT
<b>WEIGHTS:</b>	At origin via the certified Kanawha Batch Weighing System
<b>PAYMENT INFORMATION: (Via Wire Transfer)</b>	Horizon Natural Resources Sales Co. Provident Bank Account: 0467-995 ABA: 042000424
<b>OTHER TERMS and CONDITIONS:</b>	Acceptance of this proposal is strictly limited to the terms of the proposal. All other terms subject to mutual agreement.

**QUOTATION  
EXPIRATION:**

This offer is made subject to the prior sale of the coal and to our credit approval of the Buyer. Any such agreement resulting from this proposal shall be subject to approval by the Horizon Board and bankruptcy court. **This offer shall remain open for the acceptance until 5 P.M on Friday, June 11, 2004**, at which time it shall be deemed revoked if Buyer has not given Seller written notice of acceptance.

We thank you for the opportunity to submit this quotation and look forward to receiving your favorable response.

Respectfully,

A handwritten signature in black ink that reads "Timothy V. Monson". The signature is written in a cursive style with a large, stylized 'T' and 'M'.

Timothy V. Monson  
Vice President

#PF24096

Attachments: 6

pc: BR, KY



**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
Crystal River 1 & 2  
PAGE 1 OF 3

PRODUCER NAME: <u>HORIZON NATURAL RESOURCES Sales Co.</u>		
STREET ADDRESS: <u>2000 Ashland Drive, Ashland, KY 41101</u>		
CONTACT: <u>Tim Monson</u>	TELEPHONE NO.: <u>859-219-1250</u>	
MINE(S):	BOM DISTRICT: <u>8</u>	COUNTY: <u>Perry</u> STATE: <u>Ky</u>
ORIGIN RAILROAD(S)/DISTRICT: <u>EK CV Big Sandy Other HAZARD</u>		R/R TRIPPLE DESIGNATION/NUMBER: <u>42621</u>
TYPE OF LOADING FACILITY: UNIT TRAIN: <u>4 Hour</u> SINGLE CAR: _____ TRAINLOAD: _____		
MAXIMUM LOADING CAPACITY: <u>10,000</u> TONS <u>4</u> HOURS <u>110</u> TRACK CAPACITY		
WATER DELIVERY CAPABILITY: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IMPORT COAL: LOAD PORT _____		
SHIP THROUGH: <u>TTI</u> DOCK _____ LOAD RATE: _____		
TOTAL PRODUCTION CAPACITY PER MONTH: <u>525K</u> TONS		
PRODUCTION PER MONTH—MEETING OUR COAL SPECIFICATIONS: <u>200K</u> TONS		
TYPE OF MINE: <u>—</u> % DEEP <u>100</u> % STRIP <u>—</u> % AUGER		
SEAMS: <u>Hazard 5, 7, 8 &amp; 9</u>		BLEND RATIOS: <u>Various</u>
COAL PREPARATION: <u>100</u> RAW <u>—</u> WASHED _____ COMBINATION		
TYPE OF COAL WASHER, IF WASHED: <u>N/A</u>		
TYPE OF COAL SAMPLING: <u>Redding 3-Stage</u>		
TYPE OF LABOR CONTRACT(S): <u>Non Union</u>		DATE FOR RENEGOTIATION: _____
TYPE OF COAL WEIGHING: <u>Knawke Batch Weigh System</u>		SCALE CERTIFIED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
PERIOD	TONNAGE	BASE PRICE PER TON FOB MINE
<u>2005-06-07</u>	<u>500,000 TPN - ProRata</u>	<u>[REDACTED]</u>
IF THIS COAL IS OFFERED BY A COMPANY OR INDIVIDUAL WHICH IS NOT THE PRODUCER PLEASE INDICATE SO BY MAKING AN "X" IN THIS SPOT.		
PRODUCER'S COMMENTS: <u>SEE LETTER ATTACHMENT FOR 2006 &amp; 2007 Pricing</u>		
CREDIT REFERENCES (Minimum two):		
<u>PROVIDENT BANK, Cincinnati, OH Paula Carroll 513-639-5469</u>		
<u>WHAYNE Supply, Ashland, KY Charles Spradlin 606-928-3444</u>		
CUSTOMER REFERENCES (Minimum four):		
<u>Dayton Power &amp; Light Dayton, OH</u>		
<u>Duke Charlotte, NC</u>		
<u>Consumers Energy Jackson, MI</u>		
<u>Georgia Power Company Birmingham, AL</u>		
SIGNATURE: <u>Timothy V. Monson</u>		TITLE: <u>Vice President</u> DATE: <u>5-11-04</u>
MAKE THIS FORM AND ANY ADDITIONAL INFORMATION TO:		
MRS. ROBIN OTT PROGRESS FUELS CORPORATION ONE PROGRESS PLAZA, SUITE 600 ST. PETERSBURG, FLORIDA 33701		OR MRS. ROBIN OTT PROGRESS FUELS CORPORATION POST OFFICE BOX 15208 ST. PETERSBURG, FLORIDA 33733
PHONE NO. 727/824-5570 FAX NO. 727/824-6601		





**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
Crystal River 1 & 2  
PAGE 3 OF 3

**PROJECTED QUALITY**

DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %	7.00	8.00	8.0% MAX.
SURFACE MOISTURE %			5.0% MAX.
ASH %	12.00	13.00	12% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	2.00	2.10	2.1 LB/MAX. <sup>1</sup>
BTU/LB	12,200	12,100	12,000 LB/MIN.
ASH SOFTENING DEGREES FAHRENHEIT H-W (R)	2700	2650	2,500 MIN.
VOLATILE %	32.00	31.00	31.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	42	42 +/- 3	42 MAX. <sup>3</sup>
SIZE	2"x0"	2"x0"	2"x0"
FINES (-1/4" X 0")	40%	45	45% MAX. <sup>5</sup>
FIXED CARBON %	49.00		—
HYDROGEN %	4.60		—
NITROGEN %	1.36		—
CHLORINE %	0.12		—
OXYGEN %	5.50		—

<sup>1</sup>MUST BE MET ON AN INDIVIDUAL SHIPMENT BASIS.

<sup>2</sup>ADJUSTABLE IN DIRECT PROPORTION TO BTU.

<sup>3</sup>ADJUSTABLE IN INVERSE PROPORTION TO BTU.

<sup>4</sup>PREFERRED VALUE, COALS NOT MEETING THIS SPECIFICATION WILL BE CONSIDERED.

MINERAL ANALYSIS %WEIGHT Typical			Typical TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV.
P <sub>2</sub> O <sub>5</sub>	0.51		Antimony	0.62	
SiO <sub>2</sub>	0.65		Arsenic	6.03	
Fe <sub>2</sub> O <sub>3</sub>	5.43		Beryllium	1.44	
Al <sub>2</sub> O <sub>3</sub>	29.65		Cadmium	0.11	
TiO <sub>2</sub>	1.11		Chromium	23.81	
CaO	2.07		Cobalt	4.44	
MgO	0.85		Fluorine	45.32	
SO <sub>3</sub>			Lead	7.83	
K <sub>2</sub> O	1.98		Lithium	25.01	
Na <sub>2</sub> O	0.34		Manganese	15.90	
Undetermined	2.84		Mercury	0.16	
Base/Acid Ratio			Nickel	6.97	
Maximum Base/Acid Ratio			Selenium	2.24	

NOTE: ADD SHEETS IF MORE THAN ONE SEAM





**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
Crystal River 1 & 2  
PAGE 2 OF 3

**CURRENT QUALITY**

DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %	7.00	8.00	8.0% MAX.
SURFACE MOISTURE %			5.0% MAX.
ASH %	12.00	13.00	12% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	2.00	2.10	2.1 LB/MAX. <sup>1</sup>
BTU/LB	12,200	12,100	12,000 LB MIN.
ASH SOFTENING DEGREES FAHRENHEIT H-W (R)	2700	2	2,500 MIN.
VOLATILE %	32.00	31.00	31.0% MIN. <sup>2</sup>
GRINDABILITY, HARDGROVE	42 +/- 3	42 +/- 3	42 MIN. <sup>3</sup>
SIZE	2" X 0"	2" X 0"	2" X 0"
FINES (-14" X 0")	40%	45%	45% MAX. <sup>4</sup>
FIXED CARBON %	49.00		—
HYDROGEN %	4.60		—
NITROGEN %	1.36		—
CHLORINE %	0.12		—
OXYGEN %	5.50		—

<sup>1</sup> MUST BE MET ON AN INDIVIDUAL SHIPMENT BASIS.

<sup>2</sup> ADJUSTABLE IN DIRECT PROPORTION TO BTU.

<sup>3</sup> ADJUSTABLE IN INVERSE PROPORTION TO BTU.

<sup>4</sup> PREFERRED VALUE, COALS NOT MEETING THIS SPECIFICATION WILL BE CONSIDERED.

MINERAL ANALYSIS %WEIGHT "Typical"			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV.
P <sub>2</sub> O <sub>5</sub>	0.51		Antimony	0.62	
SiO <sub>2</sub>	0.65		Arsenic	6.03	
Fe <sub>2</sub> O <sub>3</sub>	5.43		Beryllium	1.44	
Al <sub>2</sub> O <sub>3</sub>	29.65		Cadmium	0.11	
TiO <sub>2</sub>	1.11		Chromium	23.81	
CaO	2.07		Cobalt	4.44	
MgO	0.85		Fluorine	45.32	
SO <sub>2</sub>			Lead	7.83	
K <sub>2</sub> O	1.98		Lithium	25.01	
Na <sub>2</sub> O	0.34		Manganese	15.90	
Undetermined	2.84		Mercury	0.16	
Base/Acid Ratio			Nickel	6.97	
Maximum Base/Acid Ratio			Selenium	2.24	

\*NOTE: ADD SHEETS IF MORE THAN ONE SEAM

p.1

## PROGRESS FUELS CORPORATION

CR Units 1, 2, 4 and 5  
PURCHASES from  
2005-2006 RFP

A  
B  
C  
D

Supplier	Coal Type	Term	Origin	Total (000)	2005 Tons	2006 Tons	Purchase Specifications							Min	Max	Cash	Cost \$/st	Evaluated Utilized	Cost \$/M
							Ash	Sulfur	Btu	Moisture	Vol	HGI	SO2	SO2					
Drummond / Interocean	D (CR4&5)	1/05-12/06	FOB Mobile	1800	800	1000	5.50%	0.70%	11,700	14.00%	32.00%	43		1.20					
Central Coal Co.	D (CR4&5)	1/05-12/06	Winifred Dock	600	300	300	12.00%	0.74%	12,300	8.00%	31.00%	42		1.20					
Massey	D (CR4&5)	1/05-6/06	FOB Ceredo	540	360	180	13.00%	0.73%	12,100	8.00%	31.00%	42		1.20					
Rail																			
Massey	D (CR4&5)	1/05-6/06	Bandmill	540	360	180	12.00%	0.73%	12,100	8.00%	31.00%	42		1.20					
Progress Fuels	D (CR4&5)	1/05-12/06	Diamond May	720	360	360	12.00%	0.75%	12,500	8.00%	32.00%	43		1.20					
CAM-KY	D (CR4&5)	1/05-12/06	Diamond May	720	360	360	12.00%	0.75%	12,500	8.00%	32.00%	43		1.20					
Sequola Energy LLC	A (CR1&2)	1/05-12/06	CSX Harlan	360	120	240	10.00%	1.34%	12,700	8.00%	31.00%	42	1.50	2.10					
Massey	A (CR1&2)	1/05-6/06	CSX BS	1080	720	360	12.00%	1.27%	12,100	8.00%	31.00%	42	1.50	2.10					
B&W Resources	A (CR1&2)	1/05-12/06	CSX Jellico	480	240	240	11.50%	1.25%	12,500	7.00%	32.00%	42	1.50	2.00					
Total Tons																			
				5040	2820	2220													

PROGRESS FUELS CORPORATION

CR Units 4 and 5

May 2004

Solicitation

ALL BIDS

Workpapers Only

																	(000)		Weight										Purchase Specifications						Max				Evaluated		Evaluated																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																
Supplier		Term		Origin		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price		Tons		Price</	

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Workpapers Only

May 2004

## ALL BIDS

ALL BIDS														A	B	C	D
Supplier	Term	Origin	(000)	2005 Tons	2006 Tons	2007 Tons	Purchase Specifications							Cash Cost \$/st	Cash Cost \$/M	Evaluated Utilized Cost \$/st	Evaluated Utilized Cost
			Total Tons				Ash	Sulfur	Btu	Moisture	Vol	HGI	SO2				
Massey	05	CSX BS	720	720	0	0	12.50%	1.27%	12,100	8.00%	31.00%	42	2.10				
B&W Resources	05-07	CSX Jellico	720	240	240	240	11.50%	1.25%	12,500	7.00%	32.00%	42	2.00				
Marshall	05-06	CSX Clinchfield	500	250	250	0	13.00%	1.31%	12,500	7.00%	29.00%	50	2.10				
Massey	05	CSX Kan	720	720	0	0	12.50%	1.27%	12,100	8.00%	30.00%	42	2.10				
Central App	05-07	CSX BS	720	240	240	240	12.00%	1.32%	12,500	8.00%	32.00%	42	2.10				
Black Gold	05-07	CSX Harlan	600	120	240	240	10.00%	1.34%	12,700	8.00%	31.00%	42	2.10				
Horizon	05-07	CSX-Evergreen	1500	500	500	500	13.00%	1.29%	12,300	8.00%	31.00%	45	2.10				
Central Coal Co	05-06	CSX-Kan	480	240	240	0	12.00%	0.99%	12,300	8.00%	32.00%	45	1.60				
CMC	05	Colombia-Mobile	400	400	0	0	9.20%	0.78%	11,600	12.30%	32.00%	45	1.34				
Logan&Kanawha	05-07	CSX Kan	1080	360	360	360	13.00%	1.00%	12,500	8.00%	30.00%	42	1.60				
CMC	05	Colombia-ECT	400	400	0	0	9.20%	0.78%	11,600	12.30%	32.00%	45	1.34				
Peabody	05-07	CSX Kan	720	240	240	240	13.50%	1.28%	12,200	6.70%	30.00%	40	2.10				
Horizon	05-07	CSX Haz- Typo	1500	500	500	500	13.00%	1.27%	12,100	8.00%	31.00%	42	2.10				
Smokey Mtn	05	CSX Kan	240	240	0	0	13.00%	1.26%	12,000	8.00%	31.00%	42	2.10				
							CR 12 Economics Base Specifications										
							Ash	Sulfur	Btu	Moisture	Vol	HGI					
							10.00%	1.05%	12,000	8.00%	34.00%	40					
Total Tons							10300										



# PROGRESS FUELS CORPORATION

CR Units 1,2, 4 and 5

PURCHASES

2005-2006

Attachment C

A B C D

Supplier	Coal Type	Term	Origin	(000)	2005	2006	Purchase Specifications						Min	Max	Cash	Cash	Evaluated	Evaluated
				Total			Ash	Sulfur	Btu	Moisture	Vol	HGI	SO2	SO2	Cost \$/st	Cost \$/M	Utilized	Utilized
Water				Tons	Tons	Tons												
Guasare (1)	D (CR4&5)	1/04-12/05	Pasa Diablo - IMT	650	650	0	7.00%	0.77%	12,800	8.00%	34.00%	45		1.20				
Guasare	D (CR4&5)	1/04-12/05	Mina Norte-IMT	150	150	0	8.00%	0.78%	13,000	8.00%	31.00%	45		1.20				
Drummond / Interocean	D (CR4&5)	1/05-12/06	FOB Mobile	1800	800	1000	5.50%	0.70%	11,700	14.00%	32.00%	43		1.20				
Central Coal Co.	D (CR4&5)	1/05-12/06	Winifred Dock	600	300	300	12.00%	0.74%	12,300	8.00%	31.00%	42		1.20				
Massey	D (CR4&5)	1/05-6/06	FOB Ceredo	540	360	180	13.00%	0.73%	12,100	8.00%	31.00%	42		1.20				
Rail																		
CAM	D (CR4&5)	1/04-12/06	CSX BS	700	500	200	11.00%	0.75%	12,500	8.00%	31.00%	42		1.20				
Alliance	D (CR4&5)	1/02-12/06	MC Mining	600	600	0	10.00%	0.74%	12,300	9.00%	32.00%	39		1.20				
Massey	D (CR4&5)	1/05-6/06	Bandmill	540	360	180	12.00%	0.73%	12,100	8.00%	31.00%	42		1.20				
Progress Fuels	D (CR4&5)	1/05-12/06	Diamond May	720	360	360	12.00%	0.75%	12,500	8.00%	32.00%	43		1.20				
Massey	A (CR1&2)	ends 3/05	CSX BS	150	150	0	12.00%	1.31%	12,500	7.00%	33.00%	45	1.50	2.10				
Sequoia Energy LLC	A (CR1&2)	1/05-12/06	CSX Harlan	360	120	240	10.00%	1.34%	12,700	8.00%	31.00%	42	1.50	2.10				
Massey	A (CR1&2)	1/05-6/06	CSX BS	1080	720	360	12.00%	1.27%	12,100	8.00%	31.00%	42	1.50	2.10				
B&W Resources	A (CR1&2)	1/05-12/06	CSX Jellico	480	240	240	11.50%	1.25%	12,500	7.00%	32.00%	42	1.50	2.00				
Consol (2)	A (CR1&2)	1/05-12/05	CSX BS	750	750	0	10.00%	1.35%	12,800	8.00%	32.00%	42	1.80	2.10				
Black - New Contract			Total Tons	9120	6060	3060												

Copper - Previous Contract

(1) Guasare has reopener for 2006

(2) Consol Reopener Pricing is estimated



**PROGRESS  
FUELS**  
Corporation

## INTER-OFFICE CORRESPONDENCE

Fuel Transportation  
Office

BT10E  
MAC

727/824-6692  
Phone No.

*Approved to  
Purchase*

**SUBJECT: COAL PURCHASE AUTHORIZATION**

**TO: Kyle Crake**

**DATE: May 17, 2004**

We have evaluated the bids received in response to our April 12, 2004, Request for Proposals. Preliminary discussions have been conducted with several suppliers. Based upon these discussions, I request permission to purchase the following coals.

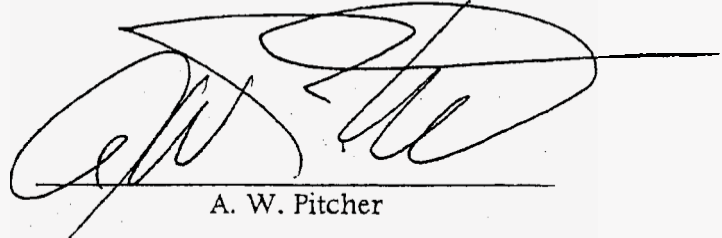
### Crystal River Units 1 & 2

	<b>A</b> <u>Year 2005</u>	<b>B</b> <u>Year 2006</u>	
Sequoia Energy LLC/Black Gold, LLC			
Tons	120,000	240,000	
\$/Ton of Coal	[REDACTED]	[REDACTED]	1/2
¢/MMBtu Delivered	[REDACTED]	[REDACTED]	
Massey			
Tons	720,000	N/A	
\$/Ton	[REDACTED]	N/A	3/4
¢/MMBtu Delivered	[REDACTED]	N/A	

### Crystal River Units 4 & 5

	<u>Year 2005</u>	<u>Year 2006</u>	
<u>Rail Coals</u>			
Massey Utility Sales Company			
Tons	720,000	N/A	
\$/Ton of Coal	[REDACTED]	N/A	5/6
¢/MMBtu Delivered	[REDACTED]	N/A	
Progress Fuels			
Tons	360,000	360,000	
\$/Ton	[REDACTED]	[REDACTED]	7/8
¢/MMBtu Delivered	[REDACTED]	[REDACTED]	
<u>Water Coals</u>			
Central Coal Company			
Tons	300,000	300,000	
\$/Ton of Coal	[REDACTED]	[REDACTED]	9/10
¢/MMBtu Delivered	[REDACTED]	[REDACTED]	

Additional coals will be required and on-going information gathering is taking place. Prior to other coals being purchased, I will submit a formal request.



A. W. Pitcher

AWP/ro



**Pitcher, Al (PFC)**





**From:** Crake, Kyle on behalf of Crake, Kyle (Energy)  
**Sent:** Thursday, May 20, 2004 7:52 AM  
**To:** Pitcher, Al (PFC)  
**Subject:** RE: Coal Purchases

Approved

-----Original Message-----

**From:** Pitcher, Al (PFC) [mailto:APitcher@progressfuels.com]  
**Sent:** Wednesday, May 19, 2004 2:52 PM  
**To:** Crake, Kyle  
**Subject:** Coal Purchases

Based upon an economic evaluation, discussions with the supplier, and a visit to their mine, I request permission to purchase the following coal.

	<u>Year 2005</u>	<u>Year 2006</u>
B&W Resources, Inc		
Tons	240,000	240,000
\$/Ton of Coal		
¢/MMBtu Delivered		

1  
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We are currently evaluating other suppliers, and will contact you for permission to make additional purchases. I hope to complete our purchase activity by Friday. All of the purchases made thus far are subject to the successful negotiation of all contract terms and conditions.

A prompt reply, at your earliest convenience, would be greatly appreciated.

*Al Pitcher*

5/20/2004

**Pitcher, Al (PFC)**

**From:** Crake, Kyle on behalf of Crake, Kyle (Energy)  
**Sent:** Thursday, May 20, 2004 7:52 AM  
**To:** Pitcher, Al (PFC)  
**Subject:** RE: Coal Purchases





Approved

-----Original Message-----

**From:** Pitcher, Al (PFC) [mailto:APitcher@progressfuels.com]  
**Sent:** Wednesday, May 19, 2004 2:52 PM  
**To:** Crake, Kyle  
**Subject:** Coal Purchases

Based upon an economic evaluation, discussions with the supplier, and a visit to their mine, I request permission to purchase the following coal.

Crystal River Units 1 & 2

	<b>A</b> Year 2005	<b>B</b> Year 2006
B&W Resources, Inc		
Tons	240,000	240,000
\$/Ton of Coal		
¢/MMBtu Delivered		

We are currently evaluating other suppliers, and will contact you for permission to make additional purchases. I hope to complete our purchase activity by Friday. All of the purchases made thus far are subject to the successful negotiation of all contract terms and conditions.

A prompt reply, at your earliest convenience, would be greatly appreciated.

*Al Pitcher*

5/20/2004



**PROGRESS  
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**COAL PRODUCERS' SOLICITATION FORM**  
**Crystal River 1 & 2**  
**PAGE 1 OF 3**

Tim  
Mobile - 276-791-0011

PRODUCER NAME: <u>Sequoia Energy, LLC / Black Gold, LLC</u>		
STREET ADDRESS: <u>410 Wintecham Drive</u>		
CONTACT: <u>Tim Hall / Dan Hendrickson</u>	TELEPHONE NO. <u>276-623-8336</u>	
MINE(S): <u>Sequoia</u>	BOM DISTRICT: <u>8</u>	COUNTY: <u>Harlan</u> STATE: <u>Kentucky</u>
ORIGIN RAILROAD(S)/DISTRICT: EK <u>CV</u> Big Sandy <u>Other</u> <u>Harlan</u>		R/R TIPPLE DESIGNATION/NUMBER: <u>43758</u>
TYPE OF LOADING FACILITY: UNIT TRAIN: <u>YES</u> SINGLE CAR: _____ TRAINLOAD: _____		
MAXIMUM LOADING CAPACITY: <u>10,000+</u> TONS <u>24</u> HOURS <u>110 Cars</u> TRACK CAPACITY		
WATER DELIVERY CAPABILITY: _____ YES _____ NO IMPORT COAL: LOAD PORT _____		
SHIP THROUGH: _____ DOCK LOAD RATE: _____		
TOTAL PRODUCTION CAPACITY PER MONTH: <u>200,000</u> TONS		
PRODUCTION PER MONTH—MEETING OUR COAL SPECIFICATIONS: <u>200,000</u> TONS		
TYPE OF MINE: <u>70</u> % DEEP <u>30</u> % STRIP _____ % AUGER		
SEAMS: <u>Darby &amp; Upper Harlan</u>		BLEND RATIOS: <u>To customer specifications</u>
COAL PREPARATION: <u>30</u> RAW <u>70</u> WASHED _____ COMBINATION		
TYPE OF COAL WASHER, IF WASHED: <u>Heavy media washer, cyclones &amp; spirals</u>		
TYPE OF COAL SAMPLING: <u>ASTM mechanical sampler</u>		
TYPE OF LABOR CONTRACT(S): <u>None</u>	DATE FOR RENEGOTIATION: _____	
TYPE OF COAL WEIGHING: <u>Certified batch weigh</u>	SCALE CERTIFIED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
PERIOD	TONNAGE	BASE PRICE PER TON FOB MINE
<u>2005-2007</u>	<u>120,000 - 2005</u> <u>240,000 - 2006-2007</u>	<u>[Redacted] (escalation 2005-2007)</u>
IF THIS COAL IS OFFERED BY A COMPANY OR INDIVIDUAL WHICH IS NOT THE PRODUCER PLEASE INDICATE SO BY MAKING AN "X" IN THIS SPOT.		
PRODUCER'S COMMENTS: <u>Please consider our offer subject to prior commitment and subject to the negotiation of mutually agreeable terms and conditions.</u>		
CREDIT REFERENCES (Minimum two): <u>To be provided in the event our offer is of interest.</u>		
CUSTOMER REFERENCES (Minimum four): <u>Consumers Energy, Duke Energy &amp; Northeast Utilities</u>		
SIGNATURE: <u>Dan Hendrickson</u>		TITLE: <u>Managing Partner</u> DATE: <u>5/11/04</u>
MAIL THIS FORM AND ANY ADDITIONAL INFORMATION TO:		
MRS. ROBIN OTT PROGRESS FUELS CORPORATION ONE PROGRESS PLAZA, SUITE 600 ST. PETERSBURG, FLORIDA 33701		OR MRS. ROBIN OTT PROGRESS FUELS CORPORATION POST OFFICE BOX 15208 ST. PETERSBURG, FLORIDA 33733
PHONE NO. 727/824-6670 FAX NO. 727/824-6601		



**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
Crystal River 1 & 2  
PAGE 2 OF 3

**CURRENT QUALITY**

DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %	4.00 - 6.00	8.00 mx. <sup>4</sup>	8.0% MAX.
SURFACE MOISTURE %			5.0% MAX.
ASH %	7.00 - 8.00	10.00 mx. <sup>4</sup>	12% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	1.60 - 1.80	2.10 mx.	2.1 LB/MAX. <sup>1</sup>
BTU/LB	12,900 - 13,100	12,700 mn. <sup>4</sup>	12,000/LB MIN.
ASH SOFTENING DEGREES FAHRENHEIT H=W (R)	2,700+	2,500 mn. <sup>4</sup>	2,500 MIN.
VOLATILE %	34.00 - 36.00	31.00 mn. <sup>4</sup>	31.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	42 - 44	42.00 mn. <sup>4</sup>	42 MIN. <sup>3</sup>
SIZE	2" X 0	2" X 0	2" X 0"
FINES (-1/4" X 0")	30 - 40	45 mx.	45% MAX. <sup>4</sup>
FIXED CARBON %	52.00 - 54.00		---
HYDROGEN %	4.81		---
NITROGEN %	1.55		---
CHLORINE %	0.01		---
OXYGEN %	6.97		---

<sup>1</sup> MUST BE MET ON AN INDIVIDUAL SHIPMENT BASIS.

<sup>2</sup> ADJUSTABLE IN DIRECT PROPORTION TO BTU.

<sup>3</sup> ADJUSTABLE IN INVERSE PROPORTION TO BTU.

<sup>4</sup> PREFERRED VALUE, COALS NOT MEETING THIS SPECIFICATION WILL BE CONSIDERED.

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV.
P <sub>2</sub> O <sub>5</sub>	0.26		Antimony		
SiO <sub>2</sub>	56.00		Arsenic		
Fe <sub>2</sub> O <sub>3</sub>	9.19		Beryllium		
Al <sub>2</sub> O <sub>3</sub>	26.30		Cadmium		
TiO <sub>2</sub>	1.60		Chromium		
CaO	1.75		Cobalt		
MgO	0.87		Fluorine		
SO <sub>3</sub>	0.70		Lead		
K <sub>2</sub> O	2.22		Lithium		
Na <sub>2</sub> O	0.47		Manganese		
Undetermined	0.64		Mercury		
Base/Acid Ratio			Nickel		
Maximum Base/Acid Ratio			Selenium		

\*NOTE: ADD SHEETS IF MORE THAN ONE SEAM



**PROGRESS  
FUELS  
CORPORATION**

COAL PRODUCERS' SOLICITATION FORM  
Crystal River 1 & 2  
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PRODUCER NAME: <u>B+W Resources Inc.</u>		
STREET ADDRESS: <u>637 Morton Blvd. Hazard, KY 41701</u>		
CONTACT: <u>John Seibel</u>	TELEPHONE NO. <u>(513) 315-6322</u>	
MINE(S): <u>Wooten, Red Oak, Other</u>	BOM DISTRICT: <u>HAZ</u>	COUNTY: <u>Perry, Leslie</u> STATE: <u>KY</u>
ORIGIN RAILROAD(S)/DISTRICT: EK <u>CV</u> Big Sandy <u>Other</u> <u>Jellison - Middlebrook</u>		R/R TIPPLE DESIGNATION/NUMBER: <u>CSR 44655</u>
TYPE OF LOADING FACILITY: UNIT TRAIN: <u>4 HR</u> SINGLE CAR <u>                    </u> TRAINLOAD <u>                    </u>		
MAXIMUM LOADING CAPACITY: <u>11000</u> TONS <u>4</u> HOURS <u>95 cars</u> TRACK CAPACITY		
WATER DELIVERY CAPABILITY: <u>YES</u> <input checked="" type="checkbox"/> NO <input type="checkbox"/> IMPORT COAL: LOAD PORT <u>                    </u>		
SHIP THROUGH: <u>                    </u> DOCK <u>                    </u> LOAD RATE: <u>5/11/04</u>		
TOTAL PRODUCTION CAPACITY PER MONTH: <u>100K</u> TONS		
PRODUCTION PER MONTH—MEETING OUR COAL SPECIFICATIONS: <u>80K</u> TONS		
TYPE OF MINE: <u>                    </u> % DEEP <u>100</u> % STRIP		
SEAMS: <u>HAZ 4, 5, 7, 8, 9</u>	BLEND RATIOS: <u>                    </u>	
COAL PREPARATION: <u>100% RAW</u>	<u>                    </u> WASHED	
TYPE OF COAL WASHER, IF WASHED: <u>                    </u>		
TYPE OF COAL SAMPLING: <u>Auto sampler being installed</u>		
TYPE OF LABOR CONTRACT(S): <u>None</u>	DATE FOR RENEGOTIATION: <u>                    </u>	
TYPE OF COAL WEIGHING: <u>Railroad</u>	SCALE CERTIFIED? <u>YES</u> <input type="checkbox"/> NO <input type="checkbox"/>	
PERIOD	TONNAGE	BASE PRICE PER TON FOB MINE
<u>1/1/05 thru 12/31/07</u>	<u>20,000/mo - 720,000 Total</u>	<u>fixed 3 yrs.</u>
IF THIS COAL IS OFFERED BY A COMPANY OR INDIVIDUAL WHICH IS NOT THE PRODUCER PLEASE INDICATE SO BY MAKING AN "X" IN THIS SPOT.		
PRODUCER'S COMMENTS: <u>Coal offered subject to prior sale. All contracts terms to be finalized prior to any commitment. All previous bids superseded by this proposal.</u>		
CREDIT REFERENCES (Minimum two): <u>Huntington Bank, Cincinnati, Ohio</u> <u>Peoples Bank, Hazard, Ky</u>		
CUSTOMER REFERENCES (Minimum four): <u>South Carolina Elec. &amp; Gas → Gerhard Heimbarger</u> <u>Duke Energy → Steve Perkins</u> <u>EKP → Luke Rakestraw</u> <u>San Leo Corp → Pat Runey</u>		
SIGNATURE: <u>[Signature]</u>	TITLE: <u>VP</u>	DATE: <u>5/11/04</u>
MAIL THIS FORM AND ANY ADDITIONAL INFORMATION TO:		
<div style="display: flex; justify-content: space-between;"> <div> <p>MRS. ROBIN OTT PROGRESS FUELS CORPORATION ONE PROGRESS PLAZA, SUITE 600 ST. PETERSBURG, FLORIDA 33701</p> </div> <div>OR</div> <div> <p>MRS. ROBIN OTT PROGRESS FUELS CORPORATION POST OFFICE BOX 15208 ST. PETERSBURG, FLORIDA 33733</p> </div> </div>		
<p>PHONE NO. 727/624-6670 FAX NO. 727/624-6601</p>		

*Spoke with Gerhard Heimbarger. Be careful. They will send to price on your speed to form AUGER. up in country. They may be over production. But he is not a pro.*

*Spoke with Pat Runey. They have shipped a few tons in spec & on time.*



**PROGRESS  
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COAL PRODUCERS' SOLICITATION FORM  
Crystal River 1 & 2  
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**CURRENT QUALITY**

DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %	7.0	7.0	8.0% MAX.
SURFACE MOISTURE %	5.0	5.0	5.0% MAX.
ASH %	10.0	11.5	12% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	2.0	2.0	2.1 LB/MAX. <sup>1</sup>
BTU/LB	12500	12500	12,000/LB MIN.
ASH SOFTENING DEGREES FAHRENHEIT H=W (R)	2700	2600	2,500 MIN.
VOLATILE %	34	32	31.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	42	42	42 MIN. <sup>3</sup>
SIZE	2x0	2x0	2" X 0"
FINES (-1/4" X 0")	40	45	45% MAX. <sup>4</sup>
FIXED CARBON %	56	54	-----
HYDROGEN %	5.3	5.3	-----
NITROGEN %	1.2	1.2	-----
CHLORINE %	0.1	0.1	-----
OXYGEN %	5.0	5.0	-----

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV
P <sub>2</sub> O <sub>5</sub>	0.17		Antimony	To Be Provided	
SiO <sub>2</sub>	61.70		Arsenic		
Fe <sub>2</sub> O <sub>3</sub>	8.92		Beryllium		
Al <sub>2</sub> O <sub>3</sub>	20.00		Cadmium		
TiO <sub>2</sub>	1.01		Chromium		
CaO	3.10		Cobalt		
MgO	1.20		Fluorine		
SO <sub>3</sub>	1.16		Lead		
K <sub>2</sub> O	1.70		Lithium		
Na <sub>2</sub> O	1.27		Manganese		
Undetermined	—		Mercury		
Base/Acid Ratio	—		Nickel		
Maximum Base/Acid Ratio	—		Selenium		

NOTE: ADD SHEETS IF MORE THAN ONE SEAM





**PROGRESS  
FUELS**  
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COAL PRODUCERS' SOLICITATION FORM  
Crystal River 1 & 2  
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**PROJECTED QUALITY**

DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %		4	8.0% MAX.
SURFACE MOISTURE %	Same as Current		5.0% MAX.
ASH %			12% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MTU)			2.1 LB/MAX. <sup>1</sup>
BTU/LB		4	12,000/LB MIN.
ASH SOFTENING DEGREES FAHRENHEIT H=W (R)		4	2,500 MIN.
VOLATILE %		4	31.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE		4	42 MIN. <sup>3</sup>
SIZE			2" X 0"
FINES (-1/4" X 0")			45% MAX. <sup>5</sup>
FIXED CARBON %			_____
HYDROGEN %			_____
NITROGEN %			_____
CHLORINE %			_____
OXYGEN %			_____

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV	DESCRIPTION	AVERAGE	STD DEV
P <sub>2</sub> O <sub>5</sub>			Antimony		
SiO <sub>2</sub>			Arsenic		
Fe <sub>2</sub> O <sub>3</sub>			Beryllium		
Al <sub>2</sub> O <sub>3</sub>			Cadmium		
TiO <sub>2</sub>			Chromium		
CaO			Cobalt		
MgO			Fluorine		
SO <sub>3</sub>			Lead		
K <sub>2</sub> O			Lithium		
Na <sub>2</sub> O			Manganese		
Undetermined			Mercury		
Base/Acid Ratio			Nickel		
Maximum Base/Acid Ratio			Selenium		

**PROGRESS  
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**COAL PRODUCERS' SOLICITATION FORM**  
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PRODUCER NAME: <u>Central Appalachia Mining LLC</u>		
MINE ADDRESS: <u>116 Main St. - P.O. Box 1169 - Pikeville</u>		
CONTACT: <u>Mike Goff</u>	TELEPHONE NO. <u>606/432-3900 ext 306</u>	
E(S): <u>Danron Fork</u>	BOM DISTRICT: <u>8</u>	COUNTY: <u>Pike</u> STATE: <u>KY</u>
GIN RAILROAD(S)/DISTRICT: EK <input type="checkbox"/> CV <input type="checkbox"/> Big Sandy <input checked="" type="checkbox"/> Other <input type="checkbox"/>		R/R TIPPLE DESIGNATION/NUMBER: <u>84917</u>
TYPE OF LOADING FACILITY: _____		
UNIT TRAIN: _____	SINGLE CAR: _____	TRAINLOAD: _____
MAXIMUM LOADING CAPACITY: <u>11,000</u> TONS <u>4</u> HOURS <u>110</u> TRACK CAPACITY		
WATER DELIVERY CAPABILITY: <input type="checkbox"/> YES <input type="checkbox"/> NO IMPORT COAL: LOAD PORT _____		
SHIP THROUGH: _____ DOCK _____ LOAD RATE: _____		
ANNUAL PRODUCTION CAPACITY PER MONTH: <u>450,000</u> TONS		
PRODUCTION PER MONTH—MEETING OUR COAL SPECIFICATIONS: <u>30,000</u> TONS		
DEPTH OF MINE: <u>50</u> % DEEP <u>50</u> % STRIP _____ % AUGER		
SAMPLES: _____ BLEND RATIOS: _____		
COAL PREPARATION: _____ RAW _____ WASHED <input checked="" type="checkbox"/> COMBINATION		
TYPE OF COAL WASHER, IF WASHED: <u>Heavy Media Washer - Heavy Media Cyclones - Spirals, Froth Flotation Cells</u>		
TYPE OF COAL SAMPLING: <u>Three Stage Belt Sweep</u>		
TYPE OF LABOR CONTRACT(S): <u>None</u> DATE FOR RENEGOTIATION: _____		
TYPE OF COAL WEIGHING: <u>Kawauba Batch Weighing</u> SCALE CERTIFIED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		
PERIOD	TONNAGE	BASE PRICE PER TON FOB MINE
<u>Jan 1, 2005 - Dec. 31, 2007</u>	<u>Tons for Year 240,000 - 210K Tons Per Month</u>	<u>\$ [REDACTED]</u>

IF THIS COAL IS OFFERED BY A COMPANY OR INDIVIDUAL WHICH IS NOT THE PRODUCER PLEASE INDICATE SO BY MAKING AN "X" IN THIS SPOT.

PRODUCER'S COMMENTS:

CREDIT REFERENCES (Minimum two): Community Trust Bank - Acct# 4001360527 - Phone 606/432-1414  
Rogers Petroleum - 606/432-1421 - P.O. Box 162 - Pikeville, KY 41502  
Nelson Brothers - 800/972-2684 - 820 Shades Creek Parkway Suite 2000 - Birmingham, AL  
 CUSTOMER REFERENCES (Minimum four): 1) Gainesville Regional Utilities - Thomas Fox 352/534-3400  
2) East KY Power - Ernie Huff 859/744-4864 Ext 853  
3) Duke Energy - Elliott Batson 704/382-6132  
4) MIRANT - Mark Canon 678/579-3073  
5) Koch Carbon - Rob Nelson 713/544-5031

SIGNATURE: Mike Goff TITLE: Sales & Marketing Manager DATE: 5/11/09

MAIL THIS FORM AND ANY ADDITIONAL INFORMATION TO:

MRS. ROBIN OTT  
PROGRESS FUELS CORPORATION  
ONE PROGRESS PLAZA, SUITE 600  
ST. PETERSBURG, FLORIDA 33701

OR

MRS. ROBIN OTT  
PROGRESS FUELS CORPORATION  
POST OFFICE BOX 15208  
ST. PETERSBURG, FLORIDA 33733

PHONE NO. 777/824-6670  
FAX NO. 777/824-6601





PROGRESS  
FUELS  
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COAL PRODUCERS' SOLICITATION FORM  
Crystal River 1 & 2  
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PRODUCER NAME: Central Coal Company		
STREET ADDRESS: 148 Bristol East Rd., Bristol, VA 24202		
CONTACT: Clark Wisman	TELEPHONE NO. 276-669-8599	
MINE(S): Coal River Energy	BOM DISTRICT: 8	COUNTY: Boone STATE: WV
ORIGIN RAILROAD(S)/DISTRICT: EK CV Big Sandy Other Kanawha		R/R TIPPLE DESIGNATION/NUMBER: 82202
TYPE OF LOADING FACILITY: UNIT TRAIN: 150 SINGLE CAR: TRAINLOAD:		
MAXIMUM LOADING CAPACITY: 15,000 TONS 4 HOURS TRACK CAPACITY		
WATER DELIVERY CAPABILITY: YES X NO IMPORT COAL: LOAD PORT		
SHIP THROUGH: DOCK LOAD RATE:		
TOTAL PRODUCTION CAPACITY PER MONTH: 125,000 TONS		
PRODUCTION PER MONTH—MEETING OUR COAL SPECIFICATIONS: 50,000 TONS		
TYPE OF MINE: 100 % DEEP % STRIP % AUGER		
SEAMS: #2 Gas - Stockton		BLEND RATIOS:
COAL PREPARATION: RAW 100 WASHED COMBINATION		
TYPE OF COAL WASHER, IF WASHED: Heavy-media		
TYPE OF COAL SAMPLING: Automatic - 2 stage		
TYPE OF LABOR CONTRACT(S): N/A		DATE FOR RENEGOTIATION:
TYPE OF COAL WEIGHING: Batch Weigh		SCALE CERTIFIED? X YES NO
PERIOD	TONNAGE	BASE PRICE PER TON FOB MINE
Jan 2005 - Dec 2006	20,000 TPM	
IF THIS COAL IS OFFERED BY A COMPANY OR INDIVIDUAL WHICH IS NOT THE PRODUCER PLEASE INDICATE SO BY MAKING AN "X" IN THIS SPOT.		
PRODUCER'S COMMENTS: Subject to prior		
CREDIT REFERENCES (Minimum two): Wachovia Caterpillar		
CUSTOMER REFERENCES (Minimum four): Duke Power Progress Energy Carolina		
SIGNATURE:		TITLE: Sales DATE: 5/11/04
MAIL THIS FORM AND ANY ADDITIONAL INFORMATION TO:		
MRS. ROBIN OTT PROGRESS FUELS CORPORATION ONE PROGRESS PLAZA, SUITE 600 ST. PETERSBURG, FLORIDA 33701		OR MRS. ROBIN OTT PROGRESS FUELS CORPORATION POST OFFICE BOX 15208 ST. PETERSBURG, FLORIDA 33733
PHONE NO. 727/824-6670 FAX NO. 727/824-6601		



**Kennecott Energy Company**  
505 South Gillette Avenue (82716)  
Post Office Box 3009  
Gillette, Wyoming 82717-3009  
Phone: (307) 687-6000  
Fax: (307) 687-6015

May 11, 2004

Mrs. Robin Ott  
Progress Fuels Corporation  
One Progress Plaza, Suite 600  
St. Petersburg, FL 33701

Dear Mrs. Ott:

Kennecott Energy Company is pleased to respond to your request to supply a portion of Progress Energy's requirements for the Crystal River Units 1 and 2 for the years 2005, 2006 and 2007. The following coal offered represents a blended coal from Kennecott Energy's Spring Creek mine located in Decker, Montana and Knight Hawk Coal LLC Creek Paum Mine located in Ava, Illinois.

#### COAL OFFERED

Origin Seventy-five percent Spring Creek Coal - Big Horn County, Montana  
Twenty-five percent Knight Hawk Coal - Ava, Illinois

Delivery Point FOB Barge - Cahokia Terminal located in St. Louis, Missouri

Term/Quantity/Base Price

January 1, 2005 - December 31, 2007

Term	Quantity (To the nearest unit train.)	Price
2005	200,000 Tons	██████████
2006	400,000 Tons	*
2007	400,000 Tons	*

Prices are pnt FOB Barge Cahokia Terminal, St. Louis, Missouri based on coal having a standard heating value of 9,963 Btu/lb and a standard sulfur value of 1.18 lbs. SO<sub>2</sub>/MMBtu. The Base Prices include Kennecott's best estimate of all Third Party costs as defined in Adjustment Provisions hereinbelow as of May 11, 2004. The standard heating and sulfur values are for price adjustment purposes only. The price shall be subject to adjustment for variations in the monthly weighted average calorific value from the standard heating value on an FOB mine basis and for variation in SO<sub>2</sub> content from the standard sulfur value in accordance with a mutually agreed upon SO<sub>2</sub> adjustment provision.

\* The transportation component of ██████████ will escalate based on 100% of the RCAF-U on a quarterly basis and a fuel surcharge adjustment monthly.

#### Typical Quality (Annual Average)

Typical Values	2005 - 2007
Btu	9,963
Moisture	13.22%
Ash	5.0%
Sulfur (Lbs. SO <sub>2</sub> /mmBtu)	1.18
Sodium (Na <sub>2</sub> O)	5.00%

Adjustment Provisions

Third Party Cost & New Laws Adjustments

Third party costs include any and all taxes, fees, royalties, and governmental impositions paid to third parties on or attributable to the production of coal. Any change in these items from May 11, 2004, either up or down, will be passed on to Buyer. A change could be a change in rate changes resulting from a new law or regulation or change in interpretation (or estimate by Seller of impact) of an existing law or regulation on a federal, state or local level. The adjustments will be passed through as of the date of the actual change resulting in such adjustments.

Sampling & Analysis

In accordance with ASTM standards for Spring Creek Coal Company.

Data Transmission

As mutually agreed upon.

Delivery Schedule

As mutually agreed upon.

Weights

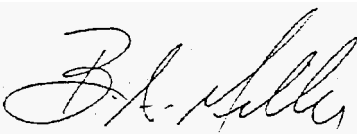
In accordance with Kennecott Energy and Knight Hawk Coal "certified" mine weights.

Terms & Conditions

This offer is considered proprietary and confidential; it should not be divulged to third parties without the express written approval of Kennecott Energy Company. **Specific terms and conditions of a prospective agreement are subject to mutual agreement.** Attached is a Master Coal Purchase and Sale Agreement that will represent a starting point for discussions. Coal is offered subject to prior sale and availability and in any event, this offer will expire after May 17, 2004, unless negotiations leading to a definitive agreement have commenced by that date; in which case the offer may be extended. **Acceptance of this offer must be received, in writing, no later than 5:00 PM MDT on or before May 17, 2004.** This offer and Kennecott Energy Company's obligation to enter into a coal supply agreement is subject to Kennecott Energy Company's internal credit review and approval.

We appreciate this opportunity to supply a portion of your coal requirements. If you have any questions or comments, please contact me at 307.685.6114.

Sincerely,



Bruce A. Miller  
Manager, Origination and Structured Products

BAM:ksn

# Knight Hawk Creek Paum Mine 2003QUALITY SPECIFICATIONS

Trainload reject parameters: 11000 BTU; 8.0 lbs SO2 per mm

QUALITY PARAMETER	TYPICAL (MEAN VALUE)	STANDARD DEVIATION	TYPICAL 91 -2 STD DEV
<b><u>PROXIMATE</u></b>			
% Moisture	13.22		
% Ash	5.11		
% Volatile	3.00		
% Fixed Carbon	32.61		
BTU/lb	11900		
MAFBTU	14571		
Dry BTU	13713		
% Sulfur	1.28		
<b><u>ULTIMATE</u></b>			
% Moisture	13.22		
% Carbon	67.46		
% Hydrogen	4.71		
% Nitrogen	1.54		
% Chlorine	<0.01		
% Sulfur	1.28		
% Ash	5.11		
% Oxygen	6.67		
<b><u>SULFUR FORMS</u></b>			
Pyritic Sulfur (%)	0.64		
Sulfate Sulfur (%)	0.03		
Organic Sulfur (%)	0.61		
Total Sulfur (%)	1.28		
<b><u>MINERAL ANALYSIS OF ASH</u></b>			
% Silicon Dioxide (Silica, SiO2)	46.79		
% Aluminum Oxide (Alumina, Al2O3)	21.42		
% Titanium Dioxide (Titania, TiO2)	1.18		
% Iron Oxide (Ferric Oxide, Fe2O3)	20.96		
% Calcium Oxide (Lime, CaO)	2.59		
% Magnesium Oxide (Magnesia, MgO)	0.94		

% Potassium Oxide (K <sub>2</sub> O)	2.86
% Sodium Oxide (Na <sub>2</sub> O)	0.61
% Sulfur Trioxide (SO <sub>3</sub> )	1.16
% Phosphorous Pentoxide (P <sub>2</sub> O <sub>5</sub> )	0.69
% Strontium Oxide (SrO)	0.10
% Barium Oxide (BaO)	0.05
% Undetermined	0.63
Base/Acid Ratio	0.40
Base Value	
Acid Value	

#### **ASH FUSION TEMPERATURES**

##### **Reducing (°F)**

Initial	1965
Softening (H=W)	2010
Hemispherical (H=1/2W)	2060
Fluid	2180
Fluid-Initial Temp. Difference	215

##### **Oxidizing (°F)**

Initial	2430
Softening (H=W)	2480
Hemispherical (H=1/2W)	2500
Fluid	2550
Fluid-Initial Temp. Difference	120

## **Knight Hawk QUALITY SPECIFICATIONS (Continued)**

### **QUALITY PARAMETER**

TYPICAL (MEAN VALUE)	STANDARD DEVIATION	TYPICAL 95% -2 STD DEV
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#### **ADDITIONAL ANALYSES AND CALCULATED VALUES**

T250 Temperature (°F)	2408
HGI (at as-received moisture)	52
HGI % Moisture	
Critical Viscosity Temperature (°F)	
Critical Viscosity (Poises)	
% Equilibrium Moisture	
Specific Gravity	
%Alkalies NA <sub>2</sub> O Dry (Total Alkali Content on Coal)	
%Water Soluble Alk - Na <sub>2</sub> O	
%Water Soluble Alk - K <sub>2</sub> O	

%Na <sub>2</sub> O - Dry Coal	
%Na <sub>2</sub> O As-received Coal	
Silica Value (Silica Ratio)	65.64
Slag Factor	0.59
Slag factor per Fusion Temperature	
Dolomite Ratio	
Ash Precipitation Index	
Silica to Alumina Ratio	
Calcium to Silica Ratio	
Iron to Calcium Ratio	
Fouling Factor (Fouling Index)	0.24
SO <sub>2</sub> /MMBTU	2.15
lbs S/MMBTU	1.08
lbs Sodium/MMBTU	0.026
lbs Ash/MMBTU	4.29

#### TYPICAL COAL SIZE

2 inch

Size Fraction	Wt. Percent	Cumulative Wt. Percent
+3" RD.		
3" RD. x 2" RD.		
2" RD. x 1" RD.		
1" RD. x 1/2" RD.		
1/2" RD. x 4 M		
4 M x 60 M		
60 M x 0		

#### TRACE ELEMENT SUMMARY

Parts Per Million

Whole Coal, Dry Basis

TYPICAL (MEAN VALUE)	STANDARD DEVIATION	TYPICAL 95% -2 STD DEV
-------------------------	-----------------------	---------------------------

ANTIMONY (Sb)  
 ARSENIC (As)  
 BARIUM (Ba)  
 BERYLLIUM (Be)  
 BORON (B)  
 BROMIDE (Br)  
 CADMIUM (Cd)  
 CHLORINE (Cl)  
 CHROMIUM (Cr)  
 COBALT (Co)  
 COPPER (Cu)  
 FLUORINE (F)  
 LITHIUM (Li)  
 MANGANESE (Mn)  
 MERCURY (Hg)  
 MOLYBDENUM (Mo)  
 NICKEL (Ni)  
 LEAD (Pb)  
 SELENIUM (Se)  
 SILVER (Ag)  
 STRONTIUM (Sr)

THALLIUM (Tl)  
THORIUM (Th)  
TIN (Sn)  
URANIUM (U)  
VANADIUM (V)  
ZIRCONIUM (Zr)  
ZINC (Zn)

\* All negative numbers were converted to 0.00

## SPRING CREEK COAL MINE 2005 QUALITY SPECIFICATIONS

QUALITY PARAMETER	TYPICAL (MEAN VALUE)	STANDARD DEVIATION	TYPICAL 95% RANGE		TYPICAL DRY VALUE	TYPICAL MOISTURE-ASH FREE VALUE
PROXIMATE						
% Moisture	25.40	0.56	24.28	26.52		
% Ash	4.12	0.33	3.46	4.78	5.52	
% Volatile	31.26	0.81	29.64	32.88	41.90	44.35
% Fixed Carbon	39.23	0.80	37.63	40.83	52.59	55.66
BTU/lb	9350	103	9144	9556	12534	13266
MAFBTU	13266	80.08	13106	13426		
Dry BTU	12534	93.71	12346	12721		
% Sulfur	0.34	0.07	0.20	0.48	0.46	0.48
ULTIMATE						
% Moisture	25.40	0.56	24.28	26.52		
% Carbon	54.14	3.28	47.58	60.70	72.57	76.82
% Hydrogen	3.80	0.23	3.34	4.26	5.09	5.39
% Nitrogen	0.71	0.09	0.53	0.89	0.95	1.01
% Chlorine	0.00	0.01	0.00	0.01	0.00	0.00
% Sulfur	0.34	0.07	0.20	0.48	0.46	0.48
% Ash	4.12	0.33	3.46	4.78		
% Oxygen	11.50	0.70	10.10	12.90	15.42	16.32
SULFUR FORMS						
Pyritic Sulfur (%)	0.05	0.03	0.00	0.11	0.07	0.07
Sulfate Sulfur (%)	0.01	0.015	0.00	0.04	0.01	0.01
Organic Sulfur (%)	0.28	0.06	0.16	0.40	0.38	0.40
Total Sulfur (%)	0.34	0.07	0.20	0.48	0.46	0.48
MAJOR ELEMENTS						
% Silicon Dioxide (Silica, SiO2)	32.52	2.78	26.96	38.08	43.59	46.14
% Aluminum Oxide (Alumina, Al2O3)	17.69	1.09	15.51	19.87	23.71	25.10
% Titanium Dioxide (Titania, TiO2)	1.13	0.10	0.93	1.33	1.51	1.60
% Iron Oxide (Ferric Oxide, Fe2O3)	4.76	0.47	3.82	5.70	6.38	6.75
% Calcium Oxide (Lime, CaO)	15.36	1.41	12.54	18.18	20.59	21.79
% Magnesium Oxide (Magnesia, MgO)	3.69	0.85	1.99	5.39	4.95	5.24
% Potassium Oxide (K2O)	0.63	0.14	0.35	0.91	0.84	0.89
% Sodium Oxide (Na2O)	8.24	1.00	6.24	10.24	11.05	11.69
% Sulfur Trioxide (SO3)	14.07	2.50	9.07	19.07	18.86	19.96
% Phosphorous Pentoxide (P2O5)	0.35	0.06	0.23	0.47	0.47	0.50
% Strontium Oxide (SrO)	0.37	0.22	0.00	0.81	0.50	0.52
% Barium Oxide (BaO)	1.19	0.31	0.57	1.81	1.60	1.69
% Undetermined	0.00	1.00	0.00	2.00	0.00	0.00
Base/Acid Ratio	0.64	0.08	0.48	0.80		
Base Value	32.68	2.20	28.28	37.08		
Acid Value	51.34	3.00	45.34	57.34		
ASH FUSION TEMPERATURES						
Reducing (°F)						
Initial	2106	37	2031	2181		
Softening (H=W)	2129	36	2056	2202		
Hemispherical (H=1/2W)	2141	39	2062	2220		
Fluid	2164	51	2062	2266		
Fluid-Initial Temp. Difference	58	40	0	138		
Oxidizing (°F)						
Initial	2351	98	2156	2546		
Softening (H=W)	2366	81	2204	2528		
Hemispherical (H=1/2W)	2391	73	2245	2537		
Fluid	2423	77	2268	2578		
Fluid-Initial Temp. Difference	72	60	0	192		



## SPRING CREEK COAL MINE QUALITY SPECIFICATIONS (Continued)

QUALITY PARAMETER	TYPICAL (MEAN VALUE)	STANDARD DEVIATION	TYPICAL 95% RANGE	
			-2 STD DEV	+2 STD DEV
<b>ADDITIONAL ANALYSES AND CALCULATED VALUES</b>				
T250 Temperature (°F)	2153	91.88	1969	2337
HGI (at as-received moisture)	60.6	5.6	49	72
HGI % Moisture	24.13	3.88	16	32
Critical Viscosity Temperature (°F)	0	0	0	0
Critical Viscosity (Poises)	0	0	0	0
% Equilibrium Moisture	23.93	0.56	22.81	25.05
Specific Gravity	1.10	0.015	1.07	1.13
%Alkalies NA2O Dry (Total Alkali Content on Coal)	0.478	0.070	0.34	0.62
%Water Soluble Alk - Na2O	0.000	0.000	0.00	0.00
%Water Soluble Alk - K2O	0.000	0.000	0.00	0.00
%Na2O - Dry Coal	0.46	0.03	0.40	0.52
%Na2O As-received Coal	0.34	0.02	0.30	0.38
Silica Value (Silica Ratio)	57.73			
Slag Factor	0.28	0.14	0.00	0.56
Slag factor per Fusion Temperature	2163	85	1993	2333
Dolomite Ratio	58.29	3.25	51.79	64.79
Ash Precipitation index	3.97	10.1	0.00	24.17
Silica to Alumina Ratio	1.84	0.14	1.56	2.12
Calcium to Silica Ratio	0.47	0.34	0.00	1.15
Iron to Calcium Ratio	0.31	0.07	0.17	0.45
Fouling Factor (Fouling index)	5.25	1.41	2.43	8.07
SO2/MMBTU	0.80	0.075	0.65	0.95
lbs S/MMBTU	0.36	0.075	0.21	0.51
lbs Sulfur/MMBTU	0.363	0.023	0.32	0.41
lbs Ash/MMBTU	4.41	0.5	3.41	5.41

### TYPICAL COAL SIZE

2 inch				
Size Fraction	Wt. Percent	Cumulative Wt. Percent	Wt. Percent	
			Passing Top	
+3" RD.	0%	0%	100%	
3" RD. x 2" RD.	4%	4%	100%	
2" RD. x 1" RD.	20%	24%	96%	
1" RD. x 1/2" RD.	28%	52%	76%	
1/2" RD. x 4 M	20%	71%	48%	
4 M x 60 M	13%	84%	29%	
60 M x 0	16%	100%	16%	

### TRACE ELEMENT SUMMARY

Parts Per Million	TYPICAL (MEAN VALUE)	STANDARD DEVIATION	TYPICAL 95% RANGE	
Whole Coal, Dry Basis			-2 STD DEV	+2 STD DEV
ANTIMONY (Sb)	0.00	0.00	0.00	0.00
ARSENIC (As)	1.50	1.00	0.00	3.50
BARIUM (Ba)	0.00	0.00	0.00	0.00
BERYLLIUM (Be)	0.21	0.08	0.06	0.36
BORON (B)	0.00	0.00	0.00	0.00
BROMIDE (Br)	0.00	0.00	0.00	0.00
CADMIUM (Cd)	0.18	0.02	0.14	0.22
CHLORINE (Cl)	0.00	0.00	0.00	0.00
CHROMIUM (Cr)	2.40	0.75	0.90	3.90
COBALT (Co)	0.00	0.00	0.00	0.00
COPPER (Cu)	0.00	0.00	0.00	0.00
FLUORINE (F)	41.90	11.00	19.90	63.90
LITHIUM (Li)	0.00	0.00	0.00	0.00
MANGANESE (Mn)	16.20	7.90	0.40	32.00
MERCURY (Hg)	0.07	0.03	0.01	0.13
MOLYBDENUM (Mo)	0.00	0.00	0.00	0.00
NICKEL (Ni)	1.53	1.00	0.00	3.53
LEAD (Pb)	2.60	1.00	0.60	4.60
SELENIUM (Se)	1.20	0.90	0.00	3.00
SILVER (Ag)	0.00	0.00	0.00	0.00
STRONTIUM (Sr)	0.00	0.00	0.00	0.00
THALLIUM (Tl)	0.00	0.00	0.00	0.00
THORIUM (Th)	0.00	0.00	0.00	0.00
TIN (Sn)	0.00	0.00	0.00	0.00
URANIUM (U)	0.00	0.00	0.00	0.00
VANADIUM (V)	0.00	0.00	0.00	0.00
ZIRCONIUM (Zr)	0.00	0.00	0.00	0.00
ZINC (Zn)	0.00	0.00	0.00	0.00

\* All negative numbers were converted to 0.00

Revised

3/29/2000

### Spring Creek Coal Company

Spring Creek Coal Company began operations in 1980 with a design capacity of 11.0 million tons per year. Spring Creek has a federal lease consisting of 2,505 acres and a state lease consisting of 642 acres. The current recoverable reserves at the end of 1999 were approximately 221 million tons. Current mining involves a single coal seam 80 feet thick. Mining is carried out primarily by dragline operations.

<b>Mine Name:</b>	Spring Creek Coal Company
<b>Location:</b>	Southeast Montana, Big Horn County, 35 miles from Sheridan, Wyoming U.S.A.
<b>Served by:</b>	Burlington Northern Railroad
<b>Rail Loading Point:</b>	NERCO Junction, Montana
<b>Mine Type:</b>	Surface
<b>Seams:</b>	Anderson-Dietz 1 & 2
<b>Recoverable Reserves:</b>	221 Million Tons
<b>Annual Production Capacity:</b>	11.0 Million Tons
<b>Processed Coal Storage Capacity:</b>	36,000 Tons (Storage Barn)
<b>Weighing System:</b>	Ramsey Engineering conveyor belt scales. Coal is weighed, as it is flood loaded into railcars. Scales certified semi-annually in accordance with the Western Weighing and Inspection Bureau.
<b>Sampling &amp; Analysis:</b>	Ramsey Engineering three-stage mechanical sampling system. On-site, by Commercial Testing & Engineering Laboratories, in accordance with ASTM standards.
<b>Blending Capability:</b>	Coal is simultaneously mined from two or more mining areas and blended as required with additional blending capability from the storage barn.
<b>Loading Rate:</b>	4,000 tons per hour. 113 car train in approximately 4.0 hours.
<b>Load Track Configuration &amp; Capacity:</b>	One mile full loop with two unit-train capacity.
<b>Washing Capability:</b>	None
<b>Dust Suppression:</b>	Chem-Loc 101 is applied to all production at an aggregate rate of 1.2 gallons of diluted chemical per ton of coal. Application occurs throughout the coal handling process and prior to being transferred into the storage barn. Freezeproofing and side-release chemical agents can be applied upon request.
<b>Size:</b>	2" x 0"
<b>Density:</b>	In place: 80 lb./ft <sup>3</sup> Crushed: 55 lb./ft <sup>3</sup>
<b>Angle of Repose:</b>	Approximately 3 : 1

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# Master Coal Purchase and Sale Agreement

between

“CUSTOMER”

and

Kennecott Coal Sales Company

## DRAFT

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Article 22. Interpretation

Article 23. Resale and Buyer's Obligations

Article 24. Survival

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# MASTER COAL PURCHASE AND SALE AGREEMENT

This **MASTER COAL PURCHASE AND SALE AGREEMENT** ("Agreement") is entered into and is effective as of the \_\_\_\_ day of \_\_\_\_, 2003, between Kennecott Coal Sales Company ("Kennecott"), an Oregon corporation, and \_\_\_\_ ("\_\_\_\_"), a \_\_\_\_ corporation. Both Kennecott and \_\_\_\_ may be individually referred to herein as a "Party" or collectively as "Parties".

## RECITALS

WHEREAS, each Party is engaged in the sale and/or purchase of Powder River Basin ("PRB") Coal or other Coal. The Parties believe it will be mutually beneficial to set the terms and conditions under which such Coal sales and purchases may be made between them.

IN CONSIDERATION of the mutual covenants and promises set forth hereafter, the Parties to this Agreement, intending to legally bind themselves, agree now as follows:

## ARTICLE 1. GENERAL TERMS AND DEFINITIONS

**1.01** The terms of this Agreement shall govern all purchases and sales of Coal between the Parties (hereinafter "Transactions") or options thereon during the term of this Agreement unless the Parties expressly indicate otherwise. All amendments, modifications, revisions and changes to this Agreement or any related Transaction or option must be in writing and signed by both Parties. If the Parties enter into an option concerning the purchase and/or sale of Coal, the terms and conditions of this Agreement and the Confirmation Letter shall govern the Transaction once the option has been exercised.

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1.02 For individual Transactions, the Parties shall enter into a written Confirmation Letter (hereinafter "Confirmation") that sets forth and defines the following: the Buyer, the Seller, the price, price adjustments, quantity, term, quality specifications, mine(s), and any other Transaction-specific provisions mutually agreed upon by the Parties. All Confirmations shall be in writing, signed by both Parties. The Parties intend the provisions of each individual Confirmation and the provisions of this Agreement be construed as one single integrated agreement and that without a written Confirmation the Parties would not otherwise enter into a Transaction. Any inconsistency or conflict between provisions of the individual Confirmation and provisions of this Agreement shall be resolved in favor of any provisions of the Confirmation.

1.03 Each of the following terms when used in this Agreement will have the meaning given to it in this section:

- a) "**Actual Btu**" means the monthly ton-weighted average as-received calorific value (stated in Btu/lb.).
- b) "**Buyer**" means the Party to a Transaction who is obligated to purchase and receive Coal, or causes Coal to be received.
- c) "**Claim**" means all claims or actions threatened or filed that directly or indirectly relate to the subject matter of this Agreement, including but not limited to indemnity, the resulting losses, damages, expenses, reasonable attorneys' fees and costs.
- d) "**Coal**" means any and all Coal to be sold by Seller and purchased by Buyer pursuant to the terms and conditions of this Agreement.
- e) "**Electronic**" means faxes, telegraphs, emails, and all other forms of electronic data transfer.
- f) "**Standard Btu**" means the standard calorific value as set forth in a Confirmation (stated in Btu/lb.) and is the basis for a price adjustment as described in Section 9.03.
- g) "**Seller**" means the Party to a Transaction who is obligated to sell and deliver Coal or causes Coal to be delivered.

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- h) **"Ton"** means 2,000 pounds avoirdupois.
- i) **"Loading Provisions"** means the terms and conditions of Buyer's transportation contracts or excerpts thereof that Seller has reviewed and approved. The Loading Provisions are further described in Section 4.04 and attached as Exhibit A.

### **ARTICLE 2. TERM**

- 2.01** This Agreement shall begin on the date first set forth above and shall continue in effect until terminated by either Party upon sixty (60) days written notice to the other Party, which right of termination shall be each Party's absolute right to exercise. Termination of this Agreement under this Article shall not affect either Party's rights and obligations with respect to any Transactions that have been agreed to in writing in a Confirmation prior to termination.

### **ARTICLE 3. QUANTITY**

- 3.01** Buyer shall be obligated to purchase and pay for, and Seller shall be obligated to sell and tender for delivery, the amount of Coal agreed to in a Confirmation, except as may be limited by Article 11 of this Agreement.
- 3.02** Unless otherwise limited in the Confirmation, Buyer has the right to ship or use the Coal delivered under this Agreement at any location or for any such purpose Buyer designates.

### **ARTICLE 4. DELIVERY AND TRANSPORTATION**

- 4.01** For each Transaction, Seller agrees to tender to Buyer and Buyer agrees to accept from Seller the quantity of Coal as provided in the relevant Confirmation. Seller shall tender the Coal to Buyer in accordance with reasonable monthly delivery schedules to be submitted by Buyer in accordance with the Agreement and the Confirmation. Schedules shall be based on



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a ratable monthly basis unless otherwise agreed to by both Parties. In addition, Buyer shall provide Seller with monthly schedules at least sixty (60) days prior to the beginning of each applicable month. If the Seller objects to a schedule submitted by Buyer, Seller shall notify Buyer of its objections within fifteen (15) days of Seller's receipt of such schedule and the Parties shall work together in good faith to agree on a reasonable and mutually acceptable schedule. The mine(s) used to source the Coal supplied under this Agreement shall be any mine set forth in the Confirmation.

- 4.02** Buyer shall supply the appropriate unit train railcars. Said railcars shall be of a size compatible with the loading requirements set forth in this Agreement. Unit train sizes will normally vary from 105 to 135 railcars per train; however, depending on railcar availability, shorter or longer trains may occasionally be operated by mutual agreement.
- 4.03** Unless excused by Article 11 of this Agreement, if Buyer fails over a quarterly basis to schedule the appropriate unit trains for delivery of an amount of Coal scheduled under a Transaction, Seller shall have the right at Seller's sole option to reduce the annual quantities of that Transaction by the deficit from the scheduled amount. This right shall be in addition to any other rights available to Seller hereunder.
- 4.04** Seller shall cause Coal to be loaded and delivered at the loading facilities into railcars supplied by Buyer. Seller agrees to comply with the weighing and railcar Loading Provisions. Said Loading Provisions are subject to Seller's ability to load the required net tonnages in Buyer's railcar without significant risk of spillage or exceeding railcar limits and shall be in general compliance with industry standards for the applicable coal region. Seller shall have at least 48 hours notice of any changes to the Loading Provisions. If the changes to the Loading Provisions are inconsistent with Seller's commitments as otherwise set forth in this Agreement and Seller's then current operating practice, Seller shall not be liable for noncompliance with such changes unless expressly accepted by Seller. Should the

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obligations as set forth in this Article 4 not be met, and as a result, Buyer incurs costs under its transportation agreement with the rail carrier as a direct result of Seller's not meeting its obligation hereunder and such failure is not the fault of either Buyer or the railroad, then Seller shall reimburse Buyer for any such costs as set forth in Exhibit A.

- 4.05** The scheduled Coal shall be F.O.B. loaded in Buyer-provided railcars at the delivery point located at each individual mine ("Delivery Point"). Buyer's railcars and unit train shall be compatible with Seller's trackage, storage and loading facilities, and shall be ready to load upon arrival at the individual mine. Seller shall load each railcar at Seller's expense and shall complete the loading of all railcars in each unit train within four hours after the first empty railcar is actually placed by the railroad under the Seller's loading chute. Unless excused by Article 11 or due to actions of Buyer or Buyer's rail carrier, Seller shall be responsible for demurrage or other charges invoiced to Buyer by Buyer's rail carrier resulting directly from Seller's failure to load Buyer's trains as provided above.
- 4.06** Seller is required to load each railcar to the gross weight(s) designated in the Confirmation; however, under no circumstances will the gross weight exceed the maximum limit established by the rail carrier(s) for the railcar type and for the designated train routes. Should Seller load any railcar on Buyer's behalf outside of these specified limits, the Seller assumes any and all reasonable costs which may be charged by the rail carrier(s) and paid by Buyer as a direct result of such underloading or overloading of these railcars.

### **ARTICLE 5. TITLE AND RISK OF LOSS; EQUIPMENT DAMAGE**

- 5.01** Title to the Coal and all risk of loss shall pass to Buyer upon completion of loading all railcars in each unit train at the Delivery Point.

## **DRAFT**

- 5.02** Seller shall be responsible for, and shall indemnify Buyer for, any and all direct reasonable costs resulting from damage to: (i) Buyer's or its contracted rail carriers' equipment if such equipment is damaged while on Seller's property except to the extent such damage is caused by the negligence or recklessness of Buyer or its contracted rail carrier; and (ii) Buyer's equipment, including mobile railcars and stationary equipment at Buyer's electric generating station, if said equipment is damaged as a result of non-Coal material having been interspersed with the tendered Coal prior to leaving Seller's mine property.

### **ARTICLE 6. COAL QUALITY SPECIFICATIONS**

If the Parties set forth coal quality specifications in a Confirmation, the following Sections 6.01 – 6.03 shall apply with respect to those specifications.

- 6.01** At the Delivery Point, all tendered Coal shall be raw, substantially free of magnetic material and other foreign material impurities, and crushed to a maximum size as set forth in the Confirmation as determined in accordance with applicable American Society of Testing and Materials (ASTM) standards.
- 6.02** If there are three (3) Non-Conforming Shipments as defined in Section 6.04, whether rejected or not, under a Transaction in any three (3) month period or, if two (2) out of four (4) consecutive shipments under a Transaction are Non-Conforming Shipments, Buyer may upon notice confirmed in writing and sent to Seller, suspend future shipments except those shipments already loaded into railcars. Seller shall, within sixty (60) days, provide Buyer with reasonable assurances that subsequent deliveries of Coal shall meet or exceed the specifications set forth in the Confirmation. If Seller fails to provide such assurances within that sixty (60) day period, Buyer shall have the right to terminate the Transaction without further obligation hereunder on the part of either party. Termination shall be the sole remedy of Buyer under this Section. Buyer's waiver of this right for any one train shall not constitute a

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waiver for subsequent trains. 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 the resumption of shipment.

- 6.03** The Parties recognize during the performance of a Transaction, legislative, regulatory bodies or the courts may adopt environmental laws, rules, and regulations that will make it impossible or commercially impracticable for Buyer to utilize or to remarket Coal purchased under this Agreement. If, as a result of the adoption of such laws, rules, and regulations or changes in the interpretation or enforcement thereof, Buyer, in good faith, decides it will be impossible or commercially impracticable for Buyer to utilize or to remarket such Coal, Buyer shall promptly notify Seller in writing. After receiving such notification, Buyer and Seller shall promptly consider whether corrective actions can be taken in the mining and preparation of the Coal, in the operation of Buyer's generating station, or in Seller's substituting different source Coal. If in the Parties' reasonable judgment such actions will, make it impossible and commercially impracticable for Buyer to utilize or to remarket tendered Coal without violating any applicable law, regulation, policy, or order, Buyer shall have the right, upon sixty (60) days notice to Seller, to terminate the Transaction without further obligation on the part of either party. Termination shall be the sole remedy of Buyer and Seller under this section.

If Rejection Limits are specified in the Confirmation, this Section 6.04 shall apply.

- 6.04** If any Shipment of Coal triggers any of the Rejection Limits specified in the Confirmation for a Transaction (a "Non-Conforming Shipment"), Buyer shall have the option, within twenty-four (24) hours of Buyer's receipt of the quality analysis of the Coal, of either (i) rejecting such Non-Conforming Shipment prior to unloading the Coal, or, (ii) accepting the Non-Conforming Shipment and in addition to any quality adjustments outlined in the Confirmation, reducing the

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price of Coal for such trainload by [REDACTED] per ton. If Buyer fails to timely exercise its rejection rights under this Section as to a Shipment, Buyer shall be deemed to have waived such rights to reject with respect to that Shipment only. Buyer's failure to timely exercise such notice does not constitute a waiver of its right to any penalty adjustment provided for herein or in the relevant Confirmation. If Buyer timely rejects the Non-Conforming Shipment, Seller shall be responsible for promptly transporting the rejected Coal to an alternative destination determined by Seller and, if applicable, promptly unloading such Coal. Seller shall reimburse Buyer for all reasonable costs and expenses associated with the transportation, storage, handling and removal of the Non-Conforming Shipment. Buyer shall cooperate with Seller in minimizing Seller's cost of redirecting the rejected Coal. Seller shall replace the rejected coal within a reasonable period of time.

### ARTICLE 7. SAMPLING AND ANALYSIS

- 7.01 Seller shall cause, at its expense, the Coal in each unit train to be sampled and analyzed at the individual mine in accordance with applicable ASTM standards. Buyer shall have the right, at its own risk and expense, to have a representative present at any and all times to observe sampling and analysis procedures. All samples shall be divided into three (3) parts and put in suitable airtight containers. One part shall be furnished to Buyer or its designee for its analysis, one part shall be retained for analysis by Seller or its designee (which analysis shall be the basis for payment), and the third part shall be retained by Seller or its designee in one of the aforesaid containers properly sealed and labeled for a period thirty (30) days after the date of sample collection. Buyer's samples are to be clearly labeled as to mine, date of sampling, date of preparation, and other identification as to shipment (such as train identification number) and are to be sent within forty-eight (48) hours of train loading to the address listed below unless a different address is provided by Buyer in the Confirmation or otherwise in writing. Seller shall cause the following data, subject to future adjustment, to be provided to Buyer by a mutually agreed upon method of electronic data transmission within

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forty-eight (48) hours of train loading: tonnage (gross, net, and tare average for each railcar and the unit train in total), and the average calorific value, % moisture, % ash, % sulfur, and % Na<sub>2</sub>O in ash (if set forth in the Confirmation), (the "Short Proximate Analysis"). Any additional analysis requested by Buyer that exceeds the information provided in the Short Proximate Analysis shall be at Buyer's expense.

Mailing address for sample splits:

- 7.02 In the event a dispute arises between Buyer and Seller within thirty (30) days of Seller's analysis due to a difference between Buyer and Seller's short proximate analyses of a sample that exceeds the ASTM interlab repeatability limits, an independent testing laboratory, mutually agreeable to Buyer and Seller, will be retained to analyze the third part of such sample. The Party whose calorific value analysis is closest to the independent analysis shall prevail and such Party's calorific value analysis shall govern for the trainload in question. In such case, the cost of the analysis made by such independent testing laboratory will be borne by the Party whose calorific value analysis is furthest from the independent analysis and therefore, not used. In the event both Parties' calorific value analyses differ from the independent testing laboratory's result by the same amount, the independent testing laboratory's result shall govern for the trainload in question and the Parties shall share equally the cost of the independent testing.

## ARTICLE 8. WEIGHING

- 8.01 Certified commercial scales at Seller's train loading facility at each individual mine will determine weights. Scales shall be calibrated and tested as customary in industry practice with copies of calibration and testing reports provided to Buyer upon request. If Seller's scales are not available to determine the valid net weight of all of the railcars in a unit train but valid weights are obtained for thirty (30) or more railcars in such train, the arithmetic

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average of all of the valid net weights of the thirty or more railcars in such train shall be used as the net weight for each railcar in such train for which a valid net weight was not determined by Seller's scales. If Seller's scales are inoperative or fail to determine the valid net weight of at least thirty (30) railcars in a unit train, the weighted arithmetic average of the net railcar weights of the previous ten (10) unit trainloads of Coal shipped to Buyer shall be used as the net weight for each of the unweighed railcars in such train. The calculation of the weighted arithmetic average net weight for the previous ten (10) unit trainloads shall exclude all bad-order railcars, which were not loaded, and any trainload of Coal for which the net weights were estimated on thirty (30) or more railcars. The Buyer shall be notified electronically immediately after the above instance occurs.

### ARTICLE 9. PRICE AND PRICE ADJUSTMENTS

- 9.01 For all Coal delivered under this Agreement, Buyer shall pay Seller the base price as set forth in the Confirmation.
- 9.02 Seller shall be solely responsible for all assessments, fees, costs, expenses, and taxes relating to the mining, production, sale, use, loading and tender of Coal to Buyer or in any way accruing or levied prior to transfer of title to the Coal to Buyer and including, without limitation, severance taxes, royalties, ad valorem, black lung fees, reclamation fees and other costs, charges and liabilities. The base price includes reimbursement to Seller of all environmental, land restoration and regulatory costs, including without limitation any reclamation costs required under applicable federal, state or local law as of the date of the Transaction. Buyer shall be responsible for any sales and/or use tax unless Buyer provides Seller an appropriate exemption certificate or similar document. The base price shall be subject to adjustments for changes in existing laws and regulations (including changes in levies and rates), or new laws or regulations, or changes in interpretations thereof enacted and in force during the term of sale set forth in the Confirmation that change Seller's costs of

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producing Coal for delivery pursuant to any Confirmation. Notwithstanding the above, no price adjustment will occur under this Section until the cumulative effect of all such changes equals or exceeds \$0.05 per ton for any calendar year under a Transaction. Seller shall use commercially reasonable best efforts to inform Buyer of any such change as soon as Seller becomes aware of such change and its effect on the base price of Coal hereunder.

- 9.03 The base price may also include an adjustment based upon the calorific value, sulfur content or other qualities of the Coal as the Parties may mutually agree upon and as set forth in the Confirmation.

### ARTICLE 10. INVOICES, PAYMENTS, NETTING, SET OFF, AND CREDIT RATINGS

- 10.01 Based on Seller's weights, Seller will invoice Buyer twice a month for all Coal delivered. Invoices for quality adjustment, as provided in a Transaction, shall be issued monthly, based on Seller's analyses. Seller shall clearly indicate Buyer's applicable purchase order number on all invoices. Each invoice shall state for each trainload of Coal: the quantity of Coal delivered, the Actual Btu and SO<sub>2</sub>, % Na<sub>2</sub>O in ash (if set forth in the Confirmation) and the invoice price and any other required quality adjustment. Invoices shall be mailed or electronically transmitted, as applicable, to:

Invoices to ~~Buyer~~ :

Attn:

Invoices to Kennecott:

Kennecott Coal Sales Company  
Attn: Revenue Accounting  
Caller Box 3017 (82717-3017)  
405 West Boxelder Road, Suite D  
Gillette, WY 82718



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ACH/Wires to Kennecott:  
Kennecott Energy and Coal  
Account # 060-00298-13  
Wells Fargo Bank  
41 East 100 South  
ACH ABA # 124000012  
Wire ABA # 121000248

Payment Detail:

To ensure proper allocation of payments to appropriate invoice, e-mail invoice numbers and amounts to: [keccash@kenergy.com](mailto:keccash@kenergy.com) or information may be faxed to (307) 687-6010

- 10.02** For all invoices, payment will be made within 5 business days of receipt of that invoice. Amounts shall be paid via electronic means (i.e., ACH or Federal Reserve wire transfer of funds). The wire transfer of funds shall be sent to Seller's bank as indicated on the invoice.
- 10.03** In the event Buyer in good faith disputes part or all of an invoice, notice of the disputed portion, with reasons for dispute, must be given prior to the due date of the invoice and the undisputed portion shall be paid by the due date. If the disputed portion is determined to have been properly due and payable, interest on that portion in dispute and which has not been paid shall accrue from the date that portion was due and payable. If a disputed portion is paid and is later determined not to have been properly due and payable, interest will similarly be refunded from the date payment had been received. Interest shall be paid at one (1) percentage point over the then current U.S. prime rate as listed in the Money Rates section of The Wall Street Journal. All invoices will be final and not subject to further adjustments or correction unless objection to the accuracy thereof is made prior to the lapse of one (1) year after the termination of the applicable Transaction.
- 10.04** If each Party or Party's affiliate is required to pay an amount to the other Party in the same invoice period, then such amounts with respect to each Party may be aggregated and the Parties may discharge their obligations to pay through netting; in which case, the Party owing

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the greater aggregate amount shall pay to the other Party the difference between the amounts owed.

- 10.05 Each Party reserves to itself all rights, setoffs, counterclaims, and other remedies and defenses to the extent not expressly denied or waived herein which such Party has or may be entitled to arising from or out of this Agreement. All outstanding Transactions and the obligations to make payment in connection under this Agreement may be offset against each other, set off, or recouped therefrom.
- 10.06 If a Party fails to pay amounts under this Agreement within 5 business days after receipt of invoice, unless such amount is the subject of a dispute as provided above, or is excused by Article 11, in addition to the rights and remedies otherwise provided in this Agreement, the aggrieved Party shall have the right to suspend performance under any or all Transactions under this Agreement. If such failure to pay continues for an additional 5 business days, the aggrieved Party shall have the right to terminate this Agreement and all Transactions and shall be entitled to all other rights under this Agreement.
- 10.07 Should the creditworthiness or either Party's ability to perform become unsatisfactory to the other Party, or if situations develop where either Party could reasonably conclude that a credit downgrade or protection under bankruptcy code is imminent, then the failing Party will provide satisfactory security or assurances.
- 10.08 If a Party's or any of its affiliates' credit falls below investment grade (BBB- as defined by Standard & Poor's, Moody's, or the equivalent), the failing Party shall provide the non-failing Party with a mutually agreed upon credit enhancement in the form of, but not limited to, letters of credit, compressed payment terms or cash on delivery. If the failing Party does not provide an acceptable credit enhancement within 48 hours of notice, the non-failing Party shall have the right to suspend shipments and seek remedies as set forth in this Master

## DRAFT

Agreement.

### ARTICLE 11. FORCE MAJEURE

- 11.01 The term "Force Majeure" as used herein shall mean an act or event that is not reasonably within the control and is without the fault of the party claiming Force Majeure including without limitation, acts of God; acts of the public enemy; insurrections; terrorism; riots; labor disputes; boycotts; fires; explosions; floods; breakdowns of or damage to major components or equipment of Buyer's generating station, Seller's mine, or transmission systems or Buyer's transportation; embargoes; acts of judicial or military authorities; acts of governmental authorities; inability to obtain necessary permits, licenses, and governmental approvals after applying for same with reasonable diligence; or other causes which prevent the producing, processing, and/or loading of Coal by Seller, or the receiving, accepting, unloading and/or utilizing of Coal by Buyer. Force Majeure includes the failure of a Party's contractor(s) to furnish labor, services, Coal, materials or equipment in accordance with its contractual obligations (but solely to the extent such failure is itself due to Force Majeure).
- 11.02 If, because of Force Majeure, either Party fails to perform any of its obligations under this Agreement (other than the obligation of a Party to pay money), and if such Party shall promptly give to the other Party written notice of such Force Majeure, then the obligation of the Party giving such notice shall be suspended to the extent made necessary by such Force Majeure and during its continuance; provided, the Party giving such notice shall use good faith efforts to eliminate such Force Majeure, insofar as reasonably possible, with a minimum of delay. Should the situation of Force Majeure exceed sixty (60) consecutive days, the Party not affected by the Force Majeure event may, at its option, terminate the Transaction in whole or in part and neither Party shall have any further obligation to the other Party; however, each Party shall be obligated to make any payments which had become due and payable prior to such termination. Any deficiencies in deliveries of Coal caused by an event of Force Majeure

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shall not be made up, except by mutual consent. The affected Party shall provide suitable proof to the other Party to substantiate any claim made under this Article 11.

**11.03** Both Parties agree significant capital expenditures and settlement of strikes and lockouts shall be entirely within the discretion of the Party having the difficulty. The above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require significant capital expenditure or settlement of strikes and lockouts by acceding to the demands of the opposing Party when such course is inadvisable in the discretion of the Party having difficulty.

**11.04** The loss of Buyer's markets or Buyer's inability to economically use or resell Coal purchased hereunder, the loss of Seller's supply or Seller's ability to sell Coal to a market at a more advantageous price, the change in the market price of Coal or price of power, or regulatory or contractual disallowance of the pass-through of the costs of Coal or other related costs shall not constitute events of Force Majeure.

## ARTICLE 12. RECORDS, AUDITS, ACCESS

**12.01** Seller shall maintain books and records relating to the supply of Coal under this Agreement and the applicable Transaction for a period of not less than two (2) years after the end of each calendar year for all Coal tendered during such calendar year.

**12.02** Upon reasonable notice and during normal business hours, Buyer and/or Buyer's independent auditors shall have the right to inspect Seller's books and records relating to all provisions of this Agreement which include Coal quality, quantity shipped, and price adjustments or as may be necessary to satisfy inquiries from governmental or regulatory agencies, but only to the extent necessary to verify the accuracy of any statement, charges or computations made pursuant to this Agreement and/or a Transaction. Seller shall make a

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reasonable effort to facilitate Buyer's inspection of such records in Seller's possession. Buyer and its auditors, to the extent permitted by law or regulation, shall treat all such information as confidential.

### ARTICLE 13. DEFAULT, REMEDIES, AND TERMINATION

**13.01** The remedies set forth in this Section 13.01 shall cover the non-defaulting Party's remedies for the defaulting Party's failure to perform prior to any termination for default that may occur.

- a) As an alternative to the damages provision below, if the Parties mutually agree in writing, the non-performing Party may schedule deliveries or receipts, as the case may be, pursuant to such terms as the Parties agree in order to discharge some or all of the obligation to pay damages. In the absence of such agreement, the damages provision of this Article shall apply.
- b) Unless excused by Force Majeure, if Seller fails to deliver the quantity of Coal in accordance with the applicable Confirmation and this Agreement, Seller shall pay to Buyer an amount for each ton of Coal of such deficiency equal to (i) the lowest reasonable market price on an equivalent per mmBtu SO<sub>2</sub> adjusted basis at which Buyer is able, or (ii) at the time of Seller's breach, would be able to purchase or otherwise receive comparable supplies of Coal of comparable quality minus the base price agreed to for the specific Transaction; except that if such difference is negative, then neither Party shall have any obligation to make any deficiency payment to the other.
- c) Unless excused by Force Majeure, if Buyer fails to accept delivery of the quantity of Coal in accordance with the applicable Confirmation and this Agreement, Buyer shall pay to Seller an amount for each ton of Coal of such deficiency equal to (i) the base

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price agreed to for the specific Transaction minus the highest reasonable market price on an equivalent per mmBtu SO<sub>2</sub> adjusted basis at which Seller is able, or (ii) would be able, to sell or otherwise dispose of the Coal at the time of Buyer's breach; except that if such difference is negative, then neither Party shall have any obligation to make any deficiency payment to the other.

- d) Buyer and Seller shall be subject to commercially reasonable good faith obligation to mitigate any damages hereunder.

**13.02** The occurrence of any of the following shall constitute an "Event of Default":

- a) Failure by either Party to pay any amounts due.
- b) Either Party materially breaches any contractual obligation under this Agreement.
- c) Either Party (i) makes any general assignment or any general arrangement for the benefit of creditors, (ii) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy or similar law for the protection of creditors or has such a petition involuntarily filed against it and such petition is not withdrawn or dismissed within thirty (30) days after such filing, (iii) otherwise becomes bankrupt or insolvent (however evidenced), or (iv) is unable to pay its debts as they fall due.

**13.03** In addition to the non-defaulting Party's remedies under this Article, in the Event of Default with respect to a specific Transaction, the non-defaulting Party shall have the same rights with respect to such specific Transaction as it has under this Agreement in addition to the right to exercise all other rights and remedies available under applicable law.

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## ARTICLE 14. NOTICES

14.01 Except as expressly provided otherwise, any notice, election or other correspondence required or permitted hereunder shall become effective upon receipt and, except invoices and payments, shall be deemed to have been properly given or delivered when made in writing and delivered personally to the Party to whom directed, or when sent by United States certified mail with all necessary postage prepaid and a return receipt requested, or by a nationally recognized overnight delivery service with charges fully prepaid and addressed to the Party at the below-specified address:

Notices to Kennecott:  
Kennecott Coal Sales Company  
Attn: Contract Administration  
Caller Box 3009 (82717-3009)  
505 South Gillette Avenue  
Gillette, WY 82716  
Phone: (307) 687-6019  
Fax: (307) 687-6009

Scheduling to Kennecott:  
Kennecott Coal Sales Company  
Attn: Customer Service Department  
Caller Box 3009 (82717-3009)  
505 South Gillette Avenue  
Gillette, WY 82716  
Phone: (307) 685-6110  
Fax: (307) 687-6009

Notices to ~~Buyer~~ :

The addresses may be changed upon written notice in the manner provided above, and no amendment hereof shall be required for a change of address under this Article 14.

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### ARTICLE 15. COOPERATION

- 15.01 Each Party agrees to take all further action that may be reasonably necessary to perform and to effectuate the purposes and intent of the Agreement, the Confirmation, and any particular Transaction.

### ARTICLE 16. WARRANTY, LIMITATION ON LIABILITY, DUTY TO MITIGATE & INDEMNIFICATION

- 16.01 In no event shall either Party be liable to the other Party for incidental, consequential or punitive damages however and wherever arising out of, or in connection with, this Agreement or any Transaction.
- 16.02 EXCEPT AS EXPRESSLY WARRANTED HEREIN, IT IS EXPRESSLY AGREED THAT SELLER MAKES NO WARRANTY EXPRESSED OR IMPLIED AS TO THE QUALITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE COAL TO BE DELIVERED UNDER THIS AGREEMENT OR AS TO THE RESULTS TO BE OBTAINED FROM THE USE OF SUCH COAL. SELLER SHALL NOT BE LIABLE FOR ANY INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOSS OF PROFITS OR OVERHEAD, BY VIRTUE OF ITS BREACH OF ANY OF ITS OBLIGATIONS UNDER THE AGREEMENT. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED AS LIMITING BUYER'S RIGHT, SUBJECT TO THE TERMS OF THIS AGREEMENT, TO SEEK DIRECT DAMAGES FOR SELLER'S BREACH OF ANY OF ITS OBLIGATIONS HEREUNDER.
- 16.03 Each Party agrees it has a duty to mitigate damages and covenants. Each Party will use commercially reasonable efforts to minimize any damages it may incur as a result of the other



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Party's performance or non-performance of the Agreement (except that neither Party shall be required to enter into a replacement transaction as provided under this Agreement).

- 16.04 Each Party shall indemnify, defend, and hold the other Party harmless from and against any and all Claims arising out of or resulting from the willful acts or negligence of such Party, its agents, and employees.

### ARTICLE 17. LIMITATION ON WAIVER

- 17.01 No waiver by either Party of any one or more defaults of the other Party in the performance of this Agreement or any Transaction shall operate or be construed as a waiver of any future default, or defaults, whether of a like or different character.

### ARTICLE 18. CONFIDENTIALITY

- 18.01 This Agreement and any Confirmation are deemed confidential. The Parties shall protect the confidentiality of the terms of this Agreement and neither this Agreement or any of its terms shall be disclosed to any other person unless such disclosure is: (i) agreed to in writing by the Parties prior to release, (ii) required by law, (iii) required by jurisdictional regulation pursuant to the request of any regulatory authorities (including, without limitation, state utility commissions or boards, the Federal Energy Regulatory Commission, the U.S. Securities and Exchange Commission and tax authorities); to attorneys, auditors, consultants or other outside experts of the parties if said individuals are advised of the confidential nature of the information and said individuals agree to maintain the confidentiality of the information; or to generating unit co-owner(s). Where the law requires such disclosure, notice shall be given to the other Party, and to the extent possible, such notice shall be given in advance of disclosure.

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## **ARTICLE 19. ENTIRETY, AMENDMENTS**

- 19.01** This Agreement constitutes the entire agreement between the Parties. This Agreement may not be amended except in a written instrument making reference hereto signed by the Parties.

## **ARTICLE 20. SUCCESSORS AND ASSIGNS**

- 20.01** This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns; provided, however, this Agreement may not be assigned by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed.

## **ARTICLE 21. GOVERNING LAWS**

- 21.01** This Agreement shall be governed by and construed in accordance with the laws in the State of Wyoming.

## **ARTICLE 22. INTERPRETATION**

- 22.01** The Parties acknowledge that each Party and its counsel have reviewed this Agreement and that the rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement.

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## ARTICLE 23. RESALE AND BUYER'S OBLIGATIONS

23.01 The Parties agree, unless specifically provided otherwise in a specific Confirmation, Buyer may resell the Coal purchased under a particular Transaction to another party ("Buyer's Customer"). The Parties agree that Buyer's Customer may perform some of Buyer's obligations; nevertheless, Buyer shall remain liable for all of Buyer's obligations hereunder and Buyer shall indemnify and hold Seller harmless from and against any and all Claims made by Buyer's Customer against Seller. In addition, Buyer agrees to the following:

- a) Buyer shall inform Seller at least twenty-four (24) hours in advance of arrival of each unit train at the mine of the identification number of the unit train, identification of Buyer's Customer, and destination of such unit trains.
- b) The loading of such unit train shall be in accordance with the loading provisions set forth herein unless Buyer notifies Seller in advance of different loading provisions and such different loading provisions are in general accordance with general operating parameters in the mine's region, and do not, in Seller's reasonable opinion, impose an undue operating or economic burden on Seller.
- c) All information to be supplied by Seller to Buyer under this Agreement including but not limited to analysis, weights, train manifest and invoicing information shall be supplied to Buyer and Buyer shall be responsible for transmitting such information to Buyer's Customer. Buyer is specifically released from its confidentiality obligations (Article 18) with respect to quality and weighing information provided by Buyer to Buyer's Customer

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- d) If Buyer claims a Force Majeure event at or associated with Buyer's generating station, such claim shall not apply to Coal taken under this Agreement and sold by Buyer to Buyer's Customer. Force Majeure events occurring at or associated with generating stations or other facility to which Buyer has resold Coal, shall not affect the tonnage obligation of the Buyer under this Agreement.

### ARTICLE 24. SURVIVAL

**24.01** The provisions of Articles 12 through 22 and Article 24 shall survive the termination of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by their respective, duly authorized representatives effective as of the date first written above.

#### Kennecott Coal Sales Company

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

Kelly A. Cosgrove  
Vice President, Marketing & Sales

Date: \_\_\_\_\_

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

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SAMPLE

CONFIRMATION LETTER

Kennecott #:

Buyer:

Seller: Kennecott Coal Sales Company  
Caller Box 3009 (82717-3009)  
505 South Gillette Avenue  
Gillette, WY 82716

Attn:  
Phone:  
Fax:

Attn:  
Phone:  
Fax:

This letter shall confirm the transaction arranged \_\_\_\_\_ between \_\_\_\_\_ (" ") and Kennecott Coal Sales Company ("Kennecott") pursuant to the Master Coal Purchase and Sale Agreement effective \_\_\_\_\_, 2003. The terms and conditions of this transaction are as follows:

Kennecott to sell and deliver and \_\_\_\_\_ to purchase and receive.

Transaction Type: Physical Coal

Product: Sub-Bituminous coal; \_\_\_\_\_ Btu/Lb. and \_\_\_\_\_ Lbs. SO<sub>2</sub>/mmBtu

Base Price: \$\_\_\_\_\_ per ton of coal

Shipment Period:

Quantity:

Delivery Point: FOB Railcar, \_\_\_\_\_ Mine – \_\_\_\_\_ County, Wyoming

Topsize: \_\_\_\_\_" x 0" ASTM

Quality: Coal Quality Specifications

Section 9.03 – Standard Btu and  
Sulfur for price adjustments as  
set forth below:

Sections 6.02 & 6.04  
Reject Limits/  
Non-Conforming Shipment

Btu/Lb  
Lbs. SO<sub>2</sub>/mmBtu

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### Btu Adjustment:

To reflect the actual heat content of the coal delivered, each month the Base Price of coal will be adjusted for any variation from \_\_\_\_\_ Btu/Lb., using the following formula:

$$\text{Btu Adjustment Per Ton} = P \times \frac{(AR - BB)}{BB}$$

Where:

- P = The Base Price of coal per ton delivered during the month;  
AR = The monthly weighted average "As-Received" Btu's per pound of the respective coal[s] delivered to \_\_\_\_\_; and,  
BB = The Base Btu's per pound of the respective coal[s] delivered to \_\_\_\_\_ during the month; the BB value = \_\_\_\_\_

All shipment Btu's and weighted average Btu's shall be in zero decimals. All prices for Btu adjustments shall be calculated using floating-point decimals, with the result being rounded to three decimal places as shown in the following example:

*Sample info: P = \$7.00/ton, BB = 8800, AR = 8820*

$$\begin{aligned}\text{Btu adjustment per ton} &= \$7.00 \times \frac{(8820 - 8800)}{8800} \\ &= \$7.00 \times .002272727 \\ &= \$0.015909089 \\ &= \$0.016\end{aligned}$$

### Sulfur Adjustment:

To reflect the actual sulfur content of Coal delivered, each month the Base Price of Coal will be adjusted in accordance with the following formulas.

For purposes of this adjustment, it shall be assumed that 100% of the sulfur in the Coal will be converted to sulfur dioxide ("SO<sub>2</sub>"). The pounds SO<sub>2</sub> per mmBtu shall be calculated in accordance with the following formula based on Seller's lab analysis of the percent sulfur in the Coal and the calorific value of the Coal. All weighted average sulfur shall be in two decimals:

$$\text{Lbs. SO}_2/\text{mmBtu} = \frac{\text{Monthly Weighted Average Sulfur \% in Coal} \times 20,000}{\text{Monthly Weighted Average Btu/Lb.}}$$

All shipment sulfur percent and weighted average sulfur percent shall be stated in two decimals. SO<sub>2</sub> for the period billed shall be calculated using floating-point decimals, with the result being rounded to two decimal places as shown in the following example:

*Sample info: Monthly Weighted Average Sulfur \% in Coal = .22,  
Monthly Weighted Average Btu/Lb. = 8820*

$$\text{Lbs. SO}_2/\text{mmBtu} = (.22 \times 20,000) / 8820 = .498866213 = .50$$

Sulfur adjustment in \$/ton of Coal =

$$\frac{(\text{Base Lb. SO}_2/\text{mmBtu} - \text{Actual Lb. SO}_2/\text{mmBtu}) \times \text{Actual Btu/Lb.} \times \$\text{ADI}}{1,000,000}$$

ADI = The "SO<sub>2</sub> Monthly Average Price" published by *Air Daily* for the month preceding delivery.

Base Lb. SO<sub>2</sub>/mmBtu =

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All shipment SO<sub>2</sub> and weighted average SO<sub>2</sub> shall be stated in two decimals. All prices for sulfur adjustments are to be calculated using floating-point decimals, with the result being rounded to three decimal places as shown in the following example:

Sample info: Actual Btu = 8820, Base SO<sub>2</sub> = .55, Actual SO<sub>2</sub> = .50,  
SO<sub>2</sub> Allowance (ADI) = \$146.10

Sulfur Adjustment in \$/ton of Coal =  $((.55 - .50) \times 8820 \times \$146.10) / 1,000,000$   
= \$0.0644301  
= \$0.064

IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR, AND EACH OF THE PARTIES WAIVES THE RIGHT TO SEEK INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES UNDER THIS AGREEMENT.

Please confirm that the terms and conditions stated herein accurately reflect your understanding of our agreement by signing and returning to Leslie Thorn at Seller's address.

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

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Kennecott Coal Sales Company

Date: \_\_\_\_\_



**Kennecott Energy Company**  
505 South Gillette Avenue (82716)  
Post Office Box 3009  
Gillette, Wyoming 82717-3009  
Phone: (307) 687-6000  
Fax: (307) 687-6015

May 11, 2004

Mrs. Robin Ott  
Progress Fuels Corporation  
One Progress Plaza, Suite 600  
St. Petersburg, FL 33701

Dear Mrs. Ott:

Kennecott Energy Company, on behalf of Spring Creek Coal Company, is pleased to respond to your request to supply a portion of Progress Energy's requirements for the Crystal River Units 1 and 2 for the years 2005, 2006 and 2007.

#### COAL OFFERED

Origin Spring Creek Coal - Big Horn County, Montana. Served by the BNSF Railroad.

Delivery Point FOB Barge - Cahokia Terminal located in St. Louis, Missouri

Term/Quantity/Base Price

January 1, 2005 – December 31, 2007		
Term	Quantity (To the nearest unit train.)	Price
2005	500,000 Tons	██████████
2006	500,000 Tons	██████████
2007	500,000 Tons	██████████

1  
2  
3

Prices are pnt FOB Barge Cahokia Terminal, St. Louis, Missouri based on coal having a standard heating value of 9,350 Btu/lb and a standard sulfur value of 0.80bs. SO<sub>2</sub>/MMBtu. The Base Prices include Kennecott's best estimate of all Third Party costs as defined in Adjustment Provisions hereinbelow as of May 11, 2004. The standard heating and sulfur values are for price adjustment purposes only. The price shall be subject to adjustment for variations in the monthly weighted average calorific value from the standard heating value on an FOB mine basis and for variation in SO<sub>2</sub> content from the standard sulfur value in accordance with a mutually agreed upon SO<sub>2</sub> adjustment provision.

Sixty-Five percent (65%) of the above listed prices will be adjusted at 100% of the RCAF-U on a quarterly basis and a fuel surcharge adjustment monthly.

#### Typical Quality (Annual Average)

Typical Values	2005 - 2007
Btu	9,350
Moisture	22.36%
Ash	4.0%
Sulfur (Lbs. SO <sub>2</sub> /mmBtu)	0.80
Sodium (Na <sub>2</sub> O)	8.00%



**Adjustment Provisions**

Third Party Cost & New Laws Adjustments

Third party costs include any and all taxes, fees, royalties, and governmental impositions paid to third parties on or attributable to the production of coal. Any change in these items from May 11, 2004, either up or down, will be passed on to Buyer. A change could be a change in rate changes resulting from a new law or regulation or change in interpretation (or estimate by Seller of impact) of an existing law or regulation on a federal, state or local level. The adjustments will be passed through as of the date of the actual change resulting in such adjustments.

**Sampling & Analysis**

In accordance with ASTM standards for Spring Creek Coal Company.

**Data Transmission**

As mutually agreed upon.

**Delivery Schedule**

As mutually agreed upon.

**Weights**

In accordance with Spring Creek Coal Company "certified" mine weights.

**Mine Information**

See attached

**Terms & Conditions**

This offer is considered proprietary and confidential; it should not be divulged to third parties without the express written approval of Kennecott Energy Company. **Specific terms and conditions of a prospective agreement are subject to mutual agreement. Attached is a Master Coal Purchase and Sale Agreement that will represent a starting point for discussions. Coal is offered subject to prior sale and availability and in any event, this offer will expire after May 17, 2004, unless negotiations leading to a definitive agreement have commenced by that date; in which case the offer may be extended. Acceptance of this offer must be received, in writing, no later than 5:00 PM MDT on or before May 17, 2004. This offer and Kennecott Energy Company's obligation to enter into a coal supply agreement is subject to Kennecott Energy Company's internal credit review and approval.**

We appreciate this opportunity to supply a portion of your coal requirements. If you have any questions or comments, please contact me at 307.685.6114.

Sincerely,



Bruce A. Miller  
Manager, Origination and Structured Products

BAM:ksn

## SPRING CREEK COAL MINE 2005 QUALITY SPECIFICATIONS

QUALITY PARAMETER	TYPICAL (MEAN VALUE)	STANDARD DEVIATION	TYPICAL 95% RANGE		TYPICAL DRY VALUE	TYPICAL MOISTURE-ASH FREE VALUE
PROXIMATE						
% Moisture	25.40	0.56	24.28	26.52		
% Ash	4.12	0.33	3.46	4.78	5.52	
% Volatile	31.26	0.81	29.64	32.88	41.90	44.35
% Fixed Carbon	39.23	0.80	37.63	40.83	52.59	55.66
BTU/lb	9350	103	9144	9556	12534	13266
MAFBTU	13266	80.08	13106	13426		
Dry BTU	12534	93.71	12346	12721		
% Sulfur	0.34	0.07	0.20	0.48	0.46	0.48
ULTIMATE						
% Moisture	25.40	0.56	24.28	26.52		
% Carbon	54.14	3.28	47.58	60.70	72.57	76.82
% Hydrogen	3.80	0.23	3.34	4.26	5.09	5.39
% Nitrogen	0.71	0.09	0.53	0.89	0.95	1.01
% Chlorine	0.00	0.01	0.00	0.01	0.00	0.00
% Sulfur	0.34	0.07	0.20	0.48	0.46	0.48
% Ash	4.12	0.33	3.46	4.78		
% Oxygen	11.50	0.70	10.10	12.90	15.42	16.32
SULFUR FORMS						
Pyritic Sulfur (%)	0.05	0.03	0.00	0.11	0.07	0.07
Sulfate Sulfur (%)	0.01	0.015	0.00	0.04	0.01	0.01
Organic Sulfur (%)	0.28	0.06	0.16	0.40	0.38	0.40
Total Sulfur (%)	0.34	0.07	0.20	0.48	0.46	0.48
MINERAL ANALYSIS OF ASH						
% Silicon Dioxide (Silica, SiO2)	32.52	2.78	26.96	38.08	43.59	46.14
% Aluminum Oxide (Alumina, Al2O3)	17.69	1.09	15.51	19.87	23.71	25.10
% Titanium Dioxide (Titanium, TiO2)	1.13	0.10	0.93	1.33	1.51	1.60
% Iron Oxide (Ferric Oxide, Fe2O3)	4.76	0.47	3.82	5.70	6.38	6.75
% Calcium Oxide (Lime, CaO)	15.36	1.41	12.54	18.18	20.59	21.79
% Magnesium Oxide (Magnesia, MgO)	3.69	0.85	1.99	5.39	4.95	5.24
% Potassium Oxide (K2O)	0.63	0.14	0.35	0.91	0.84	0.89
% Sodium Oxide (Na2O)	8.24	1.00	6.24	10.24	11.05	11.69
% Sulfur Trioxide (SO3)	14.07	2.50	9.07	19.07	18.86	19.96
% Phosphorous Pentoxide (P2O5)	0.35	0.06	0.23	0.47	0.47	0.50
% Strontium Oxide (SrO)	0.37	0.22	0.00	0.81	0.50	0.52
% Barium Oxide (BaO)	1.19	0.31	0.57	1.81	1.60	1.69
% Undetermined	0.00	1.00	0.00	2.00	0.00	0.00
Base/Acid Ratio	0.64	0.08	0.48	0.80		
Base Value	32.68	2.20	28.28	37.08		
Acid Value	51.34	3.00	45.34	57.34		
ASH FUSION TEMPERATURES						
Reducing (°F)						
Initial	2106	37	2031	2181		
Softening (H=W)	2129	36	2056	2202		
Hemispherical (H=1/2W)	2141	39	2062	2220		
Fluid	2164	51	2062	2266		
Fluid-Initial Temp. Difference	58	40	0	138		
Oxidizing (°F)						
Initial	2351	98	2156	2546		
Softening (H=W)	2366	81	2204	2528		
Hemispherical (H=1/2W)	2391	73	2245	2537		
Fluid	2423	77	2268	2578		
Fluid-Initial Temp. Difference	72	60	0	192		

# **SPRING CREEK COAL MINE** **QUALITY SPECIFICATIONS (Continued)**

QUALITY PARAMETER	TYPICAL (MEAN VALUE)	STANDARD DEVIATION	TYPICAL 95% RANGE	
			-2 STD DEV	+2 STD DEV
<b>ADDITIONAL ANALYSES AND CALCULATED VALUES</b>				
T250 Temperature (°F)	2153	91.88	1969	2337
HGI (at as-received moisture)	60.6	5.6	49	72
HGI % Moisture	24.13	3.88	16	32
Critical Viscosity Temperature (°F)	0	0	0	0
Critical Viscosity (Poises)	0	0	0	0
% Equilibrium Moisture	23.93	0.56	22.81	25.05
Specific Gravity	1.10	0.015	1.07	1.13
%Alkalies Na2O Dry (Total Alkali Content on Coal)	0.478	0.070	0.34	0.62
%Water Soluble Alk - Na2O	0.000	0.000	0.00	0.00
%Water Soluble Alk - K2O	0.000	0.000	0.00	0.00
%Na2O - Dry Coal	0.46	0.03	0.40	0.52
%Na2O As-received Coal	0.34	0.02	0.30	0.38
Silica Value (Silica Ratio)	57.73			
Slag Factor	0.28	0.14	0.00	0.56
Slag factor per Fusion Temperature	2163	85	1993	2333
Dolomite Ratio	58.29	3.25	51.79	64.79
Ash Precipitation Index	3.97	10.1	0.00	24.17
Silica to Alumina Ratio	1.84	0.14	1.56	2.12
Calcium to Silica Ratio	0.47	0.34	0.00	1.15
Iron to Calcium Ratio	0.31	0.07	0.17	0.45
Fouling Factor (Fouling index)	5.25	1.41	2.43	8.07
SO2/MMBTU	0.80	0.075	0.65	0.95
lbs S/MMBTU	0.36	0.075	0.21	0.51
lbs Sodium/MMBTU	0.363	0.023	0.32	0.41
lbs Ash/MMBTU	4.41	0.5	3.41	5.41

TYPICAL COAL SIZE		2 inch	
Size Fraction	Wt. Percent	Cumulative Wt. Percent	Wt. Percent Passing Top
+3" RD.	0%	0%	100%
3" RD. x 2" RD.	4%	4%	100%
2" RD. x 1" RD.	20%	24%	96%
1" RD. x 1/2" RD.	28%	52%	76%
1/2" RD. x 4 M	20%	71%	48%
4 M x 60 M	13%	84%	29%
60 M x 0	16%	100%	16%

## **TRACE ELEMENT SUMMARY**

Parts Per Million Whole Coal, Dry Basis	TYPICAL (MEAN VALUE)	STANDARD DEVIATION	TYPICAL 95% RANGE	
			-2 STD DEV	+2 STD DEV
ANTIMONY (Sb)	0.00	0.00	0.00	0.00
ARSENIC (As)	1.50	1.00	0.00	3.50
BARIUM (Ba)	0.00	0.00	0.00	0.00
BERYLLIUM (Be)	0.21	0.08	0.06	0.36
BORON (B)	0.00	0.00	0.00	0.00
BROMINE (Br)	0.00	0.00	0.00	0.00
CADMIUM (Cd)	0.18	0.02	0.14	0.22
CHLORINE (Cl)	0.00	0.00	0.00	0.00
CHROMIUM (Cr)	2.40	0.75	0.90	3.90
COBALT (Co)	0.00	0.00	0.00	0.00
COPPER (Cu)	0.00	0.00	0.00	0.00
FLUORINE (F)	41.90	11.00	19.90	63.90
LITHIUM (Li)	0.00	0.00	0.00	0.00
MANGANESE (Mn)	16.20	7.90	0.40	32.00
MERCURY (Hg)	0.07	0.03	0.01	0.13
MOLYBDENUM (Mo)	0.00	0.00	0.00	0.00
NICKEL (Ni)	1.53	1.00	0.00	3.53
LEAD (Pb)	2.60	1.00	0.60	4.60
SELENIUM (Se)	1.20	0.90	0.00	3.00
SILVER (Ag)	0.00	0.00	0.00	0.00
STRONTIUM (Sr)	0.00	0.00	0.00	0.00
THALLIUM (Tl)	0.00	0.00	0.00	0.00
THORIUM (Th)	0.00	0.00	0.00	0.00
TIN (Sn)	0.00	0.00	0.00	0.00
URANIUM (U)	0.00	0.00	0.00	0.00
VANADIUM (V)	0.00	0.00	0.00	0.00
ZIRCONIUM (Zr)	0.00	0.00	0.00	0.00
ZINC (Zn)	0.00	0.00	0.00	0.00

\* All negative numbers were converted to 0.00

Revised

3/29/2000

### Spring Creek Coal Company

Spring Creek Coal Company began operations in 1980 with a design capacity of 11.0 million tons per year. Spring Creek has a federal lease consisting of 2,505 acres and a state lease consisting of 642 acres. The current recoverable reserves at the end of 1999 were approximately 221 million tons. Current mining involves a single coal seam 80 feet thick. Mining is carried out primarily by dragline operations.

<b>Mine Name:</b>	Spring Creek Coal Company
<b>Location:</b>	Southeast Montana, Big Horn County, 35 miles from Sheridan, Wyoming U.S.A.
<b>Served by:</b>	Burlington Northern Railroad
<b>Rail Loading Point:</b>	NERCO Junction, Montana
<b>Mine Type:</b>	Surface
<b>Seams:</b>	Anderson-Dietz 1 & 2
<b>Recoverable Reserves:</b>	221 Million Tons
<b>Annual Production Capacity:</b>	11.0 Million Tons
<b>Processed Coal Storage Capacity:</b>	36,000 Tons (Storage Barn)
<b>Weighing System:</b>	Ramsey Engineering conveyor belt scales. Coal is weighed, as it is flood loaded into railcars. Scales certified semi-annually in accordance with the Western Weighing and Inspection Bureau.
<b>Sampling &amp; Analysis:</b>	Ramsey Engineering three-stage mechanical sampling system. On-site, by Commercial Testing & Engineering Laboratories, in accordance with ASTM standards.
<b>Blending Capability:</b>	Coal is simultaneously mined from two or more mining areas and blended as required with additional blending capability from the storage barn.
<b>Loading Rate:</b>	4,000 tons per hour. 113 car train in approximately 4.0 hours.
<b>Load Track Configuration &amp; Capacity:</b>	One mile full loop with two unit-train capacity.
<b>Washing Capability:</b>	None
<b>Dust Suppression:</b>	Chem-Loc 101 is applied to all production at an aggregate rate of 1.2 gallons of diluted chemical per ton of coal. Application occurs throughout the coal handling process and prior to being transferred into the storage barn. Freezeproofing and side-release chemical agents can be applied upon request.
<b>Size:</b>	2" x 0"
<b>Density:</b>	In place: 80 lb./ft <sup>3</sup> Crushed: 55 lb./ft <sup>3</sup>
<b>Angle of Repose:</b>	Approximately 3 : 1

**DRAFT**

# **Master Coal Purchase and Sale Agreement**

**between**

**“CUSTOMER”**

**and**

**Kennecott Coal Sales Company**

# DRAFT

## Master Coal Purchase and Sale Agreement Index

- Article 1. General Terms and Definitions
- Article 2. Term
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Article 22. Interpretation

Article 23. Resale and Buyer's Obligations

Article 24. Survival

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# MASTER COAL PURCHASE AND SALE AGREEMENT

This MASTER COAL PURCHASE AND SALE AGREEMENT ("Agreement") is entered into and is effective as of the \_\_\_\_ day of \_\_\_\_, 2003, between Kennecott Coal Sales Company ("Kennecott"), an Oregon corporation, and \_\_\_\_ ("\_\_\_\_"), a \_\_\_\_ corporation. Both Kennecott and \_\_\_\_ may be individually referred to herein as a "Party" or collectively as "Parties".

## RECITALS

WHEREAS, each Party is engaged in the sale and/or purchase of Powder River Basin ("PRB") Coal or other Coal. The Parties believe it will be mutually beneficial to set the terms and conditions under which such Coal sales and purchases may be made between them.

IN CONSIDERATION of the mutual covenants and promises set forth hereafter, the Parties to this Agreement, intending to legally bind themselves, agree now as follows:

## ARTICLE 1. GENERAL TERMS AND DEFINITIONS

1.01 The terms of this Agreement shall govern all purchases and sales of Coal between the Parties (hereinafter "Transactions") or options thereon during the term of this Agreement unless the Parties expressly indicate otherwise. All amendments, modifications, revisions and changes to this Agreement or any related Transaction or option must be in writing and signed by both Parties. If the Parties enter into an option concerning the purchase and/or sale of Coal, the terms and conditions of this Agreement and the Confirmation Letter shall govern the Transaction once the option has been exercised.



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1.02 For individual Transactions, the Parties shall enter into a written Confirmation Letter (hereinafter "Confirmation") that sets forth and defines the following: the Buyer, the Seller, the price, price adjustments, quantity, term, quality specifications, mine(s), and any other Transaction-specific provisions mutually agreed upon by the Parties. All Confirmations shall be in writing, signed by both Parties. The Parties intend the provisions of each individual Confirmation and the provisions of this Agreement be construed as one single integrated agreement and that without a written Confirmation the Parties would not otherwise enter into a Transaction. Any inconsistency or conflict between provisions of the individual Confirmation and provisions of this Agreement shall be resolved in favor of any provisions of the Confirmation.

1.03 Each of the following terms when used in this Agreement will have the meaning given to it in this section:

- a) "**Actual Btu**" means the monthly ton-weighted average as-received calorific value (stated in Btu/lb.).
- b) "**Buyer**" means the Party to a Transaction who is obligated to purchase and receive Coal, or causes Coal to be received.
- c) "**Claim**" means all claims or actions threatened or filed that directly or indirectly relate to the subject matter of this Agreement, including but not limited to indemnity, the resulting losses, damages, expenses, reasonable attorneys' fees and costs.
- d) "**Coal**" means any and all Coal to be sold by Seller and purchased by Buyer pursuant to the terms and conditions of this Agreement.
- e) "**Electronic**" means faxes, telegraphs, emails, and all other forms of electronic data transfer.
- f) "**Standard Btu**" means the standard calorific value as set forth in a Confirmation (stated in Btu/lb.) and is the basis for a price adjustment as described in Section 9.03.
- g) "**Seller**" means the Party to a Transaction who is obligated to sell and deliver Coal or causes Coal to be delivered.

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- h) "**Ton**" means 2,000 pounds avoirdupois.
- i) "**Loading Provisions**" means the terms and conditions of Buyer's transportation contracts or excerpts thereof that Seller has reviewed and approved. The Loading Provisions are further described in Section 4.04 and attached as Exhibit A.

### ARTICLE 2. TERM

- 2.01 This Agreement shall begin on the date first set forth above and shall continue in effect until terminated by either Party upon sixty (60) days written notice to the other Party, which right of termination shall be each Party's absolute right to exercise. Termination of this Agreement under this Article shall not affect either Party's rights and obligations with respect to any Transactions that have been agreed to in writing in a Confirmation prior to termination.

### ARTICLE 3. QUANTITY

- 3.01 Buyer shall be obligated to purchase and pay for, and Seller shall be obligated to sell and tender for delivery, the amount of Coal agreed to in a Confirmation, except as may be limited by Article 11 of this Agreement.
- 3.02 Unless otherwise limited in the Confirmation, Buyer has the right to ship or use the Coal delivered under this Agreement at any location or for any such purpose Buyer designates.

### ARTICLE 4. DELIVERY AND TRANSPORTATION

- 4.01 For each Transaction, Seller agrees to tender to Buyer and Buyer agrees to accept from Seller the quantity of Coal as provided in the relevant Confirmation. Seller shall tender the Coal to Buyer in accordance with reasonable monthly delivery schedules to be submitted by Buyer in accordance with the Agreement and the Confirmation. Schedules shall be based on

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a ratable monthly basis unless otherwise agreed to by both Parties. In addition, Buyer shall provide Seller with monthly schedules at least sixty (60) days prior to the beginning of each applicable month. If the Seller objects to a schedule submitted by Buyer, Seller shall notify Buyer of its objections within fifteen (15) days of Seller's receipt of such schedule and the Parties shall work together in good faith to agree on a reasonable and mutually acceptable schedule. The mine(s) used to source the Coal supplied under this Agreement shall be any mine set forth in the Confirmation.

- 4.02 Buyer shall supply the appropriate unit train railcars. Said railcars shall be of a size compatible with the loading requirements set forth in this Agreement. Unit train sizes will normally vary from 105 to 135 railcars per train; however, depending on railcar availability, shorter or longer trains may occasionally be operated by mutual agreement.
- 4.03 Unless excused by Article 11 of this Agreement, if Buyer fails over a quarterly basis to schedule the appropriate unit trains for delivery of an amount of Coal scheduled under a Transaction, Seller shall have the right at Seller's sole option to reduce the annual quantities of that Transaction by the deficit from the scheduled amount. This right shall be in addition to any other rights available to Seller hereunder.
- 4.04 Seller shall cause Coal to be loaded and delivered at the loading facilities into railcars supplied by Buyer. Seller agrees to comply with the weighing and railcar Loading Provisions. Said Loading Provisions are subject to Seller's ability to load the required net tonnages in Buyer's railcar without significant risk of spillage or exceeding railcar limits and shall be in general compliance with industry standards for the applicable coal region. Seller shall have at least 48 hours notice of any changes to the Loading Provisions. If the changes to the Loading Provisions are inconsistent with Seller's commitments as otherwise set forth in this Agreement and Seller's then current operating practice, Seller shall not be liable for noncompliance with such changes unless expressly accepted by Seller. Should the

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obligations as set forth in this Article 4 not be met, and as a result, Buyer incurs costs under its transportation agreement with the rail carrier as a direct result of Seller's not meeting its obligation hereunder and such failure is not the fault of either Buyer or the railroad, then Seller shall reimburse Buyer for any such costs as set forth in Exhibit A.

**4.05** The scheduled Coal shall be F.O.B. loaded in Buyer-provided railcars at the delivery point located at each individual mine ("Delivery Point"). Buyer's railcars and unit train shall be compatible with Seller's trackage, storage and loading facilities, and shall be ready to load upon arrival at the individual mine. Seller shall load each railcar at Seller's expense and shall complete the loading of all railcars in each unit train within four hours after the first empty railcar is actually placed by the railroad under the Seller's loading chute. Unless excused by Article 11 or due to actions of Buyer or Buyer's rail carrier, Seller shall be responsible for demurrage or other charges invoiced to Buyer by Buyer's rail carrier resulting directly from Seller's failure to load Buyer's trains as provided above.

**4.06** Seller is required to load each railcar to the gross weight(s) designated in the Confirmation; however, under no circumstances will the gross weight exceed the maximum limit established by the rail carrier(s) for the railcar type and for the designated train routes. Should Seller load any railcar on Buyer's behalf outside of these specified limits, the Seller assumes any and all reasonable costs which may be charged by the rail carrier(s) and paid by Buyer as a direct result of such underloading or overloading of these railcars.

### **ARTICLE 5. TITLE AND RISK OF LOSS; EQUIPMENT DAMAGE**

**5.01** Title to the Coal and all risk of loss shall pass to Buyer upon completion of loading all railcars in each unit train at the Delivery Point.

## DRAFT

- 5.02** Seller shall be responsible for, and shall indemnify Buyer for, any and all direct reasonable costs resulting from damage to: (i) Buyer's or its contracted rail carriers' equipment if such equipment is damaged while on Seller's property except to the extent such damage is caused by the negligence or recklessness of Buyer or its contracted rail carrier; and (ii) Buyer's equipment, including mobile railcars and stationary equipment at Buyer's electric generating station, if said equipment is damaged as a result of non-Coal material having been interspersed with the tendered Coal prior to leaving Seller's mine property.

### ARTICLE 6. COAL QUALITY SPECIFICATIONS

If the Parties set forth coal quality specifications in a Confirmation, the following Sections 6.01 – 6.03 shall apply with respect to those specifications.

- 6.01** At the Delivery Point, all tendered Coal shall be raw, substantially free of magnetic material and other foreign material impurities, and crushed to a maximum size as set forth in the Confirmation as determined in accordance with applicable American Society of Testing and Materials (ASTM) standards.
- 6.02** If there are three (3) Non-Conforming Shipments as defined in Section 6.04, whether rejected or not, under a Transaction in any three (3) month period or, if two (2) out of four (4) consecutive shipments under a Transaction are Non-Conforming Shipments, Buyer may upon notice confirmed in writing and sent to Seller, suspend future shipments except those shipments already loaded into railcars. Seller shall, within sixty (60) days, provide Buyer with reasonable assurances that subsequent deliveries of Coal shall meet or exceed the specifications set forth in the Confirmation. If Seller fails to provide such assurances within that sixty (60) day period, Buyer shall have the right to terminate the Transaction without further obligation hereunder on the part of either party. Termination shall be the sole remedy of Buyer under this Section. Buyer's waiver of this right for any one train shall not constitute a

## DRAFT

waiver for subsequent trains. 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 the resumption of shipment.

- 6.03** The Parties recognize during the performance of a Transaction, legislative, regulatory bodies or the courts may adopt environmental laws, rules, and regulations that will make it impossible or commercially impracticable for Buyer to utilize or to remarket Coal purchased under this Agreement. If, as a result of the adoption of such laws, rules, and regulations or changes in the interpretation or enforcement thereof, Buyer, in good faith, decides it will be impossible or commercially impracticable for Buyer to utilize or to remarket such Coal, Buyer shall promptly notify Seller in writing. After receiving such notification, Buyer and Seller shall promptly consider whether corrective actions can be taken in the mining and preparation of the Coal, in the operation of Buyer's generating station, or in Seller's substituting different source Coal. If in the Parties' reasonable judgment such actions will, make it impossible and commercially impracticable for Buyer to utilize or to remarket tendered Coal without violating any applicable law, regulation, policy, or order, Buyer shall have the right, upon sixty (60) days notice to Seller, to terminate the Transaction without further obligation on the part of either party. Termination shall be the sole remedy of Buyer and Seller under this section.

If Rejection Limits are specified in the Confirmation, this Section 6.04 shall apply.

- 6.04** If any Shipment of Coal triggers any of the Rejection Limits specified in the Confirmation for a Transaction (a "Non-Conforming Shipment"), Buyer shall have the option, within twenty-four (24) hours of Buyer's receipt of the quality analysis of the Coal, of either (i) rejecting such Non-Conforming Shipment prior to unloading the Coal, or, (ii) accepting the Non-Conforming Shipment and in addition to any quality adjustments outlined in the Confirmation, reducing the

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price of Coal for such trainload by [REDACTED] per ton. If Buyer fails to timely exercise its rejection rights under this Section as to a Shipment, Buyer shall be deemed to have waived such rights to reject with respect to that Shipment only. Buyer's failure to timely exercise such notice does not constitute a waiver of its right to any penalty adjustment provided for herein or in the relevant Confirmation. If Buyer timely rejects the Non-Conforming Shipment, Seller shall be responsible for promptly transporting the rejected Coal to an alternative destination determined by Seller and, if applicable, promptly unloading such Coal. Seller shall reimburse Buyer for all reasonable costs and expenses associated with the transportation, storage, handling and removal of the Non-Conforming Shipment. Buyer shall cooperate with Seller in minimizing Seller's cost of redirecting the rejected Coal. Seller shall replace the rejected coal within a reasonable period of time.

### ARTICLE 7. SAMPLING AND ANALYSIS

- 7.01 Seller shall cause, at its expense, the Coal in each unit train to be sampled and analyzed at the individual mine in accordance with applicable ASTM standards. Buyer shall have the right, at its own risk and expense, to have a representative present at any and all times to observe sampling and analysis procedures. All samples shall be divided into three (3) parts and put in suitable airtight containers. One part shall be furnished to Buyer or its designee for its analysis, one part shall be retained for analysis by Seller or its designee (which analysis shall be the basis for payment), and the third part shall be retained by Seller or its designee in one of the aforesaid containers properly sealed and labeled for a period thirty (30) days after the date of sample collection. Buyer's samples are to be clearly labeled as to mine, date of sampling, date of preparation, and other identification as to shipment (such as train identification number) and are to be sent within forty-eight (48) hours of train loading to the address listed below unless a different address is provided by Buyer in the Confirmation or otherwise in writing. Seller shall cause the following data, subject to future adjustment, to be provided to Buyer by a mutually agreed upon method of electronic data transmission within

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forty-eight (48) hours of train loading: tonnage (gross, net, and tare average for each railcar and the unit train in total), and the average calorific value, % moisture, % ash, % sulfur, and % Na<sub>2</sub>O in ash (if set forth in the Confirmation), (the "Short Proximate Analysis"). Any additional analysis requested by Buyer that exceeds the information provided in the Short Proximate Analysis shall be at Buyer's expense.

Mailing address for sample splits:

- 7.02** In the event a dispute arises between Buyer and Seller within thirty (30) days of Seller's analysis due to a difference between Buyer and Seller's short proximate analyses of a sample that exceeds the ASTM interlab repeatability limits, an independent testing laboratory, mutually agreeable to Buyer and Seller, will be retained to analyze the third part of such sample. The Party whose calorific value analysis is closest to the independent analysis shall prevail and such Party's calorific value analysis shall govern for the trainload in question. In such case, the cost of the analysis made by such independent testing laboratory will be borne by the Party whose calorific value analysis is furthest from the independent analysis and therefore, not used. In the event both Parties' calorific value analyses differ from the independent testing laboratory's result by the same amount, the independent testing laboratory's result shall govern for the trainload in question and the Parties shall share equally the cost of the independent testing.

## ARTICLE 8. WEIGHING

- 8.01** Certified commercial scales at Seller's train loading facility at each individual mine will determine weights. Scales shall be calibrated and tested as customary in industry practice with copies of calibration and testing reports provided to Buyer upon request. If Seller's scales are not available to determine the valid net weight of all of the railcars in a unit train but valid weights are obtained for thirty (30) or more railcars in such train, the arithmetic



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average of all of the valid net weights of the thirty or more railcars in such train shall be used as the net weight for each railcar in such train for which a valid net weight was not determined by Seller's scales. If Seller's scales are inoperative or fail to determine the valid net weight of at least thirty (30) railcars in a unit train, the weighted arithmetic average of the net railcar weights of the previous ten (10) unit trainloads of Coal shipped to Buyer shall be used as the net weight for each of the unweighed railcars in such train. The calculation of the weighted arithmetic average net weight for the previous ten (10) unit trainloads shall exclude all bad-order railcars, which were not loaded, and any trainload of Coal for which the net weights were estimated on thirty (30) or more railcars. The Buyer shall be notified electronically immediately after the above instance occurs.

### ARTICLE 9. PRICE AND PRICE ADJUSTMENTS

- 9.01 For all Coal delivered under this Agreement, Buyer shall pay Seller the base price as set forth in the Confirmation.
- 9.02 Seller shall be solely responsible for all assessments, fees, costs, expenses, and taxes relating to the mining, production, sale, use, loading and tender of Coal to Buyer or in any way accruing or levied prior to transfer of title to the Coal to Buyer and including, without limitation, severance taxes, royalties, ad valorem, black lung fees, reclamation fees and other costs, charges and liabilities. The base price includes reimbursement to Seller of all environmental, land restoration and regulatory costs, including without limitation any reclamation costs required under applicable federal, state or local law as of the date of the Transaction. Buyer shall be responsible for any sales and/or use tax unless Buyer provides Seller an appropriate exemption certificate or similar document. The base price shall be subject to adjustments for changes in existing laws and regulations (including changes in levies and rates), or new laws or regulations, or changes in interpretations thereof enacted and in force during the term of sale set forth in the Confirmation that change Seller's costs of

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producing Coal for delivery pursuant to any Confirmation. Notwithstanding the above, no price adjustment will occur under this Section until the cumulative effect of all such changes equals or exceeds \$0.05 per ton for any calendar year under a Transaction. Seller shall use commercially reasonable best efforts to inform Buyer of any such change as soon as Seller becomes aware of such change and its effect on the base price of Coal hereunder.

- 9.03 The base price may also include an adjustment based upon the calorific value, sulfur content or other qualities of the Coal as the Parties may mutually agree upon and as set forth in the Confirmation.

### ARTICLE 10. INVOICES, PAYMENTS, NETTING, SET OFF, AND CREDIT RATINGS

- 10.01 Based on Seller's weights, Seller will invoice Buyer twice a month for all Coal delivered. Invoices for quality adjustment, as provided in a Transaction, shall be issued monthly, based on Seller's analyses. Seller shall clearly indicate Buyer's applicable purchase order number on all invoices. Each invoice shall state for each trainload of Coal: the quantity of Coal delivered, the Actual Btu and SO<sub>2</sub>, % Na<sub>2</sub>O in ash (if set forth in the Confirmation) and the invoice price and any other required quality adjustment. Invoices shall be mailed or electronically transmitted, as applicable, to:

Invoices to Buyer :

Attn:

Invoices to Kennecott:

Kennecott Coal Sales Company  
Attn: Revenue Accounting  
Caller Box 3017 (82717-3017)  
405 West Boxelder Road, Suite D  
Gillette, WY 82718

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ACH/Wires to Kennecott:  
Kennecott Energy and Coal  
Account # 060-00298-13  
Wells Fargo Bank  
41 East 100 South  
ACH ABA # 124000012  
Wire ABA # 121000248

Payment Detail:

To ensure proper allocation of payments to appropriate invoice, e-mail invoice numbers and amounts to: [keccash@kenergy.com](mailto:keccash@kenergy.com) or information may be faxed to (307) 687-6010

- 10.02 For all invoices, payment will be made within 5 business days of receipt of that invoice. Amounts shall be paid via electronic means (i.e., ACH or Federal Reserve wire transfer of funds). The wire transfer of funds shall be sent to Seller's bank as indicated on the invoice.
- 10.03 In the event Buyer in good faith disputes part or all of an invoice, notice of the disputed portion, with reasons for dispute, must be given prior to the due date of the invoice and the undisputed portion shall be paid by the due date. If the disputed portion is determined to have been properly due and payable, interest on that portion in dispute and which has not been paid shall accrue from the date that portion was due and payable. If a disputed portion is paid and is later determined not to have been properly due and payable, interest will similarly be refunded from the date payment had been received. Interest shall be paid at one (1) percentage point over the then current U.S. prime rate as listed in the Money Rates section of The Wall Street Journal. All invoices will be final and not subject to further adjustments or correction unless objection to the accuracy thereof is made prior to the lapse of one (1) year after the termination of the applicable Transaction.
- 10.04 If each Party or Party's affiliate is required to pay an amount to the other Party in the same invoice period, then such amounts with respect to each Party may be aggregated and the Parties may discharge their obligations to pay through netting; in which case, the Party owing

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the greater aggregate amount shall pay to the other Party the difference between the amounts owed.

- 10.05 Each Party reserves to itself all rights, setoffs, counterclaims, and other remedies and defenses to the extent not expressly denied or waived herein which such Party has or may be entitled to arising from or out of this Agreement. All outstanding Transactions and the obligations to make payment in connection under this Agreement may be offset against each other, set off, or recouped therefrom.
- 10.06 If a Party fails to pay amounts under this Agreement within 5 business days after receipt of invoice, unless such amount is the subject of a dispute as provided above, or is excused by Article 11, in addition to the rights and remedies otherwise provided in this Agreement, the aggrieved Party shall have the right to suspend performance under any or all Transactions under this Agreement. If such failure to pay continues for an additional 5 business days, the aggrieved Party shall have the right to terminate this Agreement and all Transactions and shall be entitled to all other rights under this Agreement.
- 10.07 Should the creditworthiness or either Party's ability to perform become unsatisfactory to the other Party, or if situations develop where either Party could reasonably conclude that a credit downgrade or protection under bankruptcy code is imminent, then the failing Party will provide satisfactory security or assurances.
- 10.08 If a Party's or any of its affiliates' credit falls below investment grade (BBB- as defined by Standard & Poor's, Moody's, or the equivalent), the failing Party shall provide the non-failing Party with a mutually agreed upon credit enhancement in the form of, but not limited to, letters of credit, compressed payment terms or cash on delivery. If the failing Party does not provide an acceptable credit enhancement within 48 hours of notice, the non-failing Party shall have the right to suspend shipments and seek remedies as set forth in this Master

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Agreement.

### ARTICLE 11. FORCE MAJEURE

- 11.01 The term "Force Majeure" as used herein shall mean an act or event that is not reasonably within the control and is without the fault of the party claiming Force Majeure including without limitation, acts of God; acts of the public enemy; insurrections; terrorism; riots; labor disputes; boycotts; fires; explosions; floods; breakdowns of or damage to major components or equipment of Buyer's generating station, Seller's mine, or transmission systems or Buyer's transportation; embargoes; acts of judicial or military authorities; acts of governmental authorities; inability to obtain necessary permits, licenses, and governmental approvals after applying for same with reasonable diligence; or other causes which prevent the producing, processing, and/or loading of Coal by Seller, or the receiving, accepting, unloading and/or utilizing of Coal by Buyer. Force Majeure includes the failure of a Party's contractor(s) to furnish labor, services, Coal, materials or equipment in accordance with its contractual obligations (but solely to the extent such failure is itself due to Force Majeure).
- 11.02 If, because of Force Majeure, either Party fails to perform any of its obligations under this Agreement (other than the obligation of a Party to pay money), and if such Party shall promptly give to the other Party written notice of such Force Majeure, then the obligation of the Party giving such notice shall be suspended to the extent made necessary by such Force Majeure and during its continuance; provided, the Party giving such notice shall use good faith efforts to eliminate such Force Majeure, insofar as reasonably possible, with a minimum of delay. Should the situation of Force Majeure exceed sixty (60) consecutive days, the Party not affected by the Force Majeure event may, at its option, terminate the Transaction in whole or in part and neither Party shall have any further obligation to the other Party; however, each Party shall be obligated to make any payments which had become due and payable prior to such termination. Any deficiencies in deliveries of Coal caused by an event of Force Majeure

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shall not be made up, except by mutual consent. The affected Party shall provide suitable proof to the other Party to substantiate any claim made under this Article 11.

**11.03** Both Parties agree significant capital expenditures and settlement of strikes and lockouts shall be entirely within the discretion of the Party having the difficulty. The above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require significant capital expenditure or settlement of strikes and lockouts by acceding to the demands of the opposing Party when such course is inadvisable in the discretion of the Party having difficulty.

**11.04** The loss of Buyer's markets or Buyer's inability to economically use or resell Coal purchased hereunder, the loss of Seller's supply or Seller's ability to sell Coal to a market at a more advantageous price, the change in the market price of Coal or price of power, or regulatory or contractual disallowance of the pass-through of the costs of Coal or other related costs shall not constitute events of Force Majeure.

### **ARTICLE 12. RECORDS, AUDITS, ACCESS**

**12.01** Seller shall maintain books and records relating to the supply of Coal under this Agreement and the applicable Transaction for a period of not less than two (2) years after the end of each calendar year for all Coal tendered during such calendar year.

**12.02** Upon reasonable notice and during normal business hours, Buyer and/or Buyer's independent auditors shall have the right to inspect Seller's books and records relating to all provisions of this Agreement which include Coal quality, quantity shipped, and price adjustments or as may be necessary to satisfy inquiries from governmental or regulatory agencies, but only to the extent necessary to verify the accuracy of any statement, charges or computations made pursuant to this Agreement and/or a Transaction. Seller shall make a

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reasonable effort to facilitate Buyer's inspection of such records in Seller's possession. Buyer and its auditors, to the extent permitted by law or regulation, shall treat all such information as confidential.

### ARTICLE 13. DEFAULT, REMEDIES, AND TERMINATION

**13.01** The remedies set forth in this Section 13.01 shall cover the non-defaulting Party's remedies for the defaulting Party's failure to perform prior to any termination for default that may occur.

- a) As an alternative to the damages provision below, if the Parties mutually agree in writing, the non-performing Party may schedule deliveries or receipts, as the case may be, pursuant to such terms as the Parties agree in order to discharge some or all of the obligation to pay damages. In the absence of such agreement, the damages provision of this Article shall apply.
- b) Unless excused by Force Majeure, if Seller fails to deliver the quantity of Coal in accordance with the applicable Confirmation and this Agreement, Seller shall pay to Buyer an amount for each ton of Coal of such deficiency equal to (i) the lowest reasonable market price on an equivalent per mmBtu SO<sub>2</sub> adjusted basis at which Buyer is able, or (ii) at the time of Seller's breach, would be able to purchase or otherwise receive comparable supplies of Coal of comparable quality minus the base price agreed to for the specific Transaction; except that if such difference is negative, then neither Party shall have any obligation to make any deficiency payment to the other.
- c) Unless excused by Force Majeure, if Buyer fails to accept delivery of the quantity of Coal in accordance with the applicable Confirmation and this Agreement, Buyer shall pay to Seller an amount for each ton of Coal of such deficiency equal to (i) the base

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price agreed to for the specific Transaction minus the highest reasonable market price on an equivalent per mmBtu SO<sub>2</sub> adjusted basis at which Seller is able, or (ii) would be able, to sell or otherwise dispose of the Coal at the time of Buyer's breach; except that if such difference is negative, then neither Party shall have any obligation to make any deficiency payment to the other.

- d) Buyer and Seller shall be subject to commercially reasonable good faith obligation to mitigate any damages hereunder.

13.02 The occurrence of any of the following shall constitute an "Event of Default":

- a) Failure by either Party to pay any amounts due.
- b) Either Party materially breaches any contractual obligation under this Agreement.
- c) Either Party (i) makes any general assignment or any general arrangement for the benefit of creditors, (ii) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy or similar law for the protection of creditors or has such a petition involuntarily filed against it and such petition is not withdrawn or dismissed within thirty (30) days after such filing, (iii) otherwise becomes bankrupt or insolvent (however evidenced), or (iv) is unable to pay its debts as they fall due.

13.03 In addition to the non-defaulting Party's remedies under this Article, in the Event of Default with respect to a specific Transaction, the non-defaulting Party shall have the same rights with respect to such specific Transaction as it has under this Agreement in addition to the right to exercise all other rights and remedies available under applicable law.



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## ARTICLE 14. NOTICES

14.01 Except as expressly provided otherwise, any notice, election or other correspondence required or permitted hereunder shall become effective upon receipt and, except invoices and payments, shall be deemed to have been properly given or delivered when made in writing and delivered personally to the Party to whom directed, or when sent by United States certified mail with all necessary postage prepaid and a return receipt requested, or by a nationally recognized overnight delivery service with charges fully prepaid and addressed to the Party at the below-specified address:

Notices to Kennecott:  
Kennecott Coal Sales Company  
Attn: Contract Administration  
Caller Box 3009 (82717-3009)  
505 South Gillette Avenue  
Gillette, WY 82716  
Phone: (307) 687-6019  
Fax: (307) 687-6009

Scheduling to Kennecott:  
Kennecott Coal Sales Company  
Attn: Customer Service Department  
Caller Box 3009 (82717-3009)  
505 South Gillette Avenue  
Gillette, WY 82716  
Phone: (307) 685-6110  
Fax: (307) 687-6009

Notices to Buyer:

The addresses may be changed upon written notice in the manner provided above, and no amendment hereof shall be required for a change of address under this Article 14.

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### ARTICLE 15. COOPERATION

- 15.01 Each Party agrees to take all further action that may be reasonably necessary to perform and to effectuate the purposes and intent of the Agreement, the Confirmation, and any particular Transaction.

### ARTICLE 16. WARRANTY, LIMITATION ON LIABILITY, DUTY TO MITIGATE & INDEMNIFICATION

- 16.01 In no event shall either Party be liable to the other Party for incidental, consequential or punitive damages however and wherever arising out of, or in connection with, this Agreement or any Transaction.

- 16.02 EXCEPT AS EXPRESSLY WARRANTED HEREIN, IT IS EXPRESSLY AGREED THAT SELLER MAKES NO WARRANTY EXPRESSED OR IMPLIED AS TO THE QUALITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE COAL TO BE DELIVERED UNDER THIS AGREEMENT OR AS TO THE RESULTS TO BE OBTAINED FROM THE USE OF SUCH COAL. SELLER SHALL NOT BE LIABLE FOR ANY INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOSS OF PROFITS OR OVERHEAD, BY VIRTUE OF ITS BREACH OF ANY OF ITS OBLIGATIONS UNDER THE AGREEMENT. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED AS LIMITING BUYER'S RIGHT, SUBJECT TO THE TERMS OF THIS AGREEMENT, TO SEEK DIRECT DAMAGES FOR SELLER'S BREACH OF ANY OF ITS OBLIGATIONS HEREUNDER.

- 16.03 Each Party agrees it has a duty to mitigate damages and covenants. Each Party will use commercially reasonable efforts to minimize any damages it may incur as a result of the other

## **DRAFT**

Party's performance or non-performance of the Agreement (except that neither Party shall be required to enter into a replacement transaction as provided under this Agreement).

- 16.04** Each Party shall indemnify, defend, and hold the other Party harmless from and against any and all Claims arising out of or resulting from the willful acts or negligence of such Party, its agents, and employees.

### **ARTICLE 17. LIMITATION ON WAIVER**

- 17.01** No waiver by either Party of any one or more defaults of the other Party in the performance of this Agreement or any Transaction shall operate or be construed as a waiver of any future default, or defaults, whether of a like or different character.

### **ARTICLE 18. CONFIDENTIALITY**

- 18.01** This Agreement and any Confirmation are deemed confidential. The Parties shall protect the confidentiality of the terms of this Agreement and neither this Agreement or any of its terms shall be disclosed to any other person unless such disclosure is: (i) agreed to in writing by the Parties prior to release, (ii) required by law, (iii) required by jurisdictional regulation pursuant to the request of any regulatory authorities (including, without limitation, state utility commissions or boards, the Federal Energy Regulatory Commission, the U.S. Securities and Exchange Commission and tax authorities); to attorneys, auditors, consultants or other outside experts of the parties if said individuals are advised of the confidential nature of the information and said individuals agree to maintain the confidentiality of the information; or to generating unit co-owner(s). Where the law requires such disclosure, notice shall be given to the other Party, and to the extent possible, such notice shall be given in advance of disclosure.

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### **ARTICLE 19. ENTIRETY, AMENDMENTS**

- 19.01 This Agreement constitutes the entire agreement between the Parties. This Agreement may not be amended except in a written instrument making reference hereto signed by the Parties.

### **ARTICLE 20. SUCCESSORS AND ASSIGNS**

- 20.01 This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns; provided, however, this Agreement may not be assigned by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed.

### **ARTICLE 21. GOVERNING LAWS**

- 21.01 This Agreement shall be governed by and construed in accordance with the laws in the State of Wyoming.

### **ARTICLE 22. INTERPRETATION**

- 22.01 The Parties acknowledge that each Party and its counsel have reviewed this Agreement and that the rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement.

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### ARTICLE 23. RESALE AND BUYER'S OBLIGATIONS

23.01 The Parties agree, unless specifically provided otherwise in a specific Confirmation, Buyer may resell the Coal purchased under a particular Transaction to another party ("Buyer's Customer"). The Parties agree that Buyer's Customer may perform some of Buyer's obligations; nevertheless, Buyer shall remain liable for all of Buyer's obligations hereunder and Buyer shall indemnify and hold Seller harmless from and against any and all Claims made by Buyer's Customer against Seller. In addition, Buyer agrees to the following:

- a) Buyer shall inform Seller at least twenty-four (24) hours in advance of arrival of each unit train at the mine of the identification number of the unit train, identification of Buyer's Customer, and destination of such unit trains.
- b) The loading of such unit train shall be in accordance with the loading provisions set forth herein unless Buyer notifies Seller in advance of different loading provisions and such different loading provisions are in general accordance with general operating parameters in the mine's region, and do not, in Seller's reasonable opinion, impose an undue operating or economic burden on Seller.
- c) All information to be supplied by Seller to Buyer under this Agreement including but not limited to analysis, weights, train manifest and invoicing information shall be supplied to Buyer and Buyer shall be responsible for transmitting such information to Buyer's Customer. Buyer is specifically released from its confidentiality obligations (Article 18) with respect to quality and weighing information provided by Buyer to Buyer's Customer.

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- d) If Buyer claims a Force Majeure event at or associated with Buyer's generating station, such claim shall not apply to Coal taken under this Agreement and sold by Buyer to Buyer's Customer. Force Majeure events occurring at or associated with generating stations or other facility to which Buyer has resold Coal, shall not affect the tonnage obligation of the Buyer under this Agreement.

### ARTICLE 24. SURVIVAL

24.01 The provisions of Articles 12 through 22 and Article 24 shall survive the termination of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by their respective, duly authorized representatives effective as of the date first written above.

**Kennecott Coal Sales Company**

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

Kelly A. Cosgrove  
Vice President, Marketing & Sales

Date: \_\_\_\_\_

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

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SAMPLE

CONFIRMATION LETTER

Kennecott #:

Buyer:

Seller: Kennecott Coal Sales Company  
Caller Box 3009 (82717-3009)  
505 South Gillette Avenue  
Gillette, WY 82716

Attn:  
Phone:  
Fax:

Attn:  
Phone:  
Fax:

This letter shall confirm the transaction arranged \_\_\_\_\_, between \_\_\_\_\_ (" ") and Kennecott Coal Sales Company ("Kennecott") pursuant to the Master Coal Purchase and Sale Agreement effective \_\_\_\_\_, 2003. The terms and conditions of this transaction are as follows:

Kennecott to sell and deliver and \_\_\_\_\_ to purchase and receive.

Transaction Type: Physical Coal

Product: Sub-Bituminous coal; \_\_\_\_\_ Btu/Lb. and \_\_\_\_\_ Lbs. SO<sub>2</sub>/mmBtu

Base Price: \$\_\_\_\_\_ per ton of coal

Shipment Period:

Quantity:

Delivery Point: FOB Railcar, \_\_\_\_\_ Mine – \_\_\_\_\_ County, Wyoming

Topsize: \_\_\_\_\_" x 0" ASTM

Quality: Coal Quality Specifications

Section 9.03 – Standard Btu and  
Sulfur for price adjustments as  
set forth below:

Sections 6.02 & 6.04  
Reject Limits/  
Non-Conforming Shipment

Btu/Lb  
Lbs. SO<sub>2</sub>/mmBtu

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### Btu Adjustment:

To reflect the actual heat content of the coal delivered, each month the Base Price of coal will be adjusted for any variation from \_\_\_\_\_ Btu/Lb., using the following formula:

$$\text{Btu Adjustment Per Ton} = P \times \frac{(AR - BB)}{BB}$$

Where:

- P** = The Base Price of coal per ton delivered during the month;  
**AR** = The monthly weighted average "As-Received" Btu's per pound of the respective coal[s] delivered to \_\_\_\_\_; and,  
**BB** = The Base Btu's per pound of the respective coal[s] delivered to \_\_\_\_\_ during the month; the BB value = \_\_\_\_\_

All shipment Btu's and weighted average Btu's shall be in zero decimals. All prices for Btu adjustments shall be calculated using floating-point decimals, with the result being rounded to three decimal places as shown in the following example:

*Sample info: P = \$7.00/ton, BB = 8800, AR = 8820*

$$\begin{aligned}\text{Btu adjustment per ton} &= \$7.00 \times \frac{(8820 - 8800)}{8800} \\ &= \$7.00 \times .002272727 \\ &= \$0.015909089 \\ &= \$0.016\end{aligned}$$

### Sulfur Adjustment:

To reflect the actual sulfur content of Coal delivered, each month the Base Price of Coal will be adjusted in accordance with the following formulas.

For purposes of this adjustment, it shall be assumed that 100% of the sulfur in the Coal will be converted to sulfur dioxide ("SO<sub>2</sub>"). The pounds SO<sub>2</sub> per mmBtu shall be calculated in accordance with the following formula based on Seller's lab analysis of the percent sulfur in the Coal and the calorific value of the Coal. All weighted average sulfur shall be in two decimals:

$$\text{Lbs. SO}_2/\text{mmBtu} = \frac{\text{Monthly Weighted Average Sulfur \% in Coal} \times 20,000}{\text{Monthly Weighted Average Btu/Lb.}}$$

All shipment sulfur percent and weighted average sulfur percent shall be stated in two decimals. SO<sub>2</sub> for the period billed shall be calculated using floating-point decimals, with the result being rounded to two decimal places as shown in the following example:

*Sample info: Monthly Weighted Average Sulfur \% in Coal = .22,  
Monthly Weighted Average Btu/Lb. = 8820*

$$\text{Lbs. SO}_2/\text{mmBtu} = (.22 \times 20,000) / 8820 = .498866213 = .50$$

Sulfur adjustment in \$/ton of Coal =

$$\frac{(\text{Base Lb. SO}_2/\text{mmBtu} - \text{Actual Lb. SO}_2/\text{mmBtu}) \times \text{Actual Btu/Lb.} \times \$\text{ADI}}{1,000,000}$$

ADI = The "SO<sub>2</sub> Monthly Average Price" published by *Air Daily* for the month preceding delivery.

Base Lb. SO<sub>2</sub>/mmBtu =



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All shipment SO<sub>2</sub> and weighted average SO<sub>2</sub> shall be stated in two decimals. All prices for sulfur adjustments are to be calculated using floating-point decimals, with the result being rounded to three decimal places as shown in the following example:

*Sample info: Actual Btu = 8820, Base SO<sub>2</sub> = .55, Actual SO<sub>2</sub> = .50,  
SO<sub>2</sub> Allowance (ADI) = \$146.10*

Sulfur Adjustment in \$/ton of Coal =  $((.55 - .50) \times 8820 \times \$146.10) / 1,000,000$   
= \$0.0644301  
= \$0.064

IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR, AND EACH OF THE PARTIES WAIVES THE RIGHT TO SEEK INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES UNDER THIS AGREEMENT.

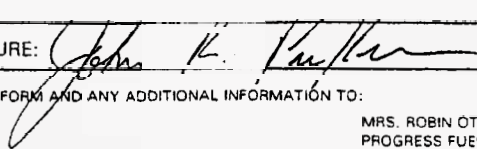
Please confirm that the terms and conditions stated herein accurately reflect your understanding of our agreement by signing and returning to Leslie Thorn at Seller's address.

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

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Kennecott Coal Sales Company

Date: \_\_\_\_\_

CONTACT: Sid Young			TELEPHONE NO. 606-353-7201		
MINE(S): Love Branch; John's Creek		BOM DISTRICT: 8		COUNTY: Pike	STATE: Kentucky
ORIGINAL RAILROAD(S)/ DISTRICT: EK _____ CV _____ Big Sandy <input checked="" type="checkbox"/> Other _____				R/R TIPPLE DESIGNATION/NUMBER: 84191	
SEAMS: Cedar Grove					
BLEND RATIOS:					
COAL PREPARATION: <input type="checkbox"/> 50% RAW <input type="checkbox"/> 50% WASHED <input checked="" type="checkbox"/> COMBINATION					
TYPE OF COAL WASHER, IF WASHED: Heavy Media - Cyclones - CMI Dryers					
TYPE OF LABOR CONTRACT(S): N/A			DATE FOR RENEGOTIATION: N/A		
TYPE OF COAL WEIGHING: Batch weigh			SCALE CERTIFIED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		
PERIOD		TONNAGE		BASE PRICE PER TON FOB BARGE	
January 2005 - December 2005		60,000 tons/month		[REDACTED]	
PRODUCER'S COMMENTS:					
This proposal is subject to prior sale and subject to mutually agreeable terms and conditions.					
CUSTOMER REFERENCES: Progress Fuels - Carolinas/ Detroit Edison/ Duke Energy/ TVA					
SIGNATURE: 			TITLE: Senior Vice President		DATE: 5/10/04
MAIL THIS FORM AND ANY ADDITIONAL INFORMATION TO:					
MRS. ROBIN OTT PROGRESS FUELS CORPORATION ONE PROGRESS PLAZA, SUITE 600 ST. PETERSBURG, FLORIDA 33701			OR MRS. ROBIN OTT PROGRESS FUELS CORPORATION POST OFFICE BOX 15208 ST. PETERSBURG, FLORIDA 33733		
PHONE NO. 727/824-6670 FAX NO. 727/824-6601					

**PROGRESS  
FUELS**  
CORPORATION

**CURRENT QUALITY**

DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS	
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	NORTH CAROLINA BITUMINOUS "AS RECEIVED"	CAROLINA BITUMINOUS "AS RECEIVED"
MOISTURE (TOTAL) %	7.02	8.00	8.0% MAX.	8.0% MAX.
SURFACE MOISTURE %	4.70	5.00	5.0% MAX.	5.0% MAX.
ASH %	12.75	12.50	13.0% MAX. <sup>2</sup>	13% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	1.85#	2.10#	1.2 LB/MAX. <sup>1</sup>	2.0 LB/MAX. <sup>1</sup> 3.2 LB/MAX. <sup>1</sup>
BTU/LB	12300	12100	12,000 MIN.	12,000/LB MIN.
ASH SOFTENING DEGREES FAHRENHEIT H= 1/2W (R)	2600	2500	2,500 MIN.	2,500 MIN
VOLATILE %	30.00	31.00	28.0% MIN. <sup>1</sup>	28.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	43	42	37 MIN. <sup>3</sup>	37 MIN. <sup>3</sup>
SIZE	2 x 0	2 x 0	2" X 0"	2" X 0"
FINES (-1/4" X 0")	45	48	40% MAX. <sup>5</sup>	45% MAX
FIXED CARBON %	49.50		-----	-----
HYDROGEN %	4.25		-----	-----
NITROGEN %	1.24		-----	-----
CHLORINE %	0.16		-----	-----
OXYGEN %	5.80		-----	-----

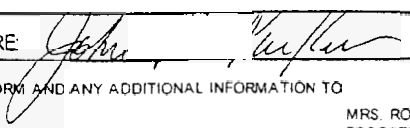
<sup>1</sup>Must be met on an individual shipment basis.<sup>2</sup>Adjustable in direct proportion to Btu.<sup>3</sup>Adjustable in inverse proportion to Btu.<sup>4</sup>Economic analyses will be based on these values.<sup>5</sup>Preferred value, coals not meeting this specification will be considered.

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV.
P <sub>2</sub> O <sub>5</sub>	0.14		Antimony		
SiO <sub>2</sub>	62.25		Arsenic	5.9	
Fe <sub>2</sub> O <sub>3</sub>	5.48		Beryllium	2.4	
Al <sub>2</sub> O <sub>3</sub>	31.15		Cadmium	0.1	
TiO <sub>2</sub>	1.28		Chromium	32	
CaO	0.71		Cobalt	4.7	
MgO	0.68		Fluorine		
SO <sub>3</sub>	0.52		Lead	5.4	
K <sub>2</sub> O	1.85		Lithium		
Na <sub>2</sub> O	0.63		Manganese		
Undetermined			Mercury	0.049	
Base/Acid Ratio	0.10		Nickel		
Maximum Base/Acid Ratio			Selenium	5.1	

\* NOTE: ADD SHEETS IF MORE THAN ONE SEAM

**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
Crystal River 1 & 2  
PAGE 1 OF 3

CONTACT: Cathy Frazier			TELEPHONE: 304-792-0040		
MINE(S): Highland		BOM DISTRICT: 8		COUNTY: Logan	STATE: West Virginia
CSX DISTRICT: EK _____ CV _____ Big Sandy _____ Other _____ Kanawha/Logan _____				R/R TIPPLE DESIGNATION/NUMBER: 0596	
_____					
_____ 15,000 _____					
_____					
_____					
SEAMS: Coalburg; Stockton; 5-Block			BLEND RATIOS:		
_____					
TYPE OF COAL SAMPLING: John B. Long - 2 Stage Automatic					
TYPE OF LABOR CONTRACT(S): N/A			DATE FOR RENEGOTIATION: N/A		
TYPE OF COAL WEIGHING: Batch Weigh			SCALE CERTIFIED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		
PERIOD		TONNAGE		BASE PRICE PER TON FOB MINE	
January 2005 - December 2005		60,000 tons/month total		_____	
IF THIS COAL IS OFFERED BY A COMPANY OR INDIVIDUAL WHICH IS NOT THE PRODUCER PLEASE INDICATE SO BY MAKING AN "X" IN THIS SPOT.					
PRODUCER'S COMMENTS:					
This proposal is subject to prior sale & subject to mutually agreeable terms and conditions.					
CREDIT REFERENCES (Minimum two): Duke Energy, Joy Manufacturing					
CUSTOMER REFERENCES: AEP, Detroit Edison, Duke Energy					
SIGNATURE:  TITLE: Senior Vice President DATE: 5/11/04					
MAIL THIS FORM AND ANY ADDITIONAL INFORMATION TO					
MRS. ROBIN OTT PROGRESS FUELS CORPORATION ONE PROGRESS PLAZA, SUITE 600 ST. PETERSBURG, FLORIDA 33701			OR MRS. ROBIN OTT PROGRESS FUELS CORPORATION POST OFFICE BOX 15208 ST. PETERSBURG, FLORIDA 33733		
PHONE NO. 727/824-6670 FAX NO. 727/824-6601					

DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS	
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	NORTH CAROLINA BITUMINOUS "AS RECEIVED"	CAROLINA BITUMINOUS "AS RECEIVED"
MOISTURE (TOTAL) %	7.00	8.00	8.0% MAX.	8.0% MAX.
SURFACE MOISTURE %	5.00	5.00	5.0% MAX.	5.0% MAX.
ASH %	12.75	12.50	13.0% MAX. <sup>2</sup>	13% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	1.80#	2.10#	1.2 LB/MAX. <sup>1</sup>	2.0 LB/MAX. <sup>1</sup> 3.2 LB/MAX. <sup>1</sup>
BTU/LB	12200	12100	12,000 MIN.	12,000/LB MIN.
ASH SOFTENING DEGREES FAHRENHEIT H = 1/2W (R)	2550	2500	2,500 MIN	2,500 MIN.
VOLATILE %	30.00	30.00	28.0% MIN. <sup>1</sup>	28.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	43	42	37 MIN. <sup>3</sup>	37 MIN. <sup>3</sup>
SIZE	2 x 0	2 x 0	2" X 0"	2" X 0"
FINES (-1/4" X 0")	45	50	40% MAX. <sup>5</sup>	45% MAX. <sup>5</sup>
FIXED CARBON %	49.50		-----	-----
HYDROGEN %	4.26		-----	-----
NITROGEN %	1.22		-----	-----
CHLORINE %	0.15		-----	-----
OXYGEN %	5.35		-----	-----

<sup>1</sup>Must be met on an individual shipment basis.

<sup>2</sup>Adjustable in direct proportion to Btu.

<sup>3</sup>Adjustable in inverse proportion to Btu.

<sup>4</sup>Economic analyses will be based on these values.

<sup>5</sup>Preferred value, coals not meeting this specification will be considered

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV.
P <sub>2</sub> O <sub>5</sub>	0.12		Antimony		
SiO <sub>2</sub>	62.20		Arsenic	5.7	
Fe <sub>2</sub> O <sub>3</sub>	5.12		Beryllium	2.2	
Al <sub>2</sub> O <sub>3</sub>	30.70		Cadmium	0.1	
TiO <sub>2</sub>	1.19		Chromium	33	
CaO	0.73		Cobalt	4.0	
MgO	0.62		Fluorine		
SO <sub>3</sub>	0.56		Lead	5.1	
K <sub>2</sub> O	1.82		Lithium		
Na <sub>2</sub> O	0.69		Manganese		
Undetermined			Mercury	0.048	
Base/Acid Ratio	0.12		Nickel		
Maximum Base/Acid Ratio			Selenium	5.0	

\*NOTE: ADD SHEETS IF MORE THAN ONE SEAM



**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
Crystal River 1 & 2  
PAGE 1 OF 3

PRODUCER NAME: Logan & Kanawha Coal Co., Inc.		
STREET ADDRESS: 96 MacCorkle Ave. SW, South Charleston, WV 25303		
CONTACT: Joe Czul	TELEPHONE NO. (304) 746-4011	
MINE(S): Snap Creek	BOM DISTRICT: 8	COUNTY: Logan STATE: WV
ORIGIN RAILROAD(S)/DISTRICT: EK CV Big Sandy Other Kanawha		R/R TIPPLE DESIGNATION/NUMBER Belva 82592
TYPE OF LOADING FACILITY: UNIT TRAIN: <input checked="" type="checkbox"/> SINGLE CAR: TRAINLOAD: 100 cars		
MAXIMUM LOADING CAPACITY: 10,000 TONS 4 HOURS 100 TRACK CAPACITY		
WATER DELIVERY CAPABILITY: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IMPORT COAL: LOAD PORT		
SHIP THROUGH: DOCK LOAD RATE:		
TOTAL PRODUCTION CAPACITY PER MONTH: 75,000 TONS		
PRODUCTION PER MONTH—MEETING OUR COAL SPECIFICATIONS: 70,000 TONS		
TYPE OF MINE: % DEEP 100 % STRIP % AUGER		
SEAMS: Coalburg, Stockton	BLEND RATIOS: 70/30	
COAL PREPARATION: RAW	WASHED COMBINATION	
TYPE OF COAL WASHER, IF WASHED:		
TYPE OF COAL SAMPLING: 2 stage automatic		
TYPE OF LABOR CONTRACT(S): Non-Union	DATE FOR RENEGOTIATION:	
TYPE OF COAL WEIGHING: None	SCALE CERTIFIED? <input type="checkbox"/> YES <input type="checkbox"/> NO	
PERIOD	TONNAGE	BASE PRICE PER TON FOB MINE
1/1/05--12/31/07	30,000 tons a month	
IF THIS COAL IS OFFERED BY A COMPANY OR INDIVIDUAL WHICH IS NOT THE PRODUCER PLEASE INDICATE SO BY MAKING AN "X" IN THIS SPOT.		
PRODUCER'S COMMENTS: Subject to prior sale		
CREDIT REFERENCES (Minimum two):		
CUSTOMER REFERENCES (Minimum four):		
SIGNATURE: [Signature]		
TITLE: President		DATE: 5/10/04
MAIL THIS FORM AND ANY ADDITIONAL INFORMATION TO:		
MRS. ROBIN OTT PROGRESS FUELS CORPORATION ONE PROGRESS PLAZA, SUITE 600 ST. PETERSBURG, FLORIDA 33701		
OR		
MRS. ROBIN OTT PROGRESS FUELS CORPORATION POST OFFICE BOX 15208 ST. PETERSBURG, FLORIDA 33733		
PHONE NO. 727/824-6670 FAX NO. 727/824-6601		



**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
Crystal River 1 & 2  
PAGE 3 OF 3

**PROJECTED QUALITY**

DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %	6	8	8.0% MAX.
SURFACE MOISTURE %	2	4	5.0% MAX.
ASH %	11	13	12% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	1.5	1.6	2.1 LB/MAX. <sup>1</sup>
BTU/LB	12,500	12,500	12,000/LB MIN.
ASH SOFTENING DEGREES FAHRENHEIT H=W (R)	2700	2700	2,500 MIN.
VOLATILE %	32	30	31.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	45	42	42 MIN. <sup>3</sup>
SIZE	2 x 0		2" X 0"
FINES (-1/4" X 0")	40		45% MAX. <sup>5</sup>
FIXED CARBON %	73.04		—
HYDROGEN %	4.77		—
NITROGEN %	1.32		—
CHLORINE %	.10		—
OXYGEN %	6.13		—

<sup>1</sup> MUST BE MET ON AN INDIVIDUAL SHIPMENT BASIS.

<sup>2</sup> ADJUSTABLE IN DIRECT PROPORTION TO BTU.

<sup>3</sup> ADJUSTABLE IN INVERSE PROPORTION TO BTU.

<sup>4</sup> PREFERRED VALUE, COALS NOT MEETING THIS SPECIFICATION WILL BE CONSIDERED.

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV.
P <sub>2</sub> O <sub>5</sub>	.15		Antimony		
SiO <sub>2</sub>	59.84		Arsenic	1.70	
Fe <sub>2</sub> O <sub>3</sub>	4.50		Beryllium	2.22	
Al <sub>2</sub> O <sub>3</sub>	29.10		Cadmium	1.11	
TiO <sub>2</sub>	1.57		Chromium	15.50	
CaO	1.11		Cobalt	22.20	
MgO	.61		Fluorine		
SO <sub>3</sub>	.23		Lead	6.08	
K <sub>2</sub> O	1.35		Lithium		
Na <sub>2</sub> O	.12		Manganese	74	
Undetermined			Mercury	.18	
Base/Acid Ratio	.08		Nickel	150	
Maximum Base/Acid Ratio	.10		Selenium	4.05	

\*NOTE: ADD SHEETS IF MORE THAN ONE SEAM

LOGAN & KANAWHA COAL COMPANY, INC.  
COAL SPECIFICATION SHEET

Mine	Snap Creek
Annual Production	1,000,000
Seam	Coalburg/Stockton
Mining Method	Surface
Delivery	CSX

**Chemistry-As Received**

Moisture	8.00
Ash	12.00
Volatile	33-35
Sulfur	0.85
BTU	12,500

Hargrove	45
----------	----

Chlorine	0.14
----------	------

**Ultimate-As received basis**

Moisture	2.30
Carbon	72.16
Hydrogen	4.27
Nitrogen	1.24
Sulfur	0.85
Ash	11.70
Oxygen	7.48

**Ash Fusion**

Initial Deformation	2700
Softening	2700
Hemispherical	2700
Fluid	2700

**Ash Mineral Analysis**

Silicon Dioxide	54.38
Aluminum Oxide	34.37
Calcium Oxide	1.09
Potassium Oxide	2.10
Magnesium Oxide	0.60
Sodium Oxide	0.20
Sulfur Trioxide	0.58
Feric Oxide	4.37
Titanium Dioxide	1.38
Phosphorous Pentox	0.04
Strontium Oxide	0.10
Barium Oxide	0.02
Manganese Oxide	0.08
Undetermined	0.68

Nearest town: Man, WV

Mine State permit # S-5013-96  
Loadout State permit # O-5011-96  
Mine MSHA # 46-08917  
Loadout MSHA # 46-08918

100% raw, 0% washed  
Size: 2 x 0





**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
Crystal River 1 & 2  
PAGE 1 OF 3

CONTACT: Beverly P. Reynolds		TELEPHONE NO. 606-638-0360	
MINE(S): Apex #3	BOM DISTRICT: 8	COUNTY: Pike	STATE: KY
ORIGIN RAILROAD(S)/DISTRICT: EK____ CV____ Big Sandy____ Other: Clinchfield____		R/R TIPPLE DESIGNATION/NUMBER: 50513	
TYPE OF LOADING FACILITY UNIT TRAIN: YES		SINGLE CAR: _____ TRAINLOAD: _____	
MAXIMUM LOADING CAPACITY 12,000 TONS		24 Hour (7 hours actual loading time) _____ HOURS	
WATER DELIVERY CAPABILITY: _____ YES <input checked="" type="checkbox"/> NO		IMPORT COAL: LOAD PORT _____	
SHIP THROUGH: _____ DOCK		LOAD RATE _____	
TOTAL PRODUCTION CAPACITY PER MONTH: 60,000 TONS			
PRODUCTION PER MONTH—MEETING OUR COAL SPECIFICATIONS: 60,000 TONS			
SEAMS: Alma/Elkhorn 2			
COAL PREPARATION: 100% RAW		BLEND RATIOS _____	
TYPE OF COAL WASHER, IF WASHED: _____		WASHED _____ COMBINATION _____	
TYPE OF COAL SAMPLING: HSS 2 Stage Automatic			
TYPE OF LABOR CONTRACT(S): Union free		DATE FOR RENEGOTIATION: _____	
TYPE OF COAL WEIGHING: Kanawha Ramsey Belt Scale		SCALE CERTIFIED? <input checked="" type="checkbox"/> YES _____ NO	
PERIOD	TONNAGE	BASE PRICE PER TON FOB MINE	
JAN - DEC, 05	250,000 tons	=	
JAN - DEC, 06	250,000 tons	=	
IF THIS COAL IS OFFERED BY A COMPANY OR INDIVIDUAL WHICH IS NOT THE PRODUCER PLEASE INDICATE SO BY MAKING AN "X" IN THIS SPOT			
PRODUCER'S COMMENTS			
CREDIT REFERENCES (Minimum two)			
CUSTOMER REFERENCES (Minimum four)			
SIGNATURE: <i>Beverly P. Reynolds</i>		TITLE: Sales Agent	DATE: 05/11/04
MAIL THIS FORM AND ANY ADDITIONAL INFORMATION TO			
MRS. ROBIN OTT PROGRESS FUELS CORPORATION ONE PROGRESS PLAZA, SUITE 600 ST. PETERSBURG, FLORIDA 33701		OR	MRS. ROBIN OTT PROGRESS FUELS CORPORATION POST OFFICE BOX 15208 ST. PETERSBURG, FLORIDA 33733
PHONE NO. 727/624-6670			



**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
Crystal River 1 & 2  
PAGE 2 OF 3

**CURRENT QUALITY**

DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %	6.50	7.00	8.0% MAX.
SURFACE MOISTURE %	4.00	5.00	5.0% MAX.
ASH %	12.40	13.00	12% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	1.95	2.1	2.1 LB/MAX. <sup>1</sup>
BTU/LB	12,550	12,500	12,000/LB MIN.
ASH SOFTENING DEGREES FAHRENHEIT H-W (R)	2600	2500	2,500 MIN.
VOLATILE %	30	29	31.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	52	50	42 MIN. <sup>3</sup>
SIZE	2 x 0	2 x 0	2" X 0"
FINES (-1/4" X 0")	30	40	45% MAX. <sup>4</sup>
FIXED CARBON %	55	50	-----
HYDROGEN %	4.4	4.0	-----
NITROGEN %	1.4	1.4	-----
CHLORINE %	0.10	.11	-----
OXYGEN %	6.2	6.0	-----

<sup>1</sup> MUST BE MET ON AN INDIVIDUAL SHIPMENT BASIS.

<sup>2</sup> ADJUSTABLE IN DIRECT PROPORTION TO BTU.

<sup>3</sup> ADJUSTABLE IN INVERSE PROPORTION TO BTU.

<sup>4</sup> PREFERRED VALUE, COALS NOT MEETING THIS SPECIFICATION WILL BE CONSIDERED

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV.
P <sub>2</sub> O <sub>5</sub>	0.08		Antimony		
SiO <sub>2</sub>	57		Arsenic		
Fe <sub>2</sub> O <sub>3</sub>	5.1		Beryllium		
Al <sub>2</sub> O <sub>3</sub>	29		Cadmium		
TiO <sub>2</sub>	1.2		Chromium		
CaO	1.2		Cobalt		
MgO	0.9		Fluorine		
SO <sub>3</sub>	0.6		Lead		
K <sub>2</sub> O	2.9		Lithium		
Na <sub>2</sub> O	0.7		Manganese		
Undetermined	0.5		Mercury		
Base/Acid Ratio			Nickel		
Maximum Base/Acid Ratio			Selenium		

\*NOTE ADD SHEETS IF MORE THAN ONE SEAM



**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
Crystal River 1 & 2  
PAGE 3 OF 3

**PROJECTED QUALITY**

DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %		4	8.0% MAX
SURFACE MOISTURE %			5.0% MAX
ASH %		4	12% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)			2.1 LB/MAX. <sup>1</sup>
BTU/LB		4	12,000/LB MIN
ASH SOFTENING DEGREES FAHRENHEIT H=W (R)		4	2,500 MIN
VOLATILE %		4	31.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE		4	42 MIN. <sup>3</sup>
SIZE			2" X 0"
FINES (-1/4" X 0")			45% MAX. <sup>5</sup>
FIXED CARBON %			-----
HYDROGEN %			-----
NITROGEN %			-----
CHLORINE %			-----
OXYGEN %			-----

*Same as  
Current Quality  
Sheet*

<sup>1</sup> MUST BE MET ON AN INDIVIDUAL SHIPMENT BASIS

<sup>2</sup> ADJUSTABLE IN DIRECT PROPORTION TO BTU.

<sup>3</sup> ADJUSTABLE IN INVERSE PROPORTION TO BTU.

<sup>4</sup> PREFERRED VALUE, COALS NOT MEETING THIS SPECIFICATION WILL BE CONSIDERED

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV
P <sub>2</sub> O <sub>5</sub>			Antimony		
SiO <sub>2</sub>			Arsenic		
Fe <sub>2</sub> O <sub>3</sub>			Beryllium		
Al <sub>2</sub> O <sub>3</sub>			Cadmium		
TiO <sub>2</sub>			Chromium		
CaO			Cobalt		
MgO			Fluorine		
SO <sub>3</sub>			Lead		
K <sub>2</sub> O			Lithium		
Na <sub>2</sub> O			Manganese		
Undetermined			Mercury		
Base/Acid Ratio			Nickel		
Maximum Base/Acid Ratio			Selenium		

\*NOTE: ADD SHEETS IF MORE THAN ONE SEAM

# COALSALES

Barbara E. Busby  
Vice President – Sales & Marketing

Peabody COALSALES Company

701 Market Street  
St. Louis, Missouri 63101-1826  
Phone 314.342.7600

May 11, 2004

Mr. A.W. Pitcher  
Vice President, Coal Procurement  
Progress Fuels Corporation  
One Progress Plaza  
200 Central Avenue  
St. Petersburg, FL 33701

Dear Al:

Peabody COALSALES Company is pleased to submit the attached proposal for non-compliance coal to Progress Fuels Corporation (PFC) for your consideration. This proposal will expire at 5:00 p.m. CDT on June 11, 2004.

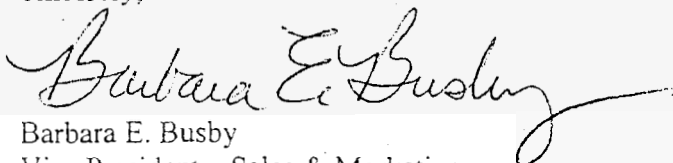
It is incumbent upon you to confirm with us that this Proposal is still outstanding at the time of its consideration and evaluation by you, and prior to any decision by you based on this Proposal.

This Proposal is further subject to the following conditions:

- Prior sale of the coal,
- Withdrawal by COALSALES at any time,
- Availability of the coal,
- Negotiation and execution of a mutually agreeable coal supply agreement,
- Approval of credit terms, and
- Obtaining the approvals of Peabody's senior management to the sale of the coal and to the execution of the negotiated coal supply agreement.

We appreciate the opportunity to submit this proposal and look forward to your response. Should you have any questions or require additional information please contact me.

Sincerely,



Barbara E. Busby  
Vice President – Sales & Marketing

Attachments

May 12, 2004

CAPP Product

**Non Compliance Coal Sales Proposal  
Progress Fuels Corporation**

**To:**

Mr. A.W. Pitcher  
Vice President, Coal Procurement  
**Progress Fuels Corp.**  
One Progress Plaza  
200 Central Avenue  
St. Petersburg, FL 33701

**Seller:**

**Peabody COALSALES Company**  
701 Market Street-9<sup>th</sup> Floor  
St. Louis, MO. 63101

**Producer:**

**Eastern Associated Coal Company**  
800 Laidley Tower  
Charleston, WV 25301

Phone: 314-342-7698

Fax: 314-342-7529

**Plant Destination:** Crystal River Plant

**Three Year Term, Quantity and Price  
Per Ton FOB Rail Car:**

Term	Quantity	CSX Price
CY2005	240,000 tons	[REDACTED]
CY2006	240,000 tons	[REDACTED]
CY2007	240,000 tons	[REDACTED]

- Tons to be shipped ratably over the term of the agreement
- Tonnage firm, no variances or option tons

**Btu**

**Premium/Penalty**

**Provision:** At the end of each month a quality adjustment would be computed based on the difference between the actual weighted average Btu per pound and the Monthly Weighted Average Btu per pound (12,500 Btu/lb.).

**SO2**

**Premium/Penalty**

**Provision:** At the end of the month, a quality adjustment would be computed based on the difference between the actual monthly weighted average pounds of SO2 per million Btu and 1.60 # SO2/mmBtu. The difference will be applied to the average "Air Daily Monthly SO2 Index."

1  
2  
3

2

**Mine/Rocklick Plant information:**

<b>Mine</b>	Rocklick
<b>Location:</b>	Wharton
	Winifrede
<b>Mining Method:</b>	Room and Pillar/Longwall
<b>Annual Total Shipments:</b>	5,000,000+ Tons
<b>Mine Union:</b>	UMWA 17
<b>Mine District:</b>	8

**Coal Quality: (additional Typical Analysis attached)**

<b>Parameter (as received)</b>	<b>Monthly Wtd. Average</b>	<b>Min</b>	<b>Max</b>
<b>Btu/lb.</b>	12,500	12,200	---
<b>Sulfur, %</b>	---	---	1.0
<b>Ash, %</b>	---	---	13.5
<b>Moisture, %</b>	7.0	---	---
<b>Volatiles, %</b>	30.0	---	---
<b>HGI</b>	42	40	---
<b>AFT (H=W)</b>	2600	---	---
<b>Volatiles, %</b>	30.0	---	---
<b>Size, Inches</b>	2X0	---	3.0
<b>Minus ¼"</b>	---	---	50.0%

**Rail Origin:**

<b>Loadout Details</b>	Rocklick
<b>Shipping Point</b>	Lick, WV
<b>Railroad</b>	CSX
<b>Freight District</b>	CSX-Kanawa Coal River II
<b>OPSL</b>	CSXT 65288
<b>Unit Train Car Rating</b>	150
<b>Loadout Capacity</b>	< 4.0 Hours

**Sampling System:** Three (3) Stage Automatic Sampler

**Weighing System:** Batch Weigh Bin System

**Scale Certification:** Certification Annually

**Expiration Date:** This proposal expires at 5:00 p.m., June 11, 2004.

**Substitution:** Seller reserves the right, but not the obligation, to substitute coal from other origins at the same delivered price per mmBtu.

**Laws:** The price is inclusive of all government taxes, fees, royalties, and other impositions in effect as of May 12, 2004. The price is subject to adjustment after May 12, 2004 for full pass through of any subsequent changes in cost when such changes are caused by a change in existing, or enactment of new government taxes, fees, royalties, or other impositions. Seller will use commercially reasonable efforts to mitigate the impact of any Government Impositions on Buyer.

*A scheduled* modification or termination of an existing law, including the elimination of the existing AML fee, shall not be cause to adjust the base price. In the event of the enactment of a new AML fee, Seller shall not be entitled to collect any new AML fee as a change in law until and unless the new AML fee exceeds the existing AML fee currently being collected as of the contract date.

**Shipping Schedule:** Annual volume to be shipped and received in approximately equal monthly quantities.

**Weights, Sampling, and Analysis:** Seller's weights, sampling and analysis to govern for payment and quality administration. Analysis to be performed by a third-party independent laboratory.

**Title and Risk of Loss:** Title to and risk of loss of all coal bought and sold under this agreement will pass to PEC and coal will be considered to be delivered by COALSALES when it is loaded into the railcar at the mine.

**Invoicing and Payment:** COALSALES will issue invoices to PEC for coal deliveries on a semi-monthly basis for coal shipped from the 1<sup>st</sup> through the 15<sup>th</sup> and the 16<sup>th</sup> through the end of each month. COALSALES will issue separate invoices for all adjustments including quality on a monthly basis. Electronic payment will be made by PEC 10 days after invoice is received.

**Credit Policy:** Contract subject to mutually acceptable credit language.

**Other Provisions:** Other terms and conditions such as force majeure, confidentiality, etc. are subject to negotiation.

**Approval:** Offer is subject to both parties obtaining senior management approval.





PROGRESS  
FUELS  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
Crystal River 1 & 2  
PAGE 1 OF 3

PRODUCER NAME: Smoky Mountain Coal Corp. (agent for Coal River Resources)		
STREET ADDRESS: 9725 Cogdill Road, Suite 203 Knoxville, TN 37932		
CONTACT: John McDonnell	TELEPHONE NO. 865-966-8222	
MINE(S): Coal River	BOM DISTRICT: 8	COUNTY: Boone STATE: WV
ORIGIN RAILROAD(S)/DISTRICT: EK CV Big Sandy Other Kanawha		R/R TIPPLE DESIGNATION/NUMBER: 82204
TYPE OF LOADING FACILITY: UNIT TRAIN: <input checked="" type="checkbox"/> SINGLE CAR: TRAINLOAD:		
MAXIMUM LOADING CAPACITY: 15000 TONS 4 HOURS 150 TRACK CAPACITY		
WATER DELIVERY CAPABILITY: YES NO IMPORT COAL: LOAD PORT		
SHIP THROUGH: DOCK LOAD RATE:		
TOTAL PRODUCTION CAPACITY PER MONTH: 70,000 TONS		
PRODUCTION PER MONTH—MEETING OUR COAL SPECIFICATIONS: 70,000 TONS		
TYPE OF MINE: 0 % DEEP 100% STRIP % AUGER		
SEAMS: Cedar Grove, #2 Gas & Powellton		BLEND RATIOS: 35/35/30
COAL PREPARATION: 100 RAW 0 WASHED COMBINATION		
TYPE OF COAL WASHER, IF WASHED: N/A		
TYPE OF COAL SAMPLING: Ramsey Sweep Sampler		
TYPE OF LABOR CONTRACT(S): N/A		DATE FOR RENEGOTIATION:
TYPE OF COAL WEIGHING: Kanawha Batch Scales		SCALE CERTIFIED? <input checked="" type="checkbox"/> YES NO
PERIOD	TONNAGE	BASE PRICE PER TON FOB MINE
1/1/05 - 12/31/05	240,000	
IF THIS COAL IS OFFERED BY A COMPANY OR INDIVIDUAL WHICH IS NOT THE PRODUCER PLEASE INDICATE SO BY MAKING AN "X" IN THIS SPOT.		
PRODUCER'S COMMENTS: This proposal is subject to prior sale of the coal being offered.		
CREDIT REFERENCES (Minimum two): Amsouth Bank and First Tennessee Bank		
CUSTOMER REFERENCES (Minimum four): Duke Power, Santee Cooper, Cinergy and Savannah Electric		
SIGNATURE: <i>John McDonnell</i>		TITLE: VP - Sales
MAIL THIS FORM AND ANY ADDITIONAL INFORMATION TO:		DATE: 5/10/04
MRS. ROBIN OTT PROGRESS FUELS CORPORATION ONE PROGRESS PLAZA, SUITE 800 ST. PETERSBURG, FLORIDA 33701		OR MRS. ROBIN OTT PROGRESS FUELS CORPORATION POST OFFICE BOX 15208 ST. PETERSBURG, FLORIDA 33733
PHONE NO. 727/824-6670 FAX NO. 727/824-5801		



**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
Crystal River 1 & 2  
PAGE 2 OF 3

**CURRENT QUALITY**

DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %	5.0	8.0	8.0% MAX.
SURFACE MOISTURE %	3.0	5.0	5.0% MAX.
ASH %	12.5	13.0	12% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	1.8	2.1	2.1 LB/MAX. <sup>1</sup>
BTU/LB	12100	12000	12,000/LB MIN.
ASH SOFTENING DEGREES FAHRENHEIT H=W (R)	2700	2500	2,500 MIN
VOLATILE %	33.0	31.0	31.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	46	42.0	42 MIN. <sup>3</sup>
SIZE	2x0	2x0	2" X 0"
FINES (-1/4" X 0")	40	45	45% MAX. <sup>4</sup>
FIXED CARBON %	54.0	52-58	—
HYDROGEN %	4.6	5.0	—
NITROGEN %	1.3	1.6	—
CHLORINE %	0.27	0.35	—
OXYGEN %	5.75	6.25	—

<sup>1</sup> MUST BE MET ON AN INDIVIDUAL SHIPMENT BASIS.

<sup>2</sup> ADJUSTABLE IN DIRECT PROPORTION TO BTU.

<sup>3</sup> ADJUSTABLE IN INVERSE PROPORTION TO BTU.

<sup>4</sup> PREFERRED VALUE, COALS NOT MEETING THIS SPECIFICATION WILL BE CONSIDERED.

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV.
P <sub>2</sub> O <sub>5</sub>	0.24		Antimony	N/A	
SiO <sub>2</sub>	55.47		Arsenic	10.76	
Fe <sub>2</sub> O <sub>3</sub>	6.74		Beryllium	3.92	
Al <sub>2</sub> O <sub>3</sub>	27.90		Cadmium	0.34	
TiO <sub>2</sub>	1.33		Chromium	15.24	
CaO	0.92		Cobalt	7.59	
MgO	1.02		Fluorine	84.12	
SO <sub>3</sub>	0.64		Lead	9.64	
K <sub>2</sub> O	4.08		Lithium	N/A	
Na <sub>2</sub> O	0.64		Manganese	12.15	
Undetermined	1.02		Mercury	0.15	
Base/Acid Ratio	0.16		Nickel	19.04	
Maximum Base/Acid Ratio	0.20		Selenium	6.62	



**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
Crystal River 1 & 2  
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**PROJECTED QUALITY**

DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %	5.0	8.0	8.0% MAX.
SURFACE MOISTURE %	3.0	5.0	5.0% MAX.
ASH %	12.5	13.0	12% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	1.8	2.1	2.1 LB/MAX. <sup>1</sup>
BTU/LB	12100	12000	12,000/LB MIN.
ASH SOFTENING DEGREES FAHRENHEIT H=W (R)	2700	2500	2,500 MIN.
VOLATILE %	33.0	31.0	31.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	46	42.0	42 MIN. <sup>3</sup>
SIZE	2x0	2x0	2" X 0"
FINES (-1/4" X 0")	40	45	45% MAX. <sup>5</sup>
FIXED CARBON %	54.0	52-58	—
HYDROGEN %	4.6	5.0	—
NITROGEN %	1.3	1.6	—
CHLORINE %	0.27	0.35	—
OXYGEN %	5.75	6.25	—

<sup>1</sup> MUST BE MET ON AN INDIVIDUAL SHIPMENT BASIS.

<sup>2</sup> ADJUSTABLE IN DIRECT PROPORTION TO BTU.

<sup>3</sup> ADJUSTABLE IN INVERSE PROPORTION TO BTU.

<sup>4</sup> PREFERRED VALUE. COALS NOT MEETING THIS SPECIFICATION WILL BE CONSIDERED

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV
P <sub>2</sub> O <sub>5</sub>	0.24		Antimony	N/A	
SiO <sub>2</sub>	55.47		Arsenic	10.76	
Fe <sub>2</sub> O <sub>3</sub>	6.74		Beryllium	3.92	
Al <sub>2</sub> O <sub>3</sub>	27.90		Cadmium	0.34	
TiO <sub>2</sub>	1.33		Chromium	15.24	
CaO	0.92		Cobalt	7.59	
MgO	1.02		Fluorine	84.12	
SO <sub>3</sub>	0.64		Lead	9.64	
K <sub>2</sub> O	4.08		Lithium	N/A	
Na <sub>2</sub> O	0.64		Manganese	12.15	
Undetermined	1.02		Mercury	0.15	
Base/Acid Ratio	0.16		Nickel	19.04	
Maximum Base/Acid Ratio	0.20		Selenium	6.62	

\*NOTE: ADD SHEETS IF MORE THAN ONE SEAM

ADDITIONAL PURCHASES

2005-2006

COPIES

## COAL PURCHASE CONFIRMATION

Buyer: Progress Fuels Corporation  
One Progress Plaza, BT10C  
200 Central Avenue  
St. Petersburg, FL 33701  
UNITED STATES OF AMERICA  
(P) 727-824-6692 (F) 727-824-6601

Seller: Coal Marketing Company Ltd.  
7 Bachelor's Walk  
Dublin 1, Ireland  
(P) 353-1-878-7799 (F) 353-1-878-7803

The purpose of this letter is to confirm the agreement entered into this 25<sup>th</sup> day of October, 2004, between Coal Marketing Company Ltd. ("Seller") and Progress Fuels Corporation ("Buyer"), individually a "Party" and collectively the "Parties", regarding the sale and purchase of Coal (the "Transaction") under the terms specified herein.

This Coal Purchase Confirmation (the "Confirmation"), and the General Terms and Conditions ("GTC") that each are attached hereto or transmitted herewith and which shall supplement and are incorporated into this Confirmation, shall be referred to herein as the "Agreement". Any capitalized term used in this Agreement and not defined in the Section in which it appears shall have the meaning set forth in Section 1 of the GTC. Commencement of deliveries of Coal (as defined herein) by Seller under the Transaction described herein shall constitute acceptance of the terms set forth in this Agreement, without regard to whether or not Seller has actually signed this Confirmation. In the event of any conflict between this Confirmation and the GTC, the terms of this Confirmation shall prevail. Notwithstanding any other agreement between the Parties to the contrary, any terms and conditions proposed by Seller that purport to modify, supplement or amend this Agreement shall not be binding upon Buyer unless Buyer has expressly agreed to such terms and conditions in writing.

**Product Description:** Steam Coal in Bulk  
**Seller:** Coal Marketing Company Ltd.  
**Buyer:** Progress Fuels Corporation  
**Term:** October 2004—December 2006  
**Contract Quantity:** 510,000 total tons +/- 10% shipped in lots at Seller's option between 55,000 tons and 75,000 tons.  
**Contract Price:** [REDACTED]  
**Delivery Point:** Shall be the point designated as such in the Delivery Specifications attached hereto as Exhibit 1.  
**Production Source(s):** Cerrejon Mines  
**Destination Plant(s):** Progress Energy Florida's Crystal River Units 4 & 5  
**Delivery Schedule:** September 2004—December 2005 = 210,000 tons +/- 10%  
January 2006—December 2006 = 300,000 tons +/- 10%  
Shipping schedule to be determined and mutually agreed upon.  
**Delivery Specifications:** The Parties agree to comply with the Delivery Specifications attached hereto as Exhibit 1. In the event of any conflict between the Delivery Specifications and the GTC, the terms of the Delivery Specifications shall prevail.  
**Quality Specifications:** All Coal delivered hereunder shall meet the Quality Specifications specified in the following table for each of the listed criteria. The Rejection Limits shall be as specified in the following table for each of the listed criteria. All amounts are as measured on an as-received basis in accordance with ASTM standards.



	Quality Specification	Rejection Limit
BTU:	11,800 Btu/lb. monthly weighted average	11,500 Btu/lb.
SO <sub>2</sub> lbs./MMBtu:	1.2 lbs. monthly weighted average	greater than 1.2 lbs.
Moisture:	11.3 % maximum	greater than 12.6 %
Ash:	7.3 % maximum	greater than 10 %
Volatile Matter:	33.5 % minimum	less than 31 %
HGI:	47 minimum	less than 42
AST:	2320°F minimum	less than 2280°F
Pyritic Sulfur	less than 0.2	greater than 0.25
Sizing:	2" x 0"	greater than 55% by weight fines passing ¼" screen

**Quality Price  
Adjustments:**

(1) BTU Price Adjustment Calculation. If, on a per shipment basis, the weighted average for BTU content for Coal delivered hereunder is either above or below the Quality Specification for BTU content specified above, an adjustment to the Contract Price (either an increase or decrease, as the case may be), shall be made with respect to such Coal as follows:

$$\text{Contract Price} \times \frac{(\text{Actual Btu/lb.} - \text{Quality Specification Btu/lb.})}{\text{Quality Specification Btu/lb.}}$$

The Contract Price applicable to such Coal shall be adjusted upward if the Actual Btu/lb. exceeds the Quality Specification for Btu/lb. and the Contract Price applicable to such Coal shall be adjusted downward if the Actual Btu/lb. is less than the Quality Specification for Btu/lb.

(2) SO<sub>2</sub> Price Adjustment Calculation. If the weighted average, on a per shipment basis, for SO<sub>2</sub> content for Coal delivered hereunder is below the Quality Specification for SO<sub>2</sub> content specified above, less a .2# SO<sub>2</sub> dead band, an adjustment to the Contract Price, shall be made with respect to such Coal as follows:

$$(\text{Quality Specification SO}_2 - \text{Actual SO}_2) \times \frac{(\text{Quality Specification Btu/lb.} \times \text{Allowance Price})}{1,000,000}$$

However, if the weighted average, on a per shipment basis, is above the Quality Specifications for SO<sub>2</sub> content specified above, with no dead band, the cargo will be rejected in accordance with Section 6(b). In lieu of rejection, the following adjustment will be made.

$$\text{Current Contract Price} \times \text{Penalty}$$

Where "Allowance Price" means the "SO<sub>2</sub> Monthly Price" or "SO<sub>2</sub> Allowance Price", as the case may be, that relates to the applicable month in which such Coal was delivered, as reflected in Coal Daily as published by Argus Media Ltd. or any successor thereto.

(3) Ash, Moisture, and Grind (HGI) Price Adjustment Calculations.

Ash. If the ash content of any Shipment of Coal delivered hereunder exceeds the Quality Specification for "Ash" in the table above, the Contract Price for such Coal shall be reduced by XXXX per ton for each one percent (1%) variation from the Quality Specification. If the ash content of any Shipment of Coal delivered hereunder is less than the Quality Specification for "Ash" in the table above, the Contract Price for such

Coal shall be increased by [REDACTED] per ton for each one percent (1%) variation from the Quality Specification. 1

**Moisture.** If the moisture content of any Shipment of Coal delivered hereunder exceeds the Quality Specification for "Moisture" in the table above, the weight for such Coal shall be reduced by [REDACTED] for each one percent (1%) variation from the Quality Specification. 2

**Grindability (HGI).** If the grindability (HGI) of any Shipment of Coal delivered hereunder is less than the Quality Specification for "HGI" in the table above, the Contract Price for such Coal shall be reduced by [REDACTED] per ton for each point variation from the Quality Specification. 3

**Billing and Payment:** With respect to deliveries of Coal made under this Agreement, Buyer shall pay Seller according to the following schedule: (1) For Coal received at the location designated by Buyer for unloading from the first (1<sup>st</sup>) day of a month in which deliveries are made ("Delivery Month") through the fifteenth (15<sup>th</sup>) day of such Delivery Month and for which payment has not previously been received, payment will be made on or before the tenth (10<sup>th</sup>) day of the month immediately following such Delivery Month; and (2) For Coal received during the remainder of such Delivery Month and for which payment has not previously been received, payment will be made on or before the twenty-fifth (25<sup>th</sup>) day of the month immediately following such Delivery Month. With respect to the payment of Quality Price Adjustments (as specified above), the calculation of such price adjustments shall be completed by the end of the month immediately following the applicable Delivery Month. Payment of Quality Price Adjustments shall be made by the 25<sup>th</sup> day of the month immediately following the calculation of such Quality Price Adjustments.

**CEMS:** Coal supplied under this Agreement shall be reasonably consistent throughout each shipment with respect to SO<sub>2</sub>. If, in the opinion of Buyer, CEMS readings would exceed 1.2LB, then Seller shall reimburse Buyer additional costs associated with offloading, stockpiling, or blending the affected cargo.

This Confirmation shall supersede any broker confirmation concerning this Transaction.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed (including by means of facsimile signatures), by their respective duly authorized representatives as of the first date mentioned herein.

Sincerely,

Progress Fuels Corporation

By: 

Name: A. W. Pitcher

Title: Vice President-Coal Procurement

Date: 10/25/04

AGREED TO AND ACCEPTED BY:

Coal Marketing Company Ltd.

By: 

Name: H. C. GATISS

Title: CEO

Date: 18 NOV 04

**GENERAL TERMS AND CONDITIONS  
TO COAL PURCHASE CONFIRMATION DATED OCTOBER 25, 2004**

These General Terms and Conditions ("GTC") shall supplement and be incorporated into the confirmation to which they are attached or with which they are transmitted (the "Confirmation").

**1. Definitions.**

"Bankruptcy Proceeding" means with respect to a Party or entity, such Party or entity (a) makes an assignment or any general arrangement for the benefit of creditors, (b) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy or similar law for the protection of creditors, or has such a petition filed against it, (c) otherwise becomes bankrupt or insolvent (however evidenced) or (d) is unable to pay its debts as they fall due.

"Business Day" means any day on which the Federal Reserve member banks in New York City are open for business. A Business Day shall run from 8:00 a.m. to 5:00 p.m. Eastern Prevailing Time.

"Buyer" means the entity specified as such on the Confirmation.

"Coal" means crushed bituminous coal, containing no synthetic fuels, and reasonably free from any extraneous material (including, but not limited to, mining debris, bone, slate, iron, steel, petroleum coke, earth, rock, pyrite, wood and blasting wire) other than mineral matter naturally incorporated into the coal during the mining process, with no intermediate sizes added or removed and otherwise meeting the Quality Specifications set forth in the Confirmation to be sold by Seller and purchased by Buyer hereunder.

"Contract Price" means the price in \$U.S. per Ton, as set forth in the Confirmation, to be paid by Buyer to Seller for Coal delivered hereunder.

"Costs" means any brokerage fees, commissions and other transactional costs and expenses reasonably incurred by the Non-Defaulting Party as a result of entering into new purchase or sale (as applicable) arrangement(s) with one or more third parties in order to replace the quantity of Coal not delivered or received hereunder as a result of the early termination of this Agreement. In no event shall such costs include any penalties or similar charges.

"Defaulting Party" shall have the meaning set forth in Section 11.

"Delivery Point" shall have the meaning set forth in the Delivery Specifications.

"Delivery Specifications" means the delivery specifications attached hereto as Exhibit 1.

"Destination Plant" means one of Buyer's electric generating plants, as specified in the Confirmation (if applicable).

"Force Majeure" means an event or circumstance which prevents one Party (the "Claiming Party") from performing its obligations under this Agreement, which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided. Notwithstanding the foregoing, Force Majeure shall not include (i) the Buyer's ability to purchase replacement coal at a price lower than the price set forth in this Agreement; or (ii) the loss of Seller's supply or Seller's ability to sell the Coal at a more advantageous price.

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

"Guarantee" means a guarantee from a Party's corporate parent or other affiliate that is issued to the other Party to this Agreement (as beneficiary thereof), to support the obligations of such first Party.



"Guarantor" means with respect to either Party, the entity that has provided a Guarantee to support the obligations of such Party under this Agreement.

"Independent Analysis" shall have the meaning set forth in Section 6.

"Interest Rate" means the Federal Funds (Effective) rate for that day opposite the caption in the weekly statistical release designated as H.15(519), or any successor publication, published by the Board of Governors of the Federal Reserve System.

"Letter of Credit" means one or more irrevocable, transferable, standby letters of credit from a major U.S. commercial bank or a U.S. branch office of a major commercial foreign bank, with such bank having a credit rating of at least "A-" from the Standard and Poor's Rating Group (a division of McGraw-Hill, Inc.) or "A3" from Moody's Investor Services, Inc. and capital surplus of at least \$10,000,000,000.00. Such letter of credit shall be in substance, tenor and format reasonably acceptable to the Party requesting the letter of credit.

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

"New Tax" shall have the meaning set forth in Section 5

"Non-conforming Shipment" shall have the meaning set forth in Section 6(b).

"Non-Defaulting Party" shall have the meaning set forth in Section 11

"Party" or "Parties" means either or both Buyer and Seller, as applicable.

"Performance Assurance" means collateral in the form of cash, Letter(s) of Credit, or other security reasonably acceptable to the requesting Party.

"Production Source(s)" shall mean the source or sources from which the Coal to be delivered pursuant to this Agreement will be produced as specified in the Confirmation.

"Quality Specifications" means the specifications for the Coal as set forth in the Confirmation.

"Rejection Limits" means the rejection limits for the Coal as set forth in the Confirmation.

"Replacement Price" means the price at which Buyer, acting in a commercially reasonable manner, purchases replacement for the Coal not delivered by Seller hereunder plus any costs reasonably incurred by Buyer in purchasing such substitute coal, including without limitation any additional transportation and/or storage charges, if any. Absent such a purchase of substitute coal, the Replacement Price shall be the market price for similar coal as determined by Buyer in a commercially reasonable manner.

"Sales Price" means the price at which Seller, acting in a commercially reasonable manner, resells all or any portion of the Coal not received by Buyer hereunder, deducting from such proceeds any costs reasonably incurred by Seller in reselling such Coal, including any additional transportation and/or storage charges, if any, reasonably incurred by Seller in delivering such coal to any third party purchasers. Absent such a re-sale, the Sales Price shall be the market price for similar coal as determined by Seller in a commercially reasonable manner.

"Seller" means the entity specified as such on the Confirmation

"Shipment" means, as applicable, one barge load or one Vessel load of Coal.

"Taxes" shall mean any or all ad valorem, property, occupation, severance, generation, first use, conservation, Btu or energy, utility, gross receipts, privileged, sales, use, consumption, excise, lease transaction and other taxes,

governmental charges, licenses, fees permits and assessments, or increases therein, other than taxes based on net income or net worth.

"Ton" means a net ton of two thousand (2,000) pounds avoirdupois weight.

"Vessel" means any ocean-going barge, tow (or any combination of boats or barges with the ability to function as a single unit) or other vessel that Seller nominates to deliver Coal hereunder.

## **2. Purchase and Sale Obligations, Inspection, Weighing and Scheduling.**

(a) Seller agrees to sell and deliver to Buyer, and Buyer agrees to purchase and receive from Seller, the Contract Quantity of Coal to be delivered at the Delivery Point as provided in the Confirmation. All Coal shall be of a quality which does not meet or exceed any of the Rejection Limits specified in the Confirmation (unless it is otherwise accepted by Buyer). Such Coal shall (i) contain no synthetic fuels, (ii) be reasonably free from any extraneous materials, (iii) be consistent in quality throughout a Shipment, and (iv) meet the size required. Seller or Seller's designated agent will visually inspect all Vessels prior to loading and ascertain that the Vessels are empty and suitable for loading. Any Vessels found unsuitable for loading or contaminated with material shall not be loaded and the applicable transporter shall be notified by Seller of such rejected Vessels. Seller shall be responsible for all costs incurred by Buyer, including the cost of any Coal lost in transit, resulting from Seller's failure to properly inspect the Vessels. If Buyer should experience (or reasonably be expected to experience) difficulties in unloading, handling or utilization of the Coal delivered by Seller (excluding difficulties arising directly from Buyer's negligence), Buyer has the right, but not the obligation, to reject any such Shipment. Buyer's right to reject applies to all Shipments under this Agreement. Prior to any such rejection, Buyer shall notify Seller, at which time Seller may inspect such Coal. Seller agrees to immediately take title to such rejected Shipment and reimburse Buyer for any expenses incurred by Buyer in transporting, handling, unloading or utilization of such rejected Coal.

(b) The weight of the Coal delivered under this Agreement shall be determined by Buyer causing a marine surveyor to take a draught survey at the unloading port of each Vessel delivering Coal hereunder. Such draught survey shall be performed at Buyer's expense. The weights so derived shall be the basis upon which payment shall be made for Coal delivered hereunder. Seller shall provide loading weights to Buyer for informational purposes prior to vessel arrival at unload port. However, if difference between weight of coal delivered at loading and discharge port exceeds 1.0% then the average of the two weights will be final and binding for the parties.

(c) Unless otherwise specified in the Confirmation, scheduling of deliveries under this Agreement shall be determined by mutual agreement of Buyer and Seller. If Seller has reason to believe that any deliveries hereunder will not be made when scheduled, Seller shall provide Buyer with written notice setting forth the reason for the anticipated delay. Buyer shall have sole discretion whether or not to accept or reject any delayed deliveries and any acceptance thereof shall be without prejudice to any of Buyer's rights hereunder. Seller shall be responsible for any demurrage or penalties resulting from the delay. Within twenty-four hours (24) of completion of the loading of each Shipment, Seller shall notify Buyer via facsimile of the loading completion date, the weight associated with such Shipment, and either the Independent Analysis or the mine lab's analysis (if the Independent Analysis is not yet available), of each Shipment. No Coal shall be unloaded hereunder without prior receipt by Buyer of the either the Independent Analysis or the mine lab's analysis (as the case may be) for each Shipment. Seller shall be responsible for any demurrage incurred by Buyer while awaiting receipt of the information described in the previous sentence. Except as otherwise provided in the Confirmation, Seller shall be obligated to deliver and Buyer shall be obligated to accept, one hundred percent (100%) of the Coal scheduled for delivery. Any shortfall in scheduled deliveries shall only be made up at Buyer's sole discretion. Buyer shall not be required to accept any quantity of Coal delivered that is in excess of the total amount of Coal scheduled for delivery; provided, however, that if Buyer accepts such excess quantity of Coal, Buyer may, upon written notice to Seller, require that such excess amounts be deducted from the quantity of Coal to be delivered during the remainder of the Term.

**3. Title; Risk of Loss.** Unless otherwise specified in the Delivery Specifications, title to and risk of loss of the Coal shall pass from Seller to Buyer at the Delivery Point. Seller warrants that it shall have good and marketable title to the Coal and shall deliver such Coal to Buyer free and clear of all claims and encumbrances arising prior to the transfer of title to Buyer. Seller shall indemnify, defend and hold harmless Buyer from any and all claims

arising with respect to the Coal or any loss thereof prior to the point that title and risk of loss have passed to Buyer. Buyer shall indemnify, defend and hold harmless Seller from any and all claims arising with respect to the Coal or any loss thereof after the point that title and risk of loss have passed to Buyer.

**4. Taxes and Other Liabilities.** Each Party shall use reasonable efforts to administer this Agreement and implement its provisions in accordance with the intent to minimize Taxes. Seller shall be solely responsible for all Taxes relating to the mining, beneficiation, production, sale, use, loading and delivery of Coal to Buyer or in any way accrued or levied prior to the transfer of title to the Coal to Buyer. If either Party is exempt from Taxes, it shall provide to the other Party a certificate of exemption or other reasonably satisfactory evidence of such exemption. Each Party shall use reasonable efforts to obtain and cooperate with the attempts by the other Party to obtain any pass through, exemption from or reduction of any Tax. Buyer shall be solely responsible for all Taxes relating to Coal accrued or levied at or after the transfer of title to the Coal to Buyer. Each Party hereby agrees to indemnify, release, defend and hold harmless the other Party from and against any and all Taxes with respect to the Coal that are the responsibility of the other Party as provided in this paragraph.

**5. New Taxes.** For purposes of this Section 5, New Taxes shall mean (i) any Taxes enacted and effective after the effective date of this Agreement, or (ii) any law, order, rule or regulation, or interpretation thereof, enacted and effective after the effective date of this Agreement resulting in application of any Tax to a new or different class of persons ("New Tax(es)"). If any New Tax is imposed for which Buyer or Seller is responsible, then such Party affected by the New Tax ("New Tax Affected Party") shall pay such New Tax and shall indemnify, defend, and hold harmless the other Party from any claims related to such New Tax. In this event parties will attempt to agree on a mutual solution directed to mitigating the loss/damages to the other parties imposed by such New Taxes. Failing to agree on a mutual solution, the party not claiming a new tax can terminate the Agreement with thirty (30) days written notice.

**6. Sampling, Specifications and Rejection.** Seller shall cause a representative sample of each shipment to be taken at loading and analyzed by an independent lab. These samples shall be used for shipment acceptance by Buyer.

(a) For cargo payment purposes, Seller shall cause a representative sample of each Shipment of Coal to be taken by a mechanical sampler or by any other method as mutually agreed between the Parties at Puerto Bolivar. All such samples will be divided into four (4) parts and placed in separate airtight containers. Seller shall cause one (1) part of each sample to be analyzed at Seller's expense and in accordance with ASTM standards on an "as received" basis by an independent commercial laboratory chosen by mutual agreement of the Parties (the "Independent Analysis"). The results of such Independent Analysis shall be reported to both Buyer and Seller. The second part of each sample (the "Referee Sample") shall be retained by such laboratory for a period of not less than 60 days after such sample is taken. The third part of the sample is for Seller's disposal and the fourth part of the sample is for Buyer's disposal. If either Party disputes the results of the Independent Analysis, such Party shall have the right, at such Party's expense, to request a mutually agreeable independent laboratory to analyze the Referee Sample. In such case, the results of the Referee Sample shall govern for all purposes hereunder.

(b) Seller shall cause all Coal delivered to Buyer to comply with the Quality Specifications and all Coal deliveries hereunder shall be subject to Buyer's right of inspection and rejection. If any Shipment triggers any of the rejection limits set forth in the Confirmation (a "Non-conforming Shipment"), Buyer, in its sole discretion shall have the right to reject such Non-conforming Shipment. If Buyer chooses not to exercise its rejection rights hereunder, then Buyer shall have the right but not the obligation to attempt to negotiate with Seller a reduced price for such non-conforming Coal. In the event any Non-conforming Shipment hereunder is rejected by Buyer, title to such Coal shall automatically revert back to Seller. Seller shall be responsible for promptly transporting the rejected Coal to an alternate destination determined by Seller and Seller shall reimburse Buyer for all out-of-pocket costs and expenses incurred by Buyer associated with the transportation, storage, handling and removal of the Non-conforming Shipment. Seller shall, if requested by Buyer, replace the rejected Coal within a reasonable period of time, provided that Buyer gives Seller notice of its desire for replacement Coal within forty-eight (48) hours after rejection of the Non-conforming Shipment.

(c) In the event there is a Non-conforming Shipment, then in such case Buyer shall have the right to suspend all further deliveries of Coal hereunder. Buyer shall notify Seller in writing of such suspension and, upon receipt of



Buyer's notice, Seller shall immediately suspend further deliveries and shall make commercially reasonable effort to correct the conditions giving rise to the delivery of non-conforming coal. Such suspension shall continue until Seller provides Buyer with assurances in writing that are satisfactory to Buyer that the conditions causing delivery of non-conforming coal have been corrected and that Seller can and shall deliver Coal meeting the Quality Specifications as required hereunder. If Seller fails to give such assurances within thirty (30) days after the date of Buyer's notice of suspension or if within the ensuing 90 days after such resumption of deliveries, any Shipment triggers any of the Rejection Limits specified in the Confirmation, it shall constitute an Event of Default hereunder with respect to Seller.

(d) Any waiver by Buyer of its suspension rights hereunder for any period shall not constitute a waiver of such right for any subsequent period(s).

## **7. Billing and Payment.**

(a) With respect to deliveries of Coal made under this Agreement, Buyer shall pay Seller by wire transfer or Automated Clearinghouse ("ACH") in accordance with the electronic transfer instructions provided by Seller, in immediately available United States funds, according to the following schedule: (1) For Coal received at the location designated by Buyer for unloading from the first (1<sup>st</sup>) day of a month in which deliveries are made ("Delivery Month") through the fifteenth (15<sup>th</sup>) day of such Delivery Month and for which payment has not previously been received, payment will be made on or before the tenth (10<sup>th</sup>) day of the month immediately following such Delivery Month; and (2) For Coal received during the remainder of such Delivery Month and for which payment has not previously been received, payment will be made on or before the twenty-fifth (25<sup>th</sup>) day of the month immediately following such Delivery Month. With respect to the payment of Quality Price Adjustments (as specified in the Confirmation), the calculation of such price adjustments shall be completed by the end of the month immediately following the applicable Delivery Month. Payment of Quality Price Adjustments shall be made by the 25<sup>th</sup> day of the month immediately following the calculation of such Quality Price Adjustments.

(b) With respect to any other amounts owing under this Agreement (i.e. any amounts not owing for Coal delivered), the Party that is owed such amount shall provide the other Party with an invoice, setting forth the amount owed. Such owing Party shall pay the amount of such invoice within ten (10) days of receipt thereof according to the instructions on such invoice. If such amounts are not paid by such deadline, such amounts shall accrue interest at the Interest Rate from the original due date until the date paid.

(c) If a Party in good faith reasonably disputes the amount set forth in an invoice, such Party (the "Disputing Party") shall provide to the other Party a written explanation specifying in detail the basis for the dispute and such Disputing Party, if it has not already done so, shall pay the undisputed portion of such amount no later than the due date therefor. If the Parties are thereafter unable to resolve the dispute within thirty (30) days of the Disputing Party's delivery of notice of the dispute, either through the exchange of additional documentation or good faith business negotiations, then either Party may seek whatever remedies are available to it at law or in equity.

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

**8. Access and Audit.** 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(s) 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) any and all records related to the production, weighing, or delivery of Coal delivered or to be delivered under this Agreement. In the event that Seller denies Buyer and/or Buyer's representatives such access and/or right to inspect, Seller agrees that monetary damages would not be an appropriate or sufficient remedy for such an occurrence and that Buyer shall have the right to pursue specific performance,

injunction or other equitable relief compelling Seller to grant such access to Buyer. Seller hereby explicitly waives any defense related to the pursuit of such relief.

#### 9. Force Majeure.

(a) If either Party is rendered unable by Force Majeure to carry out, in whole or in part, its obligations hereunder, such Party shall provide notice and reasonably full details of the event to the other Party as soon as reasonably practicable after the occurrence of the event (but in no event after 10 days of the initial occurrence thereof). Such notice may be given verbally but shall be confirmed in writing as soon as practicable thereafter. For so long as the event of Force Majeure is continuing, the obligations of the Party affected by the Force Majeure (other than the obligation to make payments hereunder) shall be suspended to the extent made necessary by the Force Majeure. The Party claiming Force Majeure shall exercise commercially reasonable efforts to remedy the Force Majeure as soon as practicable and shall keep the other Party advised as to the continuance of the Force Majeure event. If an event of Force Majeure persists for a continuous period of at least sixty (60) calendar days, then the Party not claiming Force Majeure shall have the option, upon three (3) Business Days' prior written notice, to terminate this Agreement and the obligations of the Parties (except for pre-existing payment obligations) hereunder. Nothing herein shall be construed so as to obligate any Party to settle any strike, work stoppage or other labor dispute or disturbance or to make significant capital expenditures, except in the sole discretion of the Party experiencing such difficulty.

(b) Notwithstanding anything in this Agreement to the contrary, Buyer shall have the right but not the obligation, to require Seller to make up any deliveries of Coal that Seller was unable to deliver due to Force Majeure as such deliveries shall be scheduled by Buyer. The price for the tonnage to be made up will be the price in effect pursuant to the Confirmation at the time of the occurrence of the Force Majeure event. During such periods when a Force Majeure event or occurrence claimed by Seller results in a reduction in the amount of Coal delivered to Buyer hereunder, Seller agrees to forego entering into new agreements to sell coal to any other party of any coal which is mined from the Production Source(s) listed on the Confirmation or sales which generally meet the specifications for Coal to be sold pursuant to this Agreement; and Seller further agrees to prorate deliveries to Seller's existing coal customers based upon contractual commitments. Notwithstanding anything to the contrary in this Agreement, in the event of the occurrence of a Force Majeure event or the existence of general conditions in the market which cause a partial or total curtailment of either (i) electrical generation from electrical generating capacity at the applicable Destination Plant(s) where the Coal was to be used or (ii) transmission or distribution of electricity from such Destination Plant(s), parties are to mutually agree a new delivery schedule or the cancellation of up to the entire quantity of the Coal scheduled for delivery under this Agreement for the period during which such event or occurrence exists or existed; provided, however, that if Buyer refuses to accept deliveries for more than three (3) consecutive months, Seller shall have the right, but not the obligation, to terminate this Agreement.

#### 10. Failure to Deliver or Receive.

(a) Seller Failure. If Seller fails to schedule and/or deliver Coal pursuant hereto and such failure is not excused by Force Majeure or by Buyer's failure to perform, then Seller shall pay Buyer an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Contract Price Buyer would otherwise have paid for such Coal from the Replacement Price.

(b) Buyer Failure. If Buyer fails to schedule and/or receive Coal pursuant hereto and such failure is not excused by Force Majeure or by Seller's failure to perform, or pursuant to any other provision of this Agreement, then Buyer shall pay Seller an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Sales Price from the Contract Price Seller would otherwise have received for such Coal.

(c) Due Date. The Party to whom such amount is owed shall invoice the other Party for such amounts and any payments hereunder shall be paid in accordance with the provisions of Section 7 above.

(d) Duty to Mitigate. Each Party covenants and agrees that it has a duty to mitigate any damages hereunder; provided, however, that neither Party shall be obligated to enter into any actual replacement purchases or sales, as applicable.

11. **Events of Default.** An "Event of Default" shall mean, with respect to a Party (the "Defaulting Party"), the occurrence of any of the following:

- (a) the failure to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within three (3) Business Days after written notice; provided the payment is not the subject of a good faith dispute as described in Section 7(c);
- (b) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated;
- (c) the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default, and except for such Party's obligations to deliver or receive Coal, the exclusive remedy for which is provided in Section 10) if such failure is not remedied within three (3) Business Days after written notice;
- (d) such Party becomes the subject of a Bankruptcy Proceeding;
- (e) the failure of such Party to provide Performance Assurance pursuant to Section 12 hereof;
- (f) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other Party;
- (g) an event described in the last sentence of Section 6(c) occurs;
- (h) with respect to such Party's Guarantor, if any:
  - (i) if any representation or warranty made by a Guarantor in connection with this Agreement is false or misleading in any material respect when made or when deemed made or repeated;
  - (ii) the failure of a Guarantor to make any payment required or to perform any other material covenant or obligation in any Guarantee made in connection with this Agreement and such failure shall not be remedied pursuant to the terms of such Guarantee;
  - (iii) a Guarantor becomes the subject to a Bankruptcy Proceeding;
  - (iv) the failure of a Guarantor's Guarantee to be in full force and effect for purposes of this Agreement (other than in accordance with its terms) prior to the satisfaction of all obligations of such Party under each transaction to which such Guarantee shall relate without the written consent of the other Party; or
  - (v) a Guarantor shall repudiate, disaffirm, disclaim, or reject, in whole or in part, or challenge the validity of any Guarantee made in connection with this Agreement.

For so long as an Event of Default has occurred and is continuing, the other Party (the "Non-Defaulting Party") shall have the right, in its sole discretion and upon written notice to the Defaulting Party, to (i) designate a day (by providing the Defaulting Party with written notice thereof), which such day shall be within 20 days after the delivery of such notice, upon which the Non-Defaulting Party will accelerate all amounts owing between the Parties and liquidate and terminate this Agreement; (ii) withhold payments due to the Defaulting Party under this Agreement; and/or (iii) suspend performance under this Agreement. If the Non-Defaulting Party chooses to liquidate and terminate this Agreement, the Non-Defaulting Party shall calculate any Gains or Losses to it resulting from the termination of this Agreement, taking into account any Costs reasonably incurred (the "Termination Payment"). The Termination Payment shall be due to or due from the Non-Defaulting Party as appropriate and shall be paid within two (2) Business Days after it is communicated in writing to the Defaulting Party by the Non-Defaulting Party.

After calculation of a Termination Payment, if the Defaulting Party would be owed the Termination Payment, the Non-Defaulting Party shall be entitled, at its option and in its discretion, to (i) set off against such Termination Payment any amounts due and owing by the Defaulting Party to the Non-Defaulting Party under any other agreements, instruments or undertakings between the Defaulting Party and the Non-Defaulting Party, or (ii) to the



extent this Agreement is not yet liquidated in accordance with this Section 11, withhold payment of the Termination Payment to the Defaulting Party. The remedy provided for in this paragraph shall be without prejudice and in addition to any right of setoff, combination of accounts, lien or other right to which any Party is at any time otherwise entitled (whether by operation of law, contract or otherwise).

**12. Performance Assurance.** At any time during the Term of this Agreement, either Party ("Party X") may require the other Party ("Party Y") to provide financial information reasonably required to ascertain Party Y's ability to meet its financial obligations pursuant to this Agreement, including without limitation the obligation to pay damages in the event Party Y fails to perform its obligations hereunder. If Party X has reasonable grounds to believe that Party Y's creditworthiness has become unsatisfactory, Party X may provide Party Y with written notice requesting Performance Assurance from Party Y in an amount determined by Party X in a commercially reasonable manner. Upon receipt of such notice, Party Y shall have three (3) Business Days to provide such Performance Assurance to Party X. Failure by Party Y to provide such Performance Assurance within such time shall be deemed an Event of Default hereunder.

**13. Change in Law.** The Parties recognize that, during the Term of this Agreement, legislative or regulatory bodies or the courts may construe, change or adopt laws, regulation, policies and/or restrictions (including but not limited to those related to environmental issues) in a way which will make it impossible, impracticable, or economically not feasible in Buyer's judgment for Buyer to utilize this or like kind and quality Coal which thereafter would be delivered hereunder. If, as a result of the adoption of such laws, regulations, policies, or restrictions, or change in the interpretation or enforcement thereof, Buyer decides that it will be impossible, impracticable, or economically not feasible for Buyer to utilize such Coal, Buyer will so notify Seller, and thereupon Buyer and Seller will 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 by Buyer which will remedy the problem. If in Buyer's sole judgment, such actions will not make it possible, practicable, or economically feasible for Buyer to utilize such Coal without violating any applicable law, regulation, policy or order, Buyer shall have the right, upon the later of ninety (90) days notice or the effective date of such change or restriction, to terminate this Agreement without further obligation hereunder of either Party to the other.

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**15. Indemnification.** Seller, for itself and its successors and permitted assigns, agrees to indemnify, defend and hold Buyer and its respective directors, officers, employees and agents harmless from and against (a) all claims, demands, damages, actions and causes of action and costs and expenses in connection therewith or related thereto (including without limitation, attorneys' fees and court costs) arising from property damage, bodily injury or death of third parties, directly caused by Seller's unlawful or negligent performance or failure to perform under this Agreement; (b) all fines, penalties, costs, losses or expenses incurred by Buyer by reason of Seller's violation of any applicable federal, state and local laws, ordinances or regulations directly related to producing, supplying, transporting, delivering or using Coal under this Agreement; and (c) all liabilities, obligations, damages, penalties, claims, charges, expenses, disbursements, losses and costs (including without limitation, attorneys' fees and court costs) which may be imposed upon, incurred or suffered by or against Buyer by reason or by virtue of the performance by Seller of the transportation and delivery of the Coal pursuant to this Agreement or by virtue of the use or occupancy of the property of Buyer. For the purposes of the immediately preceding sentence, "Seller" shall be construed so as to include any third party contracted by Seller to perform any services pursuant to this Agreement. Buyer shall give Seller prompt written notice of any claim, demand or suit of which Buyer receives notice arising out of or in connection with this Agreement and covered by this indemnity. Buyer shall have the right to reasonably participate in any defense, including the selection of local counsel. This indemnification shall not be limited by any insurance carried by Seller or by any contractor retained by Seller to provide any delivery or other services.

**16. Limitation of Remedies, Liability and Damages.** THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED IN THIS AGREEMENT, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE HEREBY WAIVED UNLESS

OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY HEREIN PROVIDED, THE LIABLE PARTY'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY. SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED UNLESS EXPRESSLY PROVIDED IN THIS AGREEMENT. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS. THIS SECTION 16 SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

**17. Representations and Warranties.** On the effective date of this Agreement and throughout the entire Term of this Agreement, each Party represents and warrants to the other that: (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; (b) the execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate or other organizational action on its part and do not violate or conflict with any law applicable to it, its organizational documents or any order or judgment of a court or other agency of government applicable to it or its assets; (c) its obligations under this Agreement are legally valid and binding obligations, enforceable in accordance with their terms; (d) it has all necessary governmental and other third party permits, approvals and licenses required in connection with the execution, delivery and performance of this Agreement; (e) there are no Bankruptcy Proceedings pending or being contemplated by it or, to its knowledge, threatened against it, and there are no other legal proceedings pending before any court or governmental authority that would reasonably be expected to materially adversely affect its ability to perform its obligations under this Agreement; and (f) this Agreement constitutes a "forward contract" and each Party represents to the other that it is a "forward contract merchant" within the meaning and purposes of the United States Bankruptcy Code, as amended.

Further, Seller represents and warrants to Buyer that: (a) the Production Source(s) of the Coal identified in the Confirmation (if any) are owned and/or controlled by Seller as of the effective date of this Agreement and shall continue to be owned and/or controlled by Seller for the full Term of this Agreement; (b) such Production Source(s) contain economically recoverable Coal of a quality and in quantities which will be sufficient to satisfy all the requirements of this Agreement; (c) Seller shall not take any action that would adversely affect its ability to satisfy its obligations under this Agreement or that would adversely affect the Production Source(s) of the Coal identified in the Confirmation (if any); and (d) Seller shall not attempt to deliver Coal under this Agreement from any other production source not identified in the Confirmation, unless approved by Buyer.

**18. Assignment.** This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. Neither Party shall assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Any such assignee shall agree in writing to be bound by the terms and conditions of this Agreement.

**19. Notices.** Except where oral notice is explicitly authorized herein, all notices, requests, or invoices shall be in writing and shall be sent to the address of the applicable Party as specified in the Confirmation. The Parties shall be legally bound from the date the notification is exercised. Notices provided for or required to be in writing herein shall be delivered by hand or electronic means or transmitted by facsimile or sent by certified U.S. mail, postage prepaid, return receipt requested, or by overnight mail or courier. Notices hand delivered or delivered by electronic means, shall be deemed delivered by the close of the Business Day on which it was hand delivered or delivered by electronic means (unless hand delivered or transmitted by electronic means after the close of the Business Day, in which case it shall be deemed received by the close of the next Business Day). Notices provided by facsimile shall be deemed to have been received upon the sending Party's receipt of its facsimile machine's confirmation of a successful transmission. If the day on which such facsimile is received is not a Business Day or is after 5:00 p.m. Eastern Prevailing Time on a Business Day, then such facsimile shall be deemed to have been received on the next following Business Day. Notices provided by certified U.S. mail, postage prepaid, return receipt requested, or by overnight U.S. mail or courier, shall be deemed delivered one Business Day after it was sent. This Section 19 shall



be applicable whenever words such as "notify," "submit," "give," or similar language are used in the context of giving notice to a Party.

**20. Confidentiality.** No Party shall disclose the terms of this Agreement to a third party (other than a Party's and its affiliates' employees, lenders, counsel, accountants or prospective permitted purchasers, directly or indirectly, of a Party or all or substantially all of a Party's assets or of any rights under this Agreement, in each case who have agreed to keep such terms confidential) except in order to comply with any applicable law, order, regulation or exchange rule; provided, each Party shall notify the other Party of any proceeding of which it is aware which may result in disclosure and use reasonable efforts to prevent or limit the disclosure.

**21. Governing Law.** This Agreement and the rights and duties of the Parties arising hereunder shall be governed by, enforced and construed in accordance with the laws of the State of New York, without regard to the application of such state's laws relating to conflicts of laws (except for General Obligations Laws 5-1401 and 5-1402). The Parties agree that the United Nations Convention on Contracts for the International Sale of Goods 1980 shall not apply to, or govern, this Agreement.

**22. Binding Arbitration.**

(a) Any dispute between the Parties arising out of or in connection with this Agreement or its performance, breach, or termination (including the existence, validity and interpretation of this Agreement and the applicability of any statute of limitation period) shall be resolved by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA"), as amended and supplemented from time to time, except to the extent modified by the provisions of this Section 22.

(b) The Party initiating arbitration shall nominate one (1) arbitrator at the same time it initiates arbitration. The other Party shall nominate one (1) arbitrator within ten (10) Days of receiving notice that arbitration has been initiated. The two (2) arbitrators (the "Party-Appointed Arbitrators") shall appoint a third, neutral arbitrator (the "Third Arbitrator"). The Arbitrators shall be competent and experienced in matters involving the coal purchase and sale business in the United States, with at least fifteen (15) years of industry experience as a practicing attorney, and shall be impartial and independent of either Party and not employed by any of the Parties in any prior matter.

(c) If the Party-Appointed Arbitrators are unable to agree on the Third Arbitrator within forty-five (45) days from initiation of arbitration, then the Third Arbitrator shall be selected by the AAA with due regard given to the selection criteria above and input from the Parties and the Party-Appointed Arbitrators. The Parties shall undertake to request the AAA to complete selection of the Third Arbitrator no later than sixty (60) days from initiation of arbitration. Costs charged by the AAA for this service shall be borne by the Parties in accordance with subsection (g) below.

(d) In the event the AAA should fail to select the Third Arbitrator within sixty (60) Days from initiation of arbitration, then any Party may petition a court of competent jurisdiction in the United States to select the Third Arbitrator. Due regard shall be given to the selection criteria above and input from the Parties and the Party-Appointed Arbitrators. If prior to the conclusion of the arbitration a Party-Appointed Arbitrator or the Third Arbitrator becomes incapacitated or otherwise unable to serve, then a replacement arbitrator shall be appointed in the manner described above.

(e) Discovery and other pre-hearing procedures shall be conducted as agreed to by the Parties, or if they cannot agree, as determined by the Third Arbitrator after discussion with the Parties regarding the need for discovery and other pre-hearing procedures. The Arbitrators shall endeavor to conduct the arbitration in a manner so that the hearing on the dispute is completed within one hundred and eighty (180) days after the appointment of the Third Arbitrator, but shall have the authority to extend such period in their discretion. No later than thirty (30) days after all pre-hearing discovery has been completed, a hearing shall be conducted in Raleigh, North Carolina, at which the Parties shall each present such evidence and witnesses as they may choose.

(f) The Arbitrators shall consider the terms and conditions of this Agreement, including all relevant evidence and testimony, and shall render their decision within fifteen (15) days following conclusion of the hearing. The decision rendered by a majority of the Arbitrators, made in writing and consisting of findings and conclusions,

shall be final and binding upon the Parties, and shall be effective as of the date that the arbitration was first initiated. Any such decision may be filed in a court of competent jurisdiction and may be enforced by Buyer or Seller as a final judgment in such court. The Arbitrators shall have no authority to award special, exemplary, or consequential damages.

(g) Each Party shall bear the compensation and expenses of its respective Party-Appointed Arbitrator, own counsel, witnesses, consultants and employees. All other expenses of arbitration (the "Arbitration Expenses") shall be split equally between Buyer on the one hand and Seller on the other. Notwithstanding the foregoing provisions of this Section 22, any costs incurred by Buyer or Seller in seeking judicial enforcement of any written decision of the Arbitrators shall be chargeable to and borne exclusively by the Party against whom such court order is obtained.

**23. Compliance with U.S. Laws and Regulations in International Transactions.** The Parties acknowledge that Buyer is subject to and governed by the laws and regulations of the United States of America (the "U.S. Laws"), including the Foreign Corrupt Practices Act of 1977, as amended, and laws restricting participation in or compliance with certain foreign boycotts, directly or indirectly, as contained in the U.S. Export Administration Act of 1979, as amended, and the U.S. Internal Revenue Code, as amended. The Parties will cooperate and otherwise conduct their business and activities hereunder in such a manner as to assure that Buyer or any of its affiliates is not placed in a position of noncompliance with the U.S. Laws, including but not limited to any reporting requirements.

**24. Entire Agreement; Amendments; Interpretation.** This Agreement constitutes the entire agreement between the Parties relating to the subject matter contemplated by this Agreement and supersedes any prior or contemporaneous agreements or representations affecting the same subject matter. Except for any matters which, in accordance with the express provisions of this Agreement, may be resolved by verbal agreement between the Parties, no amendment, modification or change to this Agreement shall be enforceable unless reduced to a writing executed by the Party against whom such amendment, modification or change is sought to be enforced and specifically referencing this Agreement. The Parties acknowledge that each Party and its counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be used in interpretation of this Agreement.

**25. Counterparts; Severability; Survival.** This Agreement may be executed in several counterparts, each of which is an original and all of which constitute one and the same instrument. Except as may otherwise be stated herein, any provision or Section hereof that is declared or rendered unlawful by any applicable court of law or regulatory agency, or deemed unlawful because of a statutory change, will not otherwise affect the lawful obligations that arise under this Agreement. In the event any provision of this Agreement is declared unlawful, the Parties will promptly renegotiate to restore this Agreement as near as possible to its original intent and effect. All indemnity and audit rights shall survive the termination of this Agreement in full for a period of two years.

**26. Non-Waiver; Duty to Mitigate; No Partnership or Third Party Beneficiaries.** No waiver by any Party of any of its rights with respect to the other Party or with respect to any matter or default arising in connection with this Agreement shall be construed as a waiver of any subsequent right, matter or default whether of a like kind or different nature. Any waiver shall be in writing signed by the waiving Party. Each Party agrees that it has a duty to mitigate damages. Except as specifically set forth in this Agreement, nothing contained in this Agreement shall be construed or constitute any Party as the employee, agent, partner, joint venturer or contractor of any other Party. This Agreement is made and entered into for the sole protection and legal benefit of the Parties, and their permitted successors and assigns, and no other Person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement.

**27. Imaged Agreement.** Any original executed Agreement or other related document may be photocopied and stored on computer tapes and disks ("Imaged Agreement"). If an Imaged Agreement is introduced as evidence in any judicial, arbitration, mediation or administrative proceedings, it shall be considered as admissible evidence. Neither Party shall object to the admissibility of the Imaged Agreement on the basis that such was not originated or maintained in documentary form under the hearsay rule, the best evidence rule or other rule of evidence.

## EXHIBIT 1 – DELIVERY SPECIFICATIONS

### Delivery Point

DES International Marine Terminals, Mile Post 57 AHP

### Vessel and Discharge Specifications

Discharge Rate : 22,000 tons per WWD SHINC

Turntime 12 hours

Demurrage Rate : To be nominated on a back to back basis with Charter Party.

Pitcher, AI (PFC)

Add'l Purchases

From: Pitcher, AI (PFC)  
 Sent: Tuesday, September 14, 2004 6:49 PM  
 To: Crake, Kyle (Energy)  
 Subject: Spot Barge Purchases 2005-2006

2005 - 2006  
 Offers and  
 Evaluations

The current coal market, both rail and barge, continues to be very strong because of lack of supply due to the trucking issues in both Kentucky and West Virginia and various environmental issues regarding permitting. There is no indication that any material decline in pricing will occur until late in 2005 or early 2006. In addition to the strong pricing, multiple utilities (TVA, South Carolina Gas & Electric, South Carolina Public Service, and Constellation) are currently in the market for large tonnage. Basically, many potential customers are chasing very few tons. TVA is seeking both rail and barge coal and this email concerns our Delta barge coal requirements for 2005 and 2006.

Based upon the above facts, it is my opinion that issuing an RFP for Delta barge coal, at this time to chase a very limited supply, is unwise. I have been calling various suppliers to determine availability for next year and I have found very few tons available and most of the companies want two year agreements (2005-2006). PFC's 2005 and 2006 open position for Delta barge delivered coal is approximately 600,000 tons and 550,000 tons respectively. These amounts are different than previously discussed because we have shifted the entire Massey Delta contract to rail delivery, because this is the most economical move for this coal, and our estimated beginning 2005 inventory at IMT will be higher due to delayed deliveries resulting from a very active hurricane season. Previous projections had Massey Delta contract split 50% rail and 50% water to balance logistics.

Based upon our 2005 and 2006 requirements, I recommend purchasing the following:

Progress Fuels Corporation-  
 Marketing & Trading (M&T)

40,000 tons per month at a delivered price of [REDACTED] \$/mmbtu;  
 The term would be 1/1/2005-12/31/2006

1

CMC/Coal Marketing  
 Company Ltd. (Colombian)

25,000 tons per month at a delivered price of [REDACTED] \$/mmbtu;  
 The term would be 1/1/2005-12/31/2006

2

See the attached evaluations. Three bids were considered and only one other bid was near competitive. The Guasare bid was approximately [REDACTED] \$/mmbtu higher, on a delivered basis, than the either the M&T or the Colombian bid.

3

Please note the CMC offer expires on Friday September 17. No time was given. Therefore, I am assuming the close of business.

#### A. W. Pitcher

Vice President-Coal Procurement  
 Progress Fuels Corporation  
 One Progress Plaza, BT10C  
 St. Petersburg, FL 33701  
 Phone No. 727-824-6692  
 Fax No. 727-824-6601  
 E-mail [ai\\_pitcher@progressfuels.com](mailto:ai_pitcher@progressfuels.com)

9/14/2004

Ott, Robin (PFC)

**From:** Garcia, Francisco [Francisco.garcia@cmc-coal.ie]  
**Sent:** Tuesday, September 28, 2004 10:02 PM  
**To:** Pitcher, Al (PFC)  
**Subject:** RE: Coal Purchase

Al:  
 Appreciate your confirmation draft with terms and conditions so that we can proceed to invoice the first coal cargo.  
 Many thanks.

Regards,  
 Francisco J. Garcia  
 CMC -Coal Marketing Company LTD-  
 Marketing Manager  
 Carrera 54 # 72-80, P.20, Barranquilla, Colombia  
 Phone: 57-5-350-2123 Fax: 57-5-350-2475 Mob: 57-315-724-9572  
 e-mail: francisco.garcia@cmc-coal.ie

-----Original Message-----  
**From:** Pitcher, Al (PFC) [mailto:APitcher@progressfuels.com]  
**Sent:** 17 September 2004 12:36  
**To:** Garcia, Francisco  
**Subject:** FW: Coal Purchase

I am resending the previous email with the tonnage and average price changed to reflect the November cargo. The average price increases to [REDACTED] Please check my math and see if you agree.

**A. W. Pitcher**  
 Vice President-Coal Procurement  
 Progress Fuels Corporation  
 One Progress Plaza, BT10C  
 St. Petersburg, FL 33701  
 Phone No. 727-824-6692  
 Fax No. 727-824-6601  
 E-mail al.pitcher@progressfuels.com

-----Original Message-----  
**From:** Pitcher, Al (PFC)  
**Sent:** Friday, September 17, 2004 11:53 AM  
**To:** 'Francisco.Garcia@cmc-coal.ie'  
**Subject:** Coal Purchase

I would like to accept your offer as presented with the exception of: (1) Tonnage for 2005 would be 150,000 tons, (2) The offer is accepted pending a successful test of your product, and the price will be an average for the entire period computed as follows:

200,000 * [REDACTED]	=	[REDACTED]	2 3 4 5
300,000 * [REDACTED]	=	[REDACTED]	
500,000	Divided into	[REDACTED]	
Average price per ton [REDACTED]			

Please confirm your receipt of this email and acceptance of the revised tonnage. I will prepare a draft of a confirmation with the terms and conditions for your review.

**A. W. Pitcher**  
 Vice President-Coal Procurement  
 Progress Fuels Corporation  
 One Progress Plaza, BT10C  
 St. Petersburg, FL 33701

9/29/2004



**Ott, Robin (PFC)**

---

**From:** Ott, Robin (PFC) on behalf of Pitcher, Al (PFC)  
**Sent:** Wednesday, September 22, 2004 12:34 PM  
**To:** 'Francisco.Garcia@cmc-coal.ie'  
**Subject:** RE: FW: Coal Purchase

Mr. Garcia, Al is traveling and will be out of the office for the remainder of the week, but requested that I advise you that your sending the trial cargo to New Orleans in October as opposed to November would be great!

Thank you.

**Robin Ott**

Progress Fuels Corporation  
One Progress Plaza, BT10C  
200 Central Avenue  
St. Petersburg, FL 33701  
Phone No. 727-824-6670  
Fax No. 727-824-6601

E-mail Address: [robin.ott@progressfuels.com](mailto:robin.ott@progressfuels.com)

-----Original Message-----

**From:** Francisco.Garcia@cmc-coal.ie [mailto:Francisco.Garcia@cmc-coal.ie]  
**Sent:** Wednesday, September 22, 2004 11:38 AM  
**To:** Pitcher, Al (PFC)  
**Subject:** Re: FW: Coal Purchase

Al:

I have the possibility now of sending the trial cargo to NOLA in October in stead of November. This is what you originally wanted. Would this timing be OK for you? Vessel will load approximately 76 k short tons.

Appreciate your feedback.

Regards,

Francisco J. Garcia

CMC -Coal Marketing Company Ltd-

Marketing Manager

Carrera 54 # 72-80, P. 20, Barranquilla, Colombia

Phone: 57-5-350-2123 Fax: 57-5-350-2475 Mob: 57-315-724-9572

International Mob: 353-861-708-117

e-mail: [francisco.garcia@cmc-coal.ie](mailto:francisco.garcia@cmc-coal.ie)

"Pitcher, Al (PFC)" <[APitcher@progressfuels.com](mailto:APitcher@progressfuels.com)>

To <[Francisco.Garcia@cmc-coal.ie](mailto:Francisco.Garcia@cmc-coal.ie)>

cc

09/17/2004 12:36

Subject FW: Coal Purchase

I am resending the previous email with the tonnage and average price changed to reflect the November cargo. The average price increases to [REDACTED] Please check my math and see if you agree.

**A. W. Pitcher**

Vice President-Coal Procurement  
Progress Fuels Corporation  
One Progress Plaza, BT10C

9/22/2004

St. Petersburg, FL 33701  
 Phone No. 727-824-6692  
 Fax No. 727-824-6601  
 E-mail [al.pitcher@progressfuels.com](mailto:al.pitcher@progressfuels.com)

-----Original Message-----

**From:** Pitcher, Al (PFC)  
**Sent:** Friday, September 17, 2004 11:53 AM  
**To:** 'Francisco.Garcia@cmc-coal.ie'  
**Subject:** Coal Purchase

I would like to accept your offer as presented with the exception of: (1) Tonnage for 2005 would be 150,000 tons, (2) The offer is accepted pending a successful test of your product, and the price will be an average for the entire period computed as follows:

200,000 \* [REDACTED] = [REDACTED]

300,000 \* [REDACTED] = [REDACTED]

500,000 Divided into [REDACTED]

Average price per ton [REDACTED]

1  
2  
3  
4

Please confirm your receipt of this email and acceptance of the revised tonnage. I will prepare a draft of a confirmation with the terms and conditions for your review.

**A. W. Pitcher**  
 Vice President-Coal Procurement  
 Progress Fuels Corporation  
 One Progress Plaza, BT10C  
 St. Petersburg, FL 33701  
 Phone No. 727-824-6692  
 Fax No. 727-824-6601  
 E-mail [al.pitcher@progressfuels.com](mailto:al.pitcher@progressfuels.com)

The G&S and the #2 PFC-MYT G&S are the most competitive

300K each year

2005 2006

1 2 3 4

FOB NOLA

Average Price 2005/2006

187M/199 / Gross Gulf

\$/m

\$/mm btr

In addition to the PFC and  
Guarantee offer, we received a confirmation  
from the firm CMG. I have reviewed it  
and it is as follows: (See attached)

9/13/04



CMC

**Pitcher, AI (PFC)**

**From:** Francisco.Garcia@cmc-coal.ie  
**Sent:** Friday, September 17, 2004 3:02 PM  
**To:** Pitcher, AI (PFC)  
**Subject:** Re: FW: Coal Purchase

AI:  
 Fully concur.  
 Thanks.

Regards,  
 Francisco J. Garcia  
 CMC -Coal Marketing Company Ltd-  
 Marketing Manager  
 Carrera 54 # 72-80, P. 20, Barranquilla, Colombia  
 Phone: 57-5-350-2123 Fax: 57-5-350-2475 Mob: 57-315-724-9572  
 International Mob: 353-861-708-117  
 e-mail: francisco.garcia@cmc-coal.ie

"Pitcher, AI (PFC)" <APitcher@progressfuels.com>

To <Francisco.Garcia@cmc-coal.ie>

cc

09/17/2004 12:36

Subject FW: Coal Purchase

I am resending the previous email with the tonnage and average price changed to reflect the November cargo. The average price increases to [REDACTED]. Please check my math and see if you agree.

**A. W. Pitcher**

Vice President-Coal Procurement  
 Progress Fuels Corporation

One Progress Plaza, 8T10C  
 St. Petersburg, FL 33701  
 Phone No. 727-824-6692  
 Fax No. 727-824-6601

E-mail [al.pitcher@progressfuels.com](mailto:al.pitcher@progressfuels.com)

-----Original Message-----

**From:** Pitcher, AI (PFC)  
**Sent:** Friday, September 17, 2004 11:53 AM  
**To:** 'Francisco.Garcia@cmc-coal.ie'  
**Subject:** Coal Purchase

I would like to accept your offer as presented with the exception of: (1) Tonnage for 2005 would be 150,000 tons, (2) The offer is accepted pending a successful test of your product, and the price will be an average for the entire period computed as follows:

200,000 \* [REDACTED] = [REDACTED]

2

300,000 \* [REDACTED] = [REDACTED]

3

500,000 Divided into [REDACTED]

4

Average price per ton [REDACTED]

5

9/17/2004

Please confirm your receipt of this email and acceptance of the revised tonnage. I will prepare a draft of a confirmation with the terms and conditions for your review.

**A. W. Pitcher**  
Vice President-Coal Procurement  
Progress Fuels Corporation  
One Progress Plaza, BT10C  
St. Petersburg, FL 33701  
Phone No. 727-824-6692  
Fax No. 727-824-6601  
E-mail [al.pitcher@progressfuels.com](mailto:al.pitcher@progressfuels.com)

9/17/2004

**Pitcher, AI (PFC)**

**From:** Francisco.Garcia@cmc-coal.ie  
**Sent:** Friday, September 17, 2004 2:56 PM  
**To:** Pitcher, AI (PFC)  
**Subject:** Re: Coal Purchase

AI:

Everything is in good order.

Along with our conversation, let's include the test cargo in November and average the price again.

It's a pleasure dealing with you and we really appreciate your business.

Look forward for the draft of the confirmation.

Regards,  
 Francisco J. Garcia  
 CMC -Coal Marketing Company Ltd-  
 Marketing Manager  
 Carrera 54 # 72-80, P. 20, Barranquilla, Colombia  
 Phone: 57-5-350-2123 Fax: 57-5-350-2475 Mob: 57-315-724-9572  
 International Mob: 353-861-708-117  
 e-mail: francisco.garcia@cmc-coal.ie

"Pitcher, AI (PFC)" <APitcher@progressfuels.com>

To <Francisco.Garcia@cmc-coal.ie>

cc

09/17/2004 10:52

Subject: Coal Purchase

I would like to accept your offer as presented with the exception of: (1) Tonnage for 2005 would be 150,000 tons, (2) The offer is accepted pending a successful test of your product, and the price will be an average for the entire period computed as follows:

150,000 \* [REDACTED] = [REDACTED]

1

300,000 \* [REDACTED] = [REDACTED]

2

450,000 Divided into [REDACTED]

3

Average price per ton [REDACTED]

4

Please confirm your receipt of this email and acceptance of the revised tonnage. I will prepare a draft of a confirmation with the terms and conditions for your review.

**A. W. Pitcher**  
 Vice President-Coal Procurement  
 Progress Fuels Corporation  
 One Progress Plaza, BT10C  
 St. Petersburg, FL 33701  
 Phone No. 727-824-6692  
 Fax No. 727-824-6601

9/17/2004

^

**Pitcher, Al (PFC)**

From: Francisco.Garcia@cmc-coal.ie  
 Sent: Friday, September 17, 2004 2:56 PM  
 To: Pitcher, Al (PFC)  
 Subject: Re: Coal Purchase

Al:

Everything is in good order.

Along with our conversation, let's include the test cargo in November and average the price again.

It's a pleasure dealing with you and we really appreciate your business.

Look forward for the draft of the confirmation.

Regards,

Francisco J. Garcia

CMC -Coal Marketing Company Ltd-

Marketing Manager

Carrera 54 # 72-80, P. 20, Barranquilla, Colombia

Phone: 57-5-350-2123 Fax: 57-5-350-2475 Mob: 57-315-724-9572

International Mob: 353-861-708-117

e-mail: francisco.garcia@cmc-coal.ie

"Pitcher, Al (PFC)" <APitcher@progressfuels.com>

To <Francisco.Garcia@cmc-coal.ie>

cc

09/17/2004 10:52

Subject Coal Purchase

I would like to accept your offer as presented with the exception of: (1) Tonnage for 2005 would be 150,000 tons, (2) The offer is accepted pending a successful test of your product, and the price will be an average for the entire period computed as follows:

150,000 \* [REDACTED] = [REDACTED]

300,000 \* [REDACTED] = \$ [REDACTED]

450,000 Divided into [REDACTED]

Average price per ton \$ [REDACTED]

1  
2  
3  
4

Please confirm your receipt of this email and acceptance of the revised tonnage. I will prepare a draft of a confirmation with the terms and conditions for your review.

**A. W. Pitcher**

Vice President-Coal Procurement  
 Progress Fuels Corporation

One Progress Plaza, BT10C

St. Petersburg, FL 33701

Phone No. 727-824-6692

Fax No. 727-824-6601

9/17/2004

9/17/2004

E-mail: al.pineda@prograsfeds.com

PROGRESS FUELS CORPORATION  
COAL EVALUATIONS-DOMESTIC

COAL EVALUATIONS-DOMESTIC									
2005-2006									
Domestic Coal	A		B	C	D	E		F	
Supplier	Term/Price		Transl.	River Brg	Cross Gulf	Delivered Cost		Delivered Cost	
	2005 Only	2005/2006	Rate	Rate	Rate	Per Ton	\$/MMBTU	Per Ton	\$/MMBTU
Progress Fuels - M&T	\$								
United Power, Inc. (1)	\$								
Henwood Energy Services, Inc. (1)	\$								
Average of United and Henwood	\$								

(1) United is an over the counter broker and Henwood is a forecasting service. Their specifications are 12000 BTU/12% Ash/1.2# SO2. Their prices were adjusted for Ash and a barge differential Big Sandy vs Kanawha. Big Sandy Coal is 12% Kanawha is 13.0-13.5%

Ott, Robin (PFC)

*Forwarded to RTP for Evaluation*

From: Francisco.Garcia@cmc-coal.ie  
Sent: Monday, September 13, 2004 6:28 PM  
To: Pitcher, Al (PFC)  
Subject: CMC offer to Progress Fuels Corp. Sep. 13/04

*RAO  
9-14-04*

*CMC  
offer*

Al:

Attached please find CMC offer. Be glad to discuss in further detail, at your convenience.

Thanks.

Regards,  
Francisco J. Garcia  
CMC -Coal Marketing Company Ltd-  
Marketing Manager  
Carrera 54 # 72-80, P. 20, Barranquilla, Colombia  
Phone: 57-5-350-2123 Fax: 57-5-350-2475 Mob: 57-315-724-9572  
international Mob: 353-861-708-117  
e-mail: francisco.garcia@cmc-coal.ie

9/14/2004

*1/5*





Francisco J. Garcia  
Marketing Manager

September 13, 2004

Mr. Al W. Pitcher  
Vice President Coal Procurement  
Progress Fuels Corporation  
St. Petersburg, Florida 33701  
USA

Dear Al:

We appreciate the opportunity to make the following proposal for the supply of Cerrejon coal to Progress Fuels Corporation, for its Crystal River Plant in Florida, under the following terms and conditions:

**Term**

CMC would be willing to negotiate and enter into a mutually agreeable coal sale and purchase contract (Contract) to supply coal from January 1, 2005 to December 31, 2006.

**Source**

Coal would be supplied from the Cerrejon mines and would be loaded at Puerto Bolivar, Republic of Colombia, South America.

**Tonnage**

CMC would be willing to supply up to 300,000 short tons +/- 10%, per year, of low sulfur thermal coal during calendar years 2005 and 2006, at final dates to be mutually agreed.

### Delivery

Coal would be supplied CIF Electrocoal Terminal, New Orleans. Except as provided otherwise herein, the provisions of Incoterms 2000 would apply.

### Quality

Coal would be unwashed, crushed, and would have typical specifications as shown below on an "as received" basis as sampled at Puerto Bolivar. The average quality of Buyer's coal may vary due to deviations in the quality of coal being mined at the time of loading. The term "as received" basis has that meaning defined in ASTM specifications D3180.

<u>Typical Coal Analysis</u>	<u>Typical</u>	<u>ASTM Test Nr.</u>
Calorific value (Btu/lb gar)	11,800	D1989
Total moisture (wt percent)	11.3	D3302
Ash (wt percent)	7.3	D3174
Volatile Matter (wt percent)	33.9	D3175
Sulfur (wt percent)	0.6	D4239C
Hardgrove Index	49	D409
Nominal Top Size (mm)	50	D4749
% below 1/4 inch	45	
SO2/MBTU	1.02	
Carbon (wt percent)	65.5	
Hydrogen (wt percent)	4.6	
Nitrogen (wt percent)	1.2	
Chlorine (wt percent)	0.03	
Oxygen (wt percent)	8.1	

### Price

CMC would supply low sulfur thermal coal, as stated above, at the price of:

- US\$ [REDACTED] per short ton CIF Electrocoal Terminal, New Orleans at 11,800 Btu/lb gar, for year 2005, and
- US\$ [REDACTED] per short ton CIF Electrocoal Terminal, New Orleans at 11,800 Btu/lb gar, for year 2006

1

2

### Scheduling

Delivery schedule would be mutually agreed.

### Other

This offer shall not be binding on either party until the parties reach a mutual agreement on each of the terms proposed above, as well as other contractual clauses covering payment terms, passage of title, scheduling and shipping, weighing, sampling and analysis, quality adjustments, taxes, insurance, force majeure, limitation of warranties, no consequential damages, applicable law, arbitration, assignment, and confidentiality. This offer shall not be binding on either party until a definitive agreement has been approved by the management of each company and executed by an authorized representative of each party.

### Expiration

In line with the freight validity, this proposal will expire on Friday, September 17, 2004. We request that you treat this proposal and supporting information as confidential.

We will be glad to further discuss our offer, at your convenience.

Sincerely,

Francisco J. Garcia

CMC

[REDACTED]

8/MBTS

1

[REDACTED]

FAS NOLA

2

Guasare

[REDACTED]

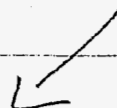
8/MBTS

3

[REDACTED]

Delud  
RIZBA

FAS NOLA



[REDACTED]

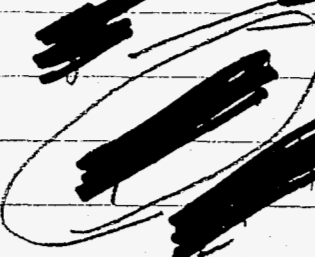
[REDACTED]

4

[REDACTED]

5

[REDACTED]



6

[REDACTED]

7

**Pitcher, Al (PFC)**

**From:** Pitcher, Al (PFC)  
**Sent:** Wednesday, September 15, 2004 12:37 PM  
**To:** Byone, Steve (Energy); Fox II, David M (Energy)  
**Cc:** Crake, Kyle (Energy)  
**Subject:** FW: Spot Barge Purchases 2005-2006  
**Importance:** High

Add'l  
1.2#  
SO<sub>2</sub>  
Purchases

Below is an email sent to Kyle last evening. He and I have discussed and are ready to act pending discussion with you. Kyle is out of the office today and requested that I contact you. Please review and call is necessary. Kyle will contact Tom regarding this matter. Time is of the essence because there is an expiration of these offers.

**A. W. Pitcher**

Vice President-Coal Procurement  
 Progress Fuels Corporation  
 One Progress Plaza, BT10C  
 St. Petersburg, FL 33701  
 Phone No. 727-824-6692  
 Fax No. 727-824-6601  
 E-mail [al.pitcher@progressfuels.com](mailto:al.pitcher@progressfuels.com)

-----Original Message-----

**From:** Pitcher, Al (PFC)  
**Sent:** Tuesday, September 14, 2004 6:49 PM  
**To:** Crake, Kyle (Energy)  
**Subject:** Spot Barge Purchases 2005-2006

The current coal market, both rail and barge, continues to be very strong because of lack of supply due to the trucking issues in both Kentucky and West Virginia and various environmental issues regarding permitting. There is no indication that any material decline in pricing will occur until late in 2005 or early 2006. In addition to the strong pricing, multiple utilities (TVA, South Carolina Gas & Electric, South Carolina Public Service, and Constellation) are currently in the market for large tonnage. Basically, many potential customers are chasing very few tons. TVA is seeking both rail and barge coal and this email concerns our Delta barge coal requirements for 2005 and 2006.

Based upon the above facts, it is my opinion that issuing an RFP for Delta barge coal, at this time to chase a very limited supply, is unwise. I have been calling various suppliers to determine availability for next year and I have found very few tons available and most of the companies want two year agreements (2005-2006). PFC's 2005 and 2006 open position for Delta barge delivered coal is approximately 600,000 tons and 550,000 tons respectively. These amounts are different than previously discussed because we have shifted the entire Massey Delta contract to rail delivery, because this is the most economical move for this coal, and our estimated beginning 2005 inventory at IMT will be higher due to delayed deliveries resulting from a very active hurricane season. Previous projections had Massey Delta contract split 50% rail and 50% water to balance logistics.

Based upon our 2005 and 2006 requirements, I recommend purchasing the following:

Progress Fuels Corporation-  
 Marketing & Trading (M&T)

Up to 40,000 tons per month at a delivered price of [REDACTED]\$/mmbtu;  
 The term would be 1/1/2005-12/31/2006

1

CMC/Coal Marketing  
 Company Ltd. (Colombian)

Up to 25,000 tons per month at a delivered price of [REDACTED]\$/mmbtu;  
 The term would be 1/12/2005-12/31/2006

2

See the attached evaluations. Three bids were considered and only one other bid was near competitive. The Guasare bid was approximately [REDACTED]/mmbtu higher, on a delivered basis, than the either the M&T or the Colombian bid.

3

Please note the CMC offer expires on Friday September 17. No time was given. Therefore, I am assuming the close of business.

9/15/2004

**A. W. Pitcher**

Vice President-Coal Procurement  
Progress Fuels Corporation  
One Progress Plaza, BT10C  
St. Petersburg, FL 33701  
Phone No. 727-824-6692  
Fax No. 727-824-6601  
E-mail [al.pitcher@progressfuels.com](mailto:al.pitcher@progressfuels.com)

9/15/2004

Pitcher, AI (PFC)

PFC  
M & T

Coal Offer

From: Pitcher, AI (PFC)  
 Sent: Friday, August 27, 2004 4:20 PM  
 To: Jefferson, Joe (Sales)  
 Subject: 2005-2006 Coal Offer

2005/2006

See attached  
for detail &  
evaluation

have reviewed your 15,000 tons/month 1.2# SO<sub>2</sub> coal offer for 2005-2006. Because of the ash content, the pricing is not competitive. We would have to blend the product in NOLA costing us an additional [REDACTED]. If you believe your pricing can be adjusted for this, I would be happy to discuss further with you the possibility of a contract.

A. W. Pitcher

Vice President-Coal Procurement  
 Progress Fuels Corporation  
 One Progress Plaza, BT10C  
 St. Petersburg, FL 33701  
 Phone No. 727-824-6692  
 Fax No. 727-824-6601  
 E-mail: [al.pitcher@progressfuels.com](mailto:al.pitcher@progressfuels.com)

Original Offer  
Sens BlushingAP  
9/9/04

Spoke with Joe regarding  
 the [REDACTED] price. They can not  
 sell at that. They can do  
 the following:

Note: The average  
 of the United and Homewood  
 is: (See 2/4 attached)

Increased to:  
 40K  
 MP

# 20K/mo

2005/2006  
 FOB Barge

12000 BTU  
 13.59 Ash  
 1.2 # SO<sub>2</sub>  
 20K/mo

2005/2006  
 FOB Barge!

Using the  
 same cost  
 components  
 as on 1/4  
 except  
 MEMCO. See  
 (1) below \$/Tn  
 \$ mm BTU

INT  
 MEMCO  
 Gross  
 GULF

\$

(1) Per revised evaluation  
 of the river barge RFP

6  
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 11

3/27/2004

**Pitcher, Al (PFC)**

---

**From:** Pitcher, Al (PFC)  
**Sent:** Friday, August 27, 2004 4:04 PM  
**To:** 'E.Bueno@GCI-UK.NET'  
**Subject:** Coal Offer

Thank you for your offer of five (5) additional cargoes for 2005. However, we will be unable to purchase any of these cargoes. Very frankly speaking, I can purchase both domestic and other South American coals at substantially below your offer. Guasare must be looking at different pricing projections than we have available because PFC has current offers from both the U.S. and South America at [REDACTED] to [REDACTED] below Guasare's pricing. We will continue to evaluate your offers as they become available.

I look forward to meeting with you on September 14.

**A. W. Pitcher**

Vice President-Coal Procurement  
Progress Fuels Corporation  
One Progress Plaza, BT10C  
St. Petersburg, FL 33701  
Phone No. 727-824-6692  
Fax No. 727-824-6601  
E-mail [al.pitcher@progressfuels.com](mailto:al.pitcher@progressfuels.com)

3/27/2004



PFC  
Coal Evaluations - Barge  
2005-2006  
1.2# Product

AP  
8/24/04

PFC received one offer for 2005-2006  
and one offer for 2005. Each of these offers  
were from producers with one domestic and  
one foreign.  
(Guarano)

Guarano's estimated \$/mmBTU is as follows:  
12800 BTU/6.5% Ash/1.2# SO<sub>2</sub>

Coal DES NOLA	[REDACTED]	1
IMT Rate per Bbl	[REDACTED]	2
Estimated Gulf Freight	[REDACTED]	3
	[REDACTED]	4
	[REDACTED] \$/mmBTU	5

PFC's estimated \$/mmBTU is as follows:  
12000 BTU/13.5% Ash/1.2# SO<sub>2</sub>

	Tues. AM 2005/2006		2005 (Only)	
	2005/2006	2005	2005	
* Discarded				
Do A/B from				
Spread				
is on estimate				
Per MEMCO				
Bld Excl.				
for Fuel				
Q2				
Coal FOB Barge	[REDACTED]	[REDACTED]	[REDACTED]	6
IMT Rate (60/40% Direct/Indirect)	[REDACTED]	[REDACTED]	[REDACTED]	7
River Barge Rate	[REDACTED]	[REDACTED]	[REDACTED]	8
Gross Gulf Rate (Estimated)	[REDACTED]	[REDACTED]	[REDACTED]	9
\$/ton Delivd	[REDACTED]	[REDACTED]	[REDACTED]	10
\$/mmBTU Delivd	[REDACTED]	[REDACTED]	[REDACTED]	11

DFC  
Coal Evaluations  
2005-2006

AP  
8/26/04

The import coal compared to domestic coal is not competitive. However, the evaluation only only involves two data points from actual bids. Therefore, additional information was obtained from "price sheets." i.e. United, Evolution, etc

Domestic Coal Prices

United (Used to develop an estimated domestic price)  
6/25/04 (See Attached)

CAPP B.S. 12000/1.2<sup>#</sup>SO<sub>2</sub>

Adjust for B.S vs Kanawha

Barge Diff.

Ask Adj. (B.S. is 12% Kan is 10)

@  $\frac{1}{1\%}$  (13.0 - 13.5%)

	2005	2006
1	[REDACTED]	[REDACTED]
2	[REDACTED]	[REDACTED]
3	[REDACTED]	[REDACTED]
4	[REDACTED]	[REDACTED]
5	[REDACTED]	[REDACTED]
6	[REDACTED]	[REDACTED]

Two Yr. Average FOB Kanawha

Average of ① & ② [REDACTED]

Henwood (Five Yr Forecast) - Domestic

8/23/04 (See Attached)

CAPP B.S. 12000/1.2<sup>#</sup>SO<sub>2</sub>

Ask Adj. to Kanawha Type Coal

B.S. 12% Kan 13%

Barge Diff.

	2005	2006
8	[REDACTED]	[REDACTED]
9	[REDACTED]	[REDACTED]
10	[REDACTED]	[REDACTED]
11	[REDACTED]	[REDACTED]

Two Yr. Average FOB Kan

③ [REDACTED] ④ [REDACTED]

2/4 12

PFC.  
Coal Evaluations

2005-2006

8/27/04

Since only one export offer was received and meetings with Drummond produced no offers, Evolution Carbon International price sheets were used to develop a price comparison.

Evolution

8/26/04 11300 BTU  
1.2#SO<sub>2</sub>

Coal	[REDACTED]	1
Freight	[REDACTED]	2
Deliv \$/tn	[REDACTED]	3
\$/MMBTU	[REDACTED]	4

Guasone is "overpriced" in relation to the current domestic and import market.

Per above a price for Guasone would be

[REDACTED] @ 12800 =	[REDACTED]	5
Current Guasone	[REDACTED]	6
Out of market	< [REDACTED] >	7

PFC  
Coal Evaluation  
2005-2006

2P  
8/27/04

Per domestic evaluation for 2005 only  
Guazone price should be approximately as  
follows:

Average of United x Hemwood	<del>_____</del> \$/MMBTU @ 12800	<del>_____</del>	Delivered
PFC	<del>_____</del> \$/MMBTU @ 12800	<del>_____</del>	✓ 2
Ave	<del>_____</del>	<del>_____</del>	3
Guazone	<del>_____</del>	<del>_____</del>	4
Over domestic market	<del>_____</del>	<del>_____</del>	5

Ott, Robin (PFC)

**From:** Pitcher, Al (PFC)  
**Sent:** Thursday, August 26, 2004 11:48 AM  
**To:** Ott, Robin (PFC)  
**Cc:** Potter, Roy (PFC)  
**Subject:** FW: PFC 2005 Offer

Please record and evaluate.

**A. W. Pitcher**

Vice President-Coal Procurement  
 Progress Fuels Corporation  
 One Progress Plaza, BT10C  
 St. Petersburg, FL 33701  
 Phone No. 727-824-6692  
 Fax No. 727-824-6601  
 E-mail [al.pitcher@progressfuels.com](mailto:al.pitcher@progressfuels.com)

-----Original Message-----

**From:** Eladio Bueno [mailto:E.Bueno@GCI-UK.NET]  
**Sent:** Thursday, August 26, 2004 11:21 AM  
**To:** Pitcher, Al (PFC)  
**Cc:** Catarina Carrasquinho  
**Subject:** PFC 2005 Offer

Dear Al,

As per our telecom, we are pleased to make the following coal offer:

1. Volume: 5 Firm cargoes of 42,000 metric tonnes +/- 10% at Seller's option.
2. Loading: to take place fairly evenly spread throughout 2005, with laydays for each shipment to be mutually agreed latest 31 days prior to intended 1<sup>st</sup> day of laycan.
- 3.1. Price: US \$ [REDACTED] per million BTU Gross as Received, DES at IMT Terminal, New Orleans; or
- 3.2. US \$ [REDACTED] per million BTU Gross as Received, DES open waters of the Gulf of Mexico, off the Coast of Florida, due West of the Crystal River; or
- 3.3. US \$ [REDACTED] per million BTU Gross as Received, DES at Tampa Terminal, New Orleans;
4. Quality: Paso Diablo as per existing contract.
5. Type of Vessel: craned/grabbed self-unloader.
- 6.1. Discharge conditions at IMT: vessel to self-discharge into Buyers' river barges by vessel's cranes/grabs operated by own crew or by competent crane drivers for Seller/Owners' account provided that allowed by local/national authorities/regulations, otherwise crane drivers shall be arranged for by Buyer free of risk and expenses to Seller/Owners; Vessel to self-discharge at the minimum average rate of 10,000mt per wwd of 24 consecutive hours SHINC, failing which Seller/Owners shall be responsible for barge detention at US\$ 7,000 PDPR; Buyer guarantees to Take Away the coal from underneath the vessel's cranes/grabs at the minimum average rate of 10,000mt per wwd of 24 consecutive hours SHINC, failing which Buyer shall be responsible for vessel's demurrage at a rate as per Charter Party (free despatch);
- 6.2. Discharge conditions in the open waters of the Gulf of Mexico, due West of the Crystal River: vessel to self-discharge into Buyers' Dixie vessels (with approximately 550 feet LOA by 82 feet beam with 4 holds, 8 hatches and which carry about 16,500 s/tons per voyage), otherwise same as set forth in 6.1. above;
- 6.3. Discharge conditions at Tampa: conventional discharge by Buyer's floating crane free of expenses to Seller/Owners, at the minimum average rate of 8,000 short tons per wwd of 24 consecutive hours SHINC, failing which Buyer shall be responsible for vessel's demurrage at a rate as per Charter Party;

1  
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8/26/2004

7. Vessel nominations shall be accepted or rejected by Buyer within 24h; Bimco ISPS clause to apply; Otherwise, the terms and conditions of the Americanised Welsh Coal Charter Party (C/P) between GCI and Ship Owners shall apply in full.

8. Other terms and as per existing Paso Diablo contract dated 7<sup>th</sup> August 2003.

9. This offer is valid for acceptance up to COB LT 2<sup>nd</sup> September 2004.

Please confirm that you have received this offer.

Best regards,

Eladio Bueno

CEO

Guasare Coal International n.v.

8/26/2004

PFC M&T  
CR 4-5

**Indication of Product Availability**

Mr. Pitcher,

Per our conversations of last week, Progress Fuels Corporation – Marketing & Trading (PFC M&T) is pleased to submit the following indication of product availability for the consideration of Progress Fuels Corporation – Regulated (PFC-R). I would appreciate the ability to follow-up with you after you have had the chance to evaluate the numbers.

**First Indication**

**Term:** 1/1/05 - 12/31/06  
**Quantity:** 15,000 tons/month (subject to prior sale or commitment)\*  
**Quality:** Based on As Received – Monthly Weighted Averages  
BTU - 12,000 Min.  
ASH - 13.50% Max.  
SO2 #/MMBTU - 2.00# Max. – 1.8# Typical  
**Price:** [REDACTED] NT for Coal FOB Barge  
**Location:** Originating on the Big Sandy River

**Second Indication**

**Term:** 1/1/05 - 12/31/06  
**Quantity:** 15,000 tons/month (subject to prior sale or commitment)  
**Quality:** Based on As Received – Monthly Weighted Averages  
BTU - 12,000 Minimum  
ASH - 13.50% Maximum  
SO2 #/MM BTU- 1.20# Maximum  
**Price:** [REDACTED] NT for Coal FOB Barge  
**Location:** Originating in the Marmet Pool of the Kanawha River

These indications are based upon PFC M&T, via its operation of various Synfuel entities for other parties, being able to ship a volume as a synfuel product. Our intention would be to ship as much synfuel as possible, however, in the dynamic environment of Section 29, we must reserve the right to ship coal. We also understand current restrictions on your receipt of synfuel of a 1.2# SO2 require the product to be no greater than a 0.68% sulfur on a weighted average.

**Alternate Source:** PFC may elect at its sole option to ship either or both products from its facilities located at the Ceredo Dock, the Kanawha River Docks, or from the Big Sandy River Docks. Tons shipped from these facilities will be priced at an agreed to transportation differential, as part of the basic economic considerations of this package. The alternate sources will meet the parameters of the agreement between the parties.

As a general caveat, these indications are submitted subject to the party's negotiation of mutually acceptable terms and conditions, including but not limited to the inclusion of quality adjustment provisions and subsequent finalization of agreements.

I hope PFC-R finds these indications of interest. With the dynamics of today's marketplace we cannot hold these indications open more than a short period of time. We are also moving forward with other's interested in these types of product.

I appreciate your attention to this matter and if you have any questions please do not hesitate to contact me.

Joe Jefferson  
Director – Coal Sales



PFC M&T  
CR 1&2

### Indication of Product Availability

Mr. Pitcher,

Per our conversations of last week, Progress Fuels Corporation – Marketing & Trading (PFC M&T) is pleased to submit the following indication of product availability for the consideration of Progress Fuels Corporation – Regulated (PFC-R). I would appreciate the ability to follow-up with you after you have had the chance to evaluate the numbers.

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**Quantity:** 15,000 tons/month (subject to prior sale or commitment)\*  
**Quality:** Based on As Received – Monthly Weighted Averages  
BTU – 12,000 Min.  
ASH - 13.50% Max.  
SO2 #/MMBTU - 2.00# Max. – 1.8# Typical  
**Price:** [REDACTED] NT for Coal FOB Barge  
**Location:** Originating on the Big Sandy River

#### Second Indication

**Term:** 1/1/05 - 12/31/06  
**Quantity:** 15,000 tons/month (subject to prior sale or commitment)  
**Quality:** Based on As Received – Monthly Weighted Averages  
BTU - 12,000 Minimum  
ASH - 13.50% Maximum  
SO2 #/MM BTU- 1.20# Maximum  
**Price:** [REDACTED] NT for Coal FOB Barge  
**Location:** Originating in the Marmet Pool of the Kanawha River

These indications are based upon PFC M&T, via its operation of various Synfuel entities for other parties, being able to ship a volume as a synfuel product. Our intention would be to ship as much synfuel as possible, however, in the dynamic environment of Section 29, we must reserve the right to ship coal. We also understand current restrictions on your receipt of synfuel of a 1.2# SO2 require the product to be no greater than a 0.68% sulfur on a weighted average.

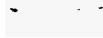
**Alternate Source:** PFC may elect at its sole option to ship either or both products from its facilities located at the Ceredo Dock, the Kanawha River Docks, or from the Big Sandy River Docks. Tons shipped from these facilities will be priced at an agreed to transportation differential, as part of the basic economic considerations of this package. The alternate sources will meet the parameters of the agreement between the parties.

As a general caveat, these indications are submitted subject to the party's negotiation of mutually acceptable terms and conditions, including but not limited to the inclusion of quality adjustment provisions and subsequent finalization of agreements.

I hope PFC-R finds these indications of interest. With the dynamics of today's marketplace we cannot hold these indications open more than a short period of time. We are also moving forward with other's interested in these types of product.

I appreciate your attention to this matter and if you have any questions please do not hesitate to contact me.

Joe Jefferson  
Director – Coal Sales







PROGRESS FUELS CORPORATION  
Monthly Spot Offer Analysis  
CR45  
Quarter 3 - 2004

A 404 B C

D E F G

Per Month	Transp.	Transp.	Railcar	Purchase Specifications							Unit 45	Cash	Cash	Evaluated	Evaluated	ACTION TAKEN	Notes
Tons	Mode	Cost	Costs	Ash	Sulfur	Btu	Moist	Vol	HGI	SO2	Codes	Cost \$/st	Cost \$/M	Cost \$/st	Cost \$/M		
20,000	Cook			9.80%	0.52%	11,400	9.40%	31.00%	50	0.90	B					No Buy	
10,000	CSX			12.00%	0.75%	12,500	9.00%	30.00%	40	1.20	V					Rejected	Avg price
70,000	Gulf			11.00%	0.40%	11,500	9.50%	33.50%	62	0.70	B					No Buy	
45,000	Gulf			5.50%	0.78%	13,000	5.00%	34.00%	45	1.20						Accepted	
40,000	CSX			12.00%	0.75%	12,500	10.00%	30.00%	44	1.20	V					Accepted	Avg freight
20,000	Gulf			13.50%	0.72%	12,000	9.00%	31.00%	45	1.20	A					Rejected	ASH
20,000	Gulf			11.00%	0.75%	12,500	9.00%	31.00%	45	1.20						Pending	Revised
46k each	IMT			8.00%	0.77%	12,800	8.00%	31.00%	45	1.20						Rejected	Price
46k each	CR			8.00%	0.77%	12,800	8.00%	31.00%	45	1.20						No Action	Belted direct to Dixie
46k each	Tampa			8.00%	0.77%	12,800	8.00%	31.00%	45	1.20						Rejected	Gearless Vsl/Trucks
20,000	CSX			12.00%	0.75%	12,500	8.00%	30.00%	45	1.20	V					Rejected	Price
38500 each	IMT			8.00%	0.77%	12,800	8.00%	31.00%	45	1.20						Rejected	Geared Vessel at IMT; protected rates
38500 each	CR			8.00%	0.77%	12,800	8.00%	31.00%	45	1.20						No Action	Belted direct to Dixie
38500 each	Tampa			8.00%	0.77%	12,800	8.00%	31.00%	45	1.20						Rejected	Gearless Vessel Kinder Morgan -Trucks
25,000	NOLA			7.30%	0.80%	11,800	11.30%	33.90%	49	1.02	M					Pending	Average price used (66.95 - 60.90)
10-20 k	CSX			10.00%	0.78%	13,000	8.00%	33.00%	42	1.20						Rejected	Price
10,000	CSX			9.00%	0.76%	12,700	8.00%	33.00%	42	1.20						Rejected	

CR 45 Economics Base Specifications

Ash	Sulfur	Btu	Moist	Vol	HGI
18.00%	0.70%	12,000	8.00%	31.00%	40

SO2 Price \$443

9/15/2004 13:23

Domestic

Foreign

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Per Month	Transp.	Transp.	Railcar	Purchase Specifications								Utilization	Unit 45	Cash	Cash	Evaluated	Evaluated		
Tons	Price	Mode	Cost	Costs	Ash	Sulfur	Btu	Moist	Vol	HGI	SO2	Cost/st	Codes	Cost \$/st	Cost \$/M	Cost \$/st	Cost \$/M	ACTION TAKEN	Notes
20,000		Cook			9.80%	0.52%	11,400	9.40%	31.00%	50	0.90	\$0.17	B						
10,000		CSX			12.00%	0.75%	12,500	9.00%	30.00%	40	1.20	\$1.35	V						Avg price
70,000		Gulf			11.00%	0.40%	11,500	9.50%	33.50%	62	0.70	\$0.10	B						
45,000		Gulf			5.50%	0.78%	13,000	6.00%	34.00%	45	1.20	-\$2.32							
30k/10k		CSX			12.00%	-0.75%	12,500	10.00%	30.00%	44	1.20	\$1.45	V						Avg freight
15,000		Gulf			13.50%	0.72%	12,000	9.00%	31.00%	45	1.20	\$1.21	A						Rates Recomputed with new info
46k each		IMT			8.00%	0.77%	12,800	8.00%	31.00%	45	1.20	-\$1.22						est rates	Geared Vessel at IMT
46k each		CR			8.00%	0.77%	12,800	8.00%	31.00%	45	1.20	-\$1.22						Wait for Dixie Rate	Belted direct to Dixie
46k each		Tampa			8.00%	0.77%	12,800	8.00%	31.00%	45	1.20	-\$1.22							Gearless Vessel Kinder Morgan -Trucks

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SO2 Price	\$350
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8/27/2004 9:42

**MONTHLY SPOT OFFERS**  
**3<sup>rd</sup> Quarter 2004**  
**Crystal River Units 4 & 5**  
**PAGE 1 OF 1**

BID SUBMITTED	SUPPLIER	TERM	TONS	PRICE	TRANSP. MODE	SPECS			ACTION TAKEN	
						ASH	SULFUR	BTU		
07/29	Peabody Energy	October-December 2004	20,000	[REDACTED]	Rail	9.8%	.90#	11,400	Pending	1
08/05	United Power, Inc.	November—December 2004	10,000	[REDACTED]	Rail	12%	1.2LB	12,500	Pending	2
08/05	United Power, Inc.	January—March 2005	30,000	[REDACTED]	Rail	12%	1.2LB	12,500	Pending	3
08/11	Evolution Carbon International	September	60,000-65,000 MT +/- 10%	[REDACTED]	CIF New Orleans	11%	.4%	11,500	Pending	4
08/17	Progress Fuels Corporation—M&T	August—September 2005 <i>2004</i>	40,000	[REDACTED]	Rail	12%	1.2LB	12,500	Possibly an additional 30,000 available for October—December 2004 Accepted 40,000 Tons Only	5
08/17	Progress Fuels Corporation—M&T	January 2005—December 2006	15,000/Mo. (360,000)	[REDACTED]	River Barge	13.5%	1.2LB	12,000	Synfuel w/option to ship coal if required Pending	6
08/26	Guasare Coal International N.V.	January—December 2005	210,000 (5 Cargoes) +/- 10% at Seller's Option	(1) [REDACTED] (2) [REDACTED] (3) [REDACTED]	DES IMT DES CR Offshore DES Tampa	6.5%	1.2LB	12,800	Offer valid until COB 09/02/04	7 9 10

Pitcher, Al (PFC)

From: Eladio Bueno [E.Bueno@GCI-UK.NET]  
 Sent: Thursday, August 26, 2004 11:21 AM  
 To: Pitcher, Al (PFC)  
 Cc: Catarina Carrasquinho  
 Subject: PFC 2005 Offer

*See Coal  
 Publication  
 article attached*

Dear Al,

As per our telecom, we are pleased to make the following coal offer:

1. Volume: 5 Firm cargoes of 42,000 metric tonnes +/- 10% at Seller's option.
2. Loading: to take place fairly evenly spread throughout 2005, with laydays for each shipment to be mutually agreed latest 31 days prior to intended 1<sup>st</sup> day of laycan.
- 3.1. Price: US \$ [REDACTED] per million BTU Gross as Received, DES at IMT Terminal, New Orleans; or
- 3.2. US \$ [REDACTED] per million BTU Gross as Received, DES open waters of the Gulf of Mexico, off the Coast of Florida, due West of the Crystal River; or
- 3.3. US \$ [REDACTED] per million BTU Gross as Received, DES at Tampa Terminal, New Orleans;
4. Quality: Paso Diablo as per existing contract.
5. Type of Vessel: craned/grabbed self-unloader.
- 6.1. Discharge conditions at IMT: vessel to self-discharge into Buyers' river barges by vessel's cranes/grabs operated by own crew or by competent crane drivers for Seller/Owners' account provided that allowed by local/national authorities/regulations, otherwise crane drivers shall be arranged for by Buyer free of risk and expenses to Seller/Owners; Vessel to self-discharge at the minimum average rate of 10,000mt per wwd of 24 consecutive hours SHINC, failing which Seller/Owners shall be responsible for barge detention at US\$ 7,000 PDPR; Buyer guarantees to Take Away the coal from underneath the vessel's cranes/grabs at the minimum average rate of 10,000mt per wwd of 24 consecutive hours SHINC, failing which Buyer shall be responsible for vessel's demurrage at a rate as per Charter Party (free despatch);
- 6.2. Discharge conditions in the open waters of the Gulf of Mexico, due West of the Crystal River: vessel to self-discharge into Buyers' Dixie vessels (with approximately 550 feet LOA by 82 feet beam with 4 holds, 8 hatches and which carry about 16,500 s/tons per voyage), otherwise same as set forth in 6.1. above;
- 6.3. Discharge conditions at Tampa: conventional discharge by Buyer's floating crane free of expenses to Seller/Owners, at the minimum average rate of 8,000 short tons per wwd of 24 consecutive hours SHINC, failing which Buyer shall be responsible for vessel's demurrage at a rate as per Charter Party;
7. Vessel nominations shall be accepted or rejected by Buyer within 24h; Bimco ISPS clause to apply; Otherwise, the terms and conditions of the Americanised Welsh Coal Charter Party (C/P) between GCI and Ship Owners shall apply in full.
8. Other terms and as per existing Paso Diablo contract dated 7<sup>th</sup> August 2003.
9. This offer is valid for acceptance up to COB LT 2<sup>nd</sup> September 2004.

Please confirm that you have received this offer.

Best regards,

Eladio Bueno

CEO

3/26/2004

1  
2  
3

Guasare Coal International n.v.

3/26/2004



**COAL SOLICITATION—"D" COAL  
CRYSTAL RIVER UNITS 4 & 5**

**RFP'S RELEASED 04/12/04**

**WORKPAPERS**

**COPIES**





**PROGRESS  
FUELS**  
Corporation

## INTER-OFFICE CORRESPONDENCE

Fuel Transportation  
Office

BT10E  
MAC

727/824-6692  
Phone No.

**SUBJECT: 2005-2007 REQUEST FOR PROPOSALS (RFP), PURCHASE ACTIVITY AND  
CONTRACT RE-OPENERS (RE-OPENERS)**

**TO:** Charlie Gates

**DATE:** June 22, 2004

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Since the beginning of the year, coal prices have continued to escalate to unprecedented levels. At the present time, there does not appear to be anything that will allow these prices to recede from their current levels. Most projections show a very strong coal market, at least through 2005 and probably well into 2006. Coal has been affected, like other fuels, by a worldwide mix of uncertainties, regulatory indecision, improving and in some cases "booming" (China) economies, transportation shortages and inefficiencies, and regional coal supply shortages. As discussed during each of our past meetings, we at Progress Fuels Corporation (PFC) are committed to continue to seek the most opportune times to enter the coal market to insure the competitiveness of the Crystal River plants. In addition to participating in the 2004 spot coal market, when we deemed it advantageous, PFC successfully renegotiated agreements with various suppliers in conjunction with their contract price re-opener provisions. Additionally, PFC has just completed evaluating and purchasing coal from the results of the 2005-2007 Request for Proposals (RFP).

Last year, we had eight contracts with price re-openers, five of which were for the Delta coal and three of which were for the Alpha coal. We successfully renegotiated six contracts (three Alpha and three Delta) and were unsuccessful with two Delta suppliers. A portion of the tonnage for the unsuccessful contracts was placed with other existing suppliers and the balance was secured in the 2004 spot market. More importantly, we negotiated renewed prices, tons, and two-year terms (2004 and 2005) with two suppliers; and in each case, we have re-openers for 2006. Our 2004 RFP purchases and the renegotiated contracts are currently at least [REDACTED] below the current market. 1

Our challenge this year was to attempt timing the market for our 2005-2007 RFP and any other purchases that we deemed of value. Although the prices are dramatically higher than last year, we were able to time the market such that the purchases we made, based on the results of the RFP just one month ago, are [REDACTED] dollars below the current market; and in the case of the March Colombian purchase, it is at least [REDACTED] below the current market for that coal. 23

The remainder of this memo will address the results from the 2005-2007 RFP and the Drummond Colombian coal purchase noted above. The 2005-2007 RFP provided PFC a reasonable selection of potential suppliers. We received bids from 20 domestic and foreign suppliers who submitted 37 bids. Last year we received bids from 21 domestic and foreign suppliers, submitting approximately 75 bids. This year we were offered 33.0 million tons of which 13% were foreign offers and 87% were water, rail-eastern, and rail-western offers. Last year we were offered 42.0 million tons spread fairly evenly between the foreign and domestic suppliers.

Because of the strength of the current market, we only purchased for 2005 and 2006. Our plan is to watch the market, and re-enter for both spot and contract coal during late 2004 and early 2005. I have enclosed with this memo the purchases and the economic evaluation from the RFP (See Attachment "A"), a Supply Assessment for 2005 and 2006 (See Attachment "B"), and the 2005 and 2006 scheduled purchases including their economic evaluations (See Attachment "C").

As always, we attempted to improve the economics, as compared to the prices offered, while increasing the tonnage purchased and the term offered.

## **2005-2006 PURCHASES**

### **FOREIGN WATER**

#### **Choice:**

- During the latter part of March and early April, we began negotiations with Drummond for an extension of our 2004 agreement. This decision was made because all indicators pointed to the beginning of another round of price increases and supply shortages for both domestic and foreign coals. We purchased 800,000 tons for 2005 and 1 million tons for 2006 from Drummond's Mina Pribbenow mines; this is "Delta" coal. The delivered cost to Crystal River (CR) is [REDACTED]\$/MMBTU and [REDACTED]\$/MMBTU, respectively. 1

No additional purchases were made for foreign coal from the RFP because the prices submitted from other foreign suppliers were not competitive. Their prices ranged from [REDACTED] to [REDACTED]\$/MMBTU. These prices compared to [REDACTED] to [REDACTED]\$/MMBTU, for offers from the domestic suppliers. 2

#### **Explanation:**

During 2004, we began shipments of Drummond's Colombian coal. The results economically, environmentally, and operationally have been excellent. This coal, besides being very low in ash and sulfur, reduces NO<sub>x</sub> emissions by almost 25%. This purchase will assist CR in achieving their NO<sub>x</sub> goals, while providing them with a competitively priced product.

### **DOMESTIC WATER**

#### **Choices:**

- We purchased "Delta" coal from two suppliers for delivery on the river system. We were offered and purchased 300,000 tons per year for 2005 and 2006 from Central Coal Company. This "Delta" coal will ship via truck to the Kanawha River and will deliver into CR at [REDACTED]\$/MMBTU. We also purchased 360,000 and 180,000 tons of "Delta" coal for 2005 and 2006 from Massey Energy. This coal will be rail-delivered to the Ohio River, and it will deliver into CR at [REDACTED]\$/MMBTU. 3  
4

Explanation:

- We have had previous experience with both of these suppliers and are very satisfied they will meet or exceed the specifications bid.

DOMESTIC RAIL

Choices:

- We purchased "Delta" coal from two companies and "Alpha" coal from three others. We have previous experience with three of the suppliers and have added two new companies.

"DELTA COAL"

We purchased 360,000 for 2005 and 180,000 tons for 2006 from Massey Energy. This coal will deliver into CR at [REDACTED] \$/MMBTU. We also purchased 360,000 each year from Progress Fuels-Marketing and Trading. This product will deliver into CR at [REDACTED] \$/MMBTU. 1 2

"ALPHA COAL"

We purchased 720,000 tons for 2005 and 360,000 for 2006 from Massey Energy. This coal will deliver into CR at [REDACTED] \$/MMBTU. We purchased 120,000 tons for 2005 and 240,000 tons for 2006 from Sequoia Energy LLC. This coal will deliver into CR at [REDACTED] \$/MMBTU. Also, we purchased 240,000 tons for each year (2005 and 2006) from B&W Resources. This coal will deliver into CR at [REDACTED] \$/MMBTU. 3 4 5

Explanation:

- Massey Energy has been a consistently reliable supplier over the past 20 years. Progress Fuels-Marketing & Trading has very good quality coal and a reliable track record. Because of the shortage of coals in the Central Appalachian region, we felt it imperative to add to our base of suppliers. Both Sequoia Energy and B&W Resources will fulfill this need. Prior to contracting with them we had our field representative visit their mining operations, and we called other utility buyers to verify their performance. No problems were noted in either case.

**2004 RE-OPENERS**

We have only one contract with a re-opener during 2004. Consol Energy (Consol) has a price, quantity, and terms re-opener, which needs to be completed by November 1, 2004. We have already had several discussions with Consol regarding tonnage for next year. Current estimates are that they will have 750,000 to 1 million tons to offer. The current contract is for 1 million tons.

**SUMMARY OF 2005 and 2006 PURCHASES**

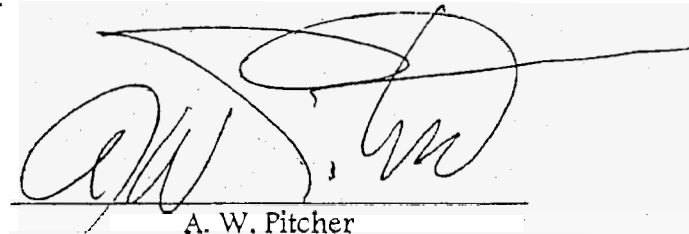
We anticipate a burn of 2.3 million tons for Crystal River Units 1 and 2 for both 2005 and 2006 and 4.3 and 4.4 million tons for Crystal River Units 4 and 5 for 2005 and 2006, respectively. The total burn is estimated at 6.6 million tons for 2005 and 6.7 million tons for 2006.

Our CR 1 & 2 open position for 2005 is approximately 330,000 tons, while it is 1.9 million tons for 2006; and it will be delivered 100 percent via rail.

Regarding Crystal River Units 4 and 5, our open position for 2005 is approximately 230,000 tons and approximately 920,000 tons for 2006. We will deliver 2.3 million tons via barge each year and 2.0-2.1 million tons by rail.

We will continue to fulfill the open positions from the spot and contract markets.

I would like to schedule a meeting with you at your earliest convenience to discuss the details of this report and answer any questions you may have.



A. W. Pitcher

AWP/ro

Attachments

cc/att: Rufus Jackson  
Kyle Crake

# PROGRESS FUELS CORPORATION

CR Units 1,2, 4 and 5

PURCHASES from

2005-2006

RFP

CORRECTED COPY

Attachment A

A B C D

(000)																Cash Cost \$/st	Cash Cost \$/M	Evaluated Utilized Cost \$/st	Evaluated Utilized Cost \$/M
				Total Tons	2005 Tons	2006 Tons	Purchase Specifications							Min	Max				
Supplier	Coal Type	Term	Origin				Ash	Sulfur	Btu	Moisture	Vol	HGI	SO2	SO2					
Water																			
Drummond / Interocean	D (CR4&5)	1/05-12/06	FOB Mobile	1800	800	1000	5.50%	0.70%	11,700	14.00%	32.00%	43		1.20					
Central Coal Co.	D (CR4&5)	1/05-12/06	Winifred Dock	600	300	300	12.00%	0.74%	12,300	8.00%	31.00%	42		1.20					
Massey	D (CR4&5)	1/05-6/06	FOB Ceredo	540	360	180	13.00%	0.73%	12,100	8.00%	31.00%	42		1.20					
Rail																			
Massey	D (CR4&5)	1/05-6/06	Bandmill	540	360	180	12.00%	0.73%	12,100	8.00%	31.00%	42		1.20					
Progress Fuels	D (CR4&5)	1/05-12/06	Diamond May	720	360	360	12.00%	0.75%	12,500	8.00%	32.00%	43		1.20					
Sequoia Energy LLC	A (CR1&2)	1/05-12/06	CSX Harlan	360	120	240	10.00%	1.34%	12,700	8.00%	31.00%	42	1.50	2.10					
Massey	A (CR1&2)	1/05-6/06	CSX BS	1080	720	360	12.00%	1.27%	12,100	8.00%	31.00%	42	1.50	2.10					
B&W Resources	A (CR1&2)	1/05-12/06	CSX Jellico	480	240	240	11.50%	1.25%	12,500	7.00%	32.00%	42	1.50	2.00					
			Total Tons	4320	2460	1860								SO2					



PROGRESS FUELS CORPORATION  
CR Units 4 and 5  
May 2004  
Solicitation  
ALL BIDS

Workpapers Only

A B C D

E F G H

Shipper		Term		Origin		Weight		Height		Avg		2005		2006		2007		2008		2009		2010		2011		2012		2013		2014		2015		2016		2017		2018		2019		2020		2021		2022		2023		2024		2025		2026		2027		2028		2029		2030		2031		2032		2033		2034		2035		2036		2037		2038		2039		2040		2041		2042		2043		2044		2045		2046		2047		2048		2049		2050		2051		2052		2053		2054		2055		2056		2057		2058		2059		2060		2061		2062		2063		2064		2065		2066		2067		2068		2069		2070		2071		2072		2073		2074		2075		2076		2077		2078		2079		2080		2081		2082		2083		2084		2085		2086		2087		2088		2089		2090		2091		2092		2093		2094		2095		2096		2097		2098		2099		2100		2101		2102		2103		2104		2105		2106		2107		2108		2109		2110		2111		2112		2113		2114		2115		2116		2117		2118		2119		2120		2121		2122		2123		2124		2125		2126		2127		2128		2129		2130		2131		2132		2133		2134		2135		2136		2137		2138		2139		2140		2141		2142		2143		2144		2145		2146		2147		2148		2149		2150		2151		2152		2153		2154		2155		2156		2157		2158		2159		2160		2161		2162		2163		2164		2165		2166		2167		2168		2169		2170		2171		2172		2173		2174		2175		2176		2177		2178		2179		2180		2181		2182		2183		2184		2185		2186		2187		2188		2189		2190		2191		2192		2193		2194		2195		2196		2197		2198		2199		2200		2201		2202		2203		2204		2205		2206		2207		2208		2209		2210		2211		2212		2213		2214		2215		2216		2217		2218		2219		2220		2221		2222		2223		2224		2225		2226		2227		2228		2229		2230		2231		2232		2233		2234		2235		2236		2237		2238		2239		2240		2241		2242		2243		2244		2245		2246		2247		2248		2249		2250		2251		2252		2253		2254		2255		2256		2257		2258		2259		2260		2261		2262		2263		2264		2265		2266		2267		2268		2269		2270		2271		2272		2273		2274		2275		2276		2277		2278		2279		2280		2281		2282		2283		2284		2285		2286		2287		2288		2289		2290		2291		2292		2293		2294		2295		2296		2297		2298		2299		2300		2301		2302		2303		2304		2305		2306		2307		2308		2309		2310		2311		2312		2313		2314		2315		2316		2317		2318		2319		2320		2321		2322		2323		2324		2325		2326		2327		2328		2329		2330		2331		2332		2333		2334		2335		2336		2337		2338		2339		2340		2341		2342		2343		2344		2345		2346		2347		2348		2349		2350		2351		2352		2353		2354		2355		2356		2357		2358		2359		2360		2361		2362		2363		2364		2365		2366		2367		2368		2369		2370		2371		2372		2373		2374		2375		2376		2377		2378		2379		2380		2381		2382		2383		2384		2385		2386		2387		2388		2389		2390		2391		2392		2393		2394		2395		2396		2397		2398		2399		2400		2401		2402		2403		2404		2405		2406		2407		2408		2409		2410		2411		2412		2413		2414		2415		2416		2417		2418		2419		2420		2421		2422		2423		2424		2425		2426		2427		2428		2429		2430		2431		2432		2433		2434		2435		2436		2437		2438		2439		2440		2441		2442		2443		2444		2445		2446		2447		2448		2449		2450		2451		2452		2453		2454		2455		2456		2457		2458		2459		2460		2461		2462		2463		2464		2465		2466		2467		2468		2469		2470		2471		2472		2473		2474		2475		2476		2477		2478		2479		2480		2481		2482		2483		2484		2485		2486		2487		2488		2489		2490		2491		2492		2493		2494		2495		2496		2497		2498		2499		2500	
Shipper	Term	Origin	Weight	Height	Avg	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100	2101	2102	2103	2104	2105	2106	2107	2108	2109	2110	2111	2112	2113	2114	2115	2116	2117	2118	2119	2120	2121	2122	2123	2124	2125	2126	2127	2128	2129	2130	2131	2132	2133	2134	2135	2136	2137	2138	2139	2140	2141	2142	2143	2144	2145	2146	2147	2148	2149	2150	2151	2152	2153	2154	2155	2156	2157	2158	2159	2160	2161	2162	2163	2164	2165	2166	2167	2168	2169	2170	2171	2172	2173	2174	2175	2176	2177	2178	2179	2180	2181	2182	2183	2184	2185	2186	2187	2188	2189	2190	2191	2192	2193	2194	2195	2196	2197	2198	2199	2200	2201	2202	2203	2204	2205	2206	2207	2208	2209	2210	2211	2212	2213	2214	2215	2216	2217	2218	2219	2220	2221	2222	2223	2224	2225	2226	2227	2228	2229	2230	2231	2232	2233	2234	2235	2236	2237	2238	2239	2240	2241	2242	2243	2244	2245	2246	2247	2248	2249	2250	2251	2252	2253	2254	2255	2256	2257	2258	2259	2260	2261	2262	2263	2264	2265	2266	2267	2268	2269	2270	2271	2272	2273	2274	2275	2276	2277	2278	2279	2280	2281	2282	2283	2284	2285	2286	2287	2288	2289	2290	2291	2292	2293	2294	2295	2296	2297	2298	2299	2300	2301	2302	2303	2304	2305	2306	2307	2308	2309	2310	2311	2312	2313	2314	2315	2316	2317	2318	2319	2320	2321	2322	2323	2324	2325	2326	2327	2328	2329	2330	2331	2332	2333	2334	2335	2336	2337	2338	2339	2340	2341	2342	2343	2344	2345	2346	2347	2348	2349	2350	2351	2352	2353	2354	2355	2356	2357	2358	2359	2360	2361	2362	2363	2364	2365	2366	2367	2368	2369	2370	2371	2372	2373	2374	2375	2376	2377	2378	2379	2380	2381	2382	2383	2384	2385	2386	2387	2388	2389	2390	2391	2392	2393	2394	2395	2396	2397	2398	2399	2400	2401	2402	2403	2404	2405	2406	2407	2408	2409	2410	2411	2412	2413	2414	2415	2416	2417	2418	2419	2420	2421	2422	2423	2424	2425	2426	2427	2428	2429	2430	2431	2432	2433	2434	2435	2436	2437	2438	2439	2440	2441	2442	2443	2444	2445	2446	2447	2448	2449	2450	2451	2452	2453	2454	2455	2456	2457	2458	2459	2460	2461	2462	2463	2464	2465	2466	2467	2468	2469	2470	2471	2472	2473	2474	2475	2476	2477	2478	2479	2480	2481	2482	2483	2484	2485	2486	2487	2488	2489	2490	2491	2492	2493	2494	2495	2496	2497	2498	2499	2500																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																						
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# PROGRESS FUELS CORPORATION

CR 1 and 2

May 2004

Solicitation

ALL BIDS

Workpapers Only

A B C D

(000)														Cash Cost \$/st	Cash Cost \$/M	Evaluated Utilized Cost \$/st	Evaluated Utilized Cost \$/M
Supplier	Term	Origin	Total Tons	2005 Tons	2006 Tons	2007 Tons	Purchase Specifications										
							Ash	Sulfur	Btu	Moisture	Vol	HGI	SO2				
Massey	05	CSX BS	720	720	0	0	12.50%	1.27%	12,100	8.00%	31.00%	42	2.10				
B&W Resources	05-07	CSX Jellico	720	240	240	240	11.50%	1.25%	12,500	7.00%	32.00%	42	2.00				
Marshall	05-06	CSX Clinchfield	500	250	250	0	13.00%	1.31%	12,500	7.00%	29.00%	50	2.10				
Massey	05	CSX Kan	720	720	0	0	12.50%	1.27%	12,100	8.00%	30.00%	42	2.10				
Central App	05-07	CSX BS	720	240	240	240	12.00%	1.32%	12,500	8.00%	32.00%	42	2.10				
Black Gold	05-07	CSX Harlan	600	120	240	240	10.00%	1.34%	12,700	8.00%	31.00%	42	2.10				
Horizon	05-07	CSX-Evergreen	1500	500	500	500	13.00%	1.29%	12,300	8.00%	31.00%	45	2.10				
Central Coal Co	05-06	CSX-Kan	480	240	240	0	12.00%	0.99%	12,300	8.00%	32.00%	45	1.60				
CMC	05	Colombia-Mobile	400	400	0	0	9.20%	0.78%	11,600	12.30%	32.00%	45	1.34				
Logan&Kanawha	05-07	CSX Kan	1080	360	360	360	13.00%	1.00%	12,500	8.00%	30.00%	42	1.60				
CMC	05	Colombia-ECT	400	400	0	0	9.20%	0.78%	11,600	12.30%	32.00%	45	1.34				
Peabody	05-07	CSX Kan	720	240	240	240	13.50%	1.28%	12,200	6.70%	30.00%	40	2.10				
Horizon	05-07	CSX Haz- Typo	1500	500	500	500	13.00%	1.27%	12,100	8.00%	31.00%	42	2.10				
Smokey Mtn	05	CSX Kan	240	240	0	0	13.00%	1.26%	12,000	8.00%	31.00%	42	2.10				

## CR 12 Economics Base Specifications

Ash	Sulfur	Btu	Moisture	Vol	HGI
10.00%	1.05%	12,000	8.00%	34.00%	40

Total Tons 10300

## Attachment C

A B C D

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Copper - Previous Contract

(1) Gusare has reopener for 2006

(2) Consol Reopener Pricing is estimated





**PROGRESS  
FUELS**  
Corporation

## INTER-OFFICE CORRESPONDENCE

Fuel Transportation  
Office

BT10E  
MAC

727/824-6692  
Phone No.

**SUBJECT: COAL PURCHASE AUTHORIZATION**

**TO: Kyle Crake**

**DATE: May 17, 2004**

We have evaluated the bids received in response to our April 12, 2004, Request for Proposals. Preliminary discussions have been conducted with several suppliers. Based upon these discussions, I request permission to purchase the following coals.

Crystal River Units 1 & 2

	<b>A</b> <u>Year 2005</u>	<b>B</b> <u>Year 2006</u>	
Sequoia Energy LLC/Black Gold, LLC			
Tons	120,000	240,000	
\$/Ton of Coal	[REDACTED]	[REDACTED]	1
¢/MMBtu Delivered	[REDACTED]	[REDACTED]	2
Massey			
Tons	720,000	N/A	
\$/Ton	[REDACTED]	N/A	3
¢/MMBtu Delivered	[REDACTED]	N/A	4

Crystal River Units 4 & 5

<u>Rail Coals</u>	<u>Year 2005</u>	<u>Year 2006</u>	
Massey Utility Sales Company			
Tons	720,000	N/A	
\$/Ton of Coal	[REDACTED]	N/A	5
¢/MMBtu Delivered	[REDACTED]	N/A	6
Progress Fuels			
Tons	360,000	360,000	
\$/Ton	[REDACTED]	[REDACTED]	7
¢/MMBtu Delivered	[REDACTED]	[REDACTED]	8

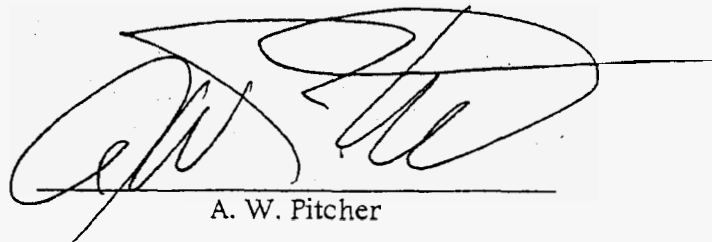
Water Coals

Central Coal Company			
Tons	300,000	300,000	
\$/Ton of Coal	[REDACTED]	[REDACTED]	9
¢/MMBtu Delivered	[REDACTED]	[REDACTED]	10

Mr. Kyle Crake  
May 17, 2004  
Page 2

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Additional coals will be required and on-going information gathering is taking place. Prior to other coals being purchased, I will submit a formal request.



A. W. Pitcher

AWP/ro

# DRAFT

MASTER  
WATER  
DOMESTIC

AGREEMENT FOR  
THE SALE AND PURCHASE OF COAL

BETWEEN  
PROGRESS FUELS CORPORATION  
AND

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# DRAFT

INDEX	
SECTION	DESCRIPTION
1.01	Mutual Obligations
1.02	Warranty and Dedication of Seller's Reserves
1.03	Quantity
1.04	Term
1.05	Base Price
1.06	Billing and Payment
2.01	Weighing
2.02	Delivery and Title
2.03	Shipment
2.04	Freight Charges
2.05	Excess Loading Costs Chargeable to Seller
2.06	Payment of Excess Costs to Purchaser
2.07	Freeze Proofing
3.01	Coal Specifications
3.02	Sampling and Analysis
3.03	Quality Reports
3.04	Coal Specifications Deficiencies
3.05	Sulfur Content Warranty
4.01	Force Majeure
4.02	Waiver
4.03	Remedies Cumulative
4.04	Cure of Default
4.05	Attorney's Fees
4.06	Indemnification
4.07	Environment, Health, and Safety
4.08	Notice of Problem

**DRAFT**

[illegible]

# DRAFT

## AGREEMENT FOR THE SALE AND PURCHASE OF COAL

This AGREEMENT (hereinafter the "Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between PROGRESS FUELS CORPORATION, a Florida corporation, 200 Central Avenue, One Progress Plaza, St. Petersburg, Florida, 33701 (hereinafter "PURCHASER") and \_\_\_\_\_, a \_\_\_\_\_ (state) corporation (hereinafter "SELLER"), \_\_\_\_\_ (street address) (hereinafter "SELLER"),

WHEREAS, PURCHASER does supply coal to Progress Energy Florida, Inc., a Florida corporation (hereinafter "PEF"), under a long-term purchase and sale agreement for use as fuel at PEF's Crystal River Units No. 4 and No. 5 near Red Level, Citrus County, Florida (hereinafter "PEF's generating units"); and

WHEREAS, PURCHASER desires to purchase and SELLER desires to mine and sell coal for use as fuel in PEF's generating units;

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties hereto as herein stated and intending to be legally bound, PURCHASER and SELLER agree as follows:

**1.01 Mutual Obligations.** SELLER agrees to mine, sell and deliver to PURCHASER, and PURCHASER agrees to buy from SELLER, coal of the quality and in the quantities and on the terms and conditions, set forth below.

# DRAFT

**1.02 Warranty and Dedication of SELLER'S Reserves.** SELLER represents and warrants that SELLER owns, leases or controls mineral interests containing reserves in seams sufficient in quality and quantity to supply the coal covered by this Agreement (hereinafter the "Coal Property"). SELLER hereby expressly dedicates to PURCHASER sufficient reserves of coal meeting the quality specifications hereof and lying on or in the Coal Property so as to fulfill the quantity specifications hereof. SELLER further agrees to reimburse PURCHASER for any increased cost that might be incurred to replace coals that SELLER is unable to ship on this contract.

**1.03 Quantity.** During the initial term hereof, the quantity of coal to be delivered hereunder shall be \_\_\_\_\_. Amounts under any renewal period shall be mutually agreed to by PURCHASER and SELLER by \_\_\_\_\_.

**1.04 Term.** The initial term of this Agreement will commence on \_\_\_\_\_, and will continue in effect for a period of twelve (12) months. PURCHASER shall have an option, exercisable by notice in writing prior to \_\_\_\_\_, to renew this Agreement for an additional term of twelve (12) months.

**1.05 Base Price.** The base price per ton of coal, f.o.b. SELLER'S mine loading site, (hereinafter "base price") shall be \_\_\_\_\_ (\$\_\_\_\_\_) per ton, adjusted monthly for the quality of coal in accordance with the formula and procedures set out in Appendix A hereto, during the initial term of this Agreement. Base Price during the optional additional term shall be negotiated \_\_\_\_\_. If PURCHASER and SELLER fail to agree on a new Base Price, this Agreement will expire on \_\_\_\_\_, 20\_\_\_\_\_.

# DRAFT

**1.06 Billing and Payment.** SELLER shall invoice PURCHASER for the coal delivered to PURCHASER on a per-vessel basis at the base price as shown in Section 1.05 hereof. Each invoice shall be paid by PURCHASER within twenty (20) days of the date of the invoice or fifteen (15) days from receipt of the invoice, whichever is later. Adjustments under Appendix A shall be separately stated and if not calculated in time for preparation of the monthly invoice may be stated as a retroactive adjustment on the monthly invoice next following the calculation date. A statement showing the basis for the adjustment shall accompany said invoice.

**2.01 Weighing.** The net weight of coal sold and delivered hereunder shall be determined by certified belt scales at the barge loading point or by barge survey if certified scales are not available.

**2.02 Delivery and Title.** All coal to be supplied under this Agreement shall be from SELLER'S mines located in \_\_\_\_\_, \_\_\_\_\_. Delivery shall commence on or about \_\_\_\_\_, and shipments shall be as uniform as practicable during contract period, plus or minus ten percent (10%). SELLER and PURCHASER shall mutually agree on actual shipment dates. For months in which SELLER fails to achieve these delivery rates through no fault of PURCHASER'S (i.e., IMT can receive vessel or barges are available as scheduled), SELLER shall pay PURCHASER the amount of \_\_\_\_\_ United States Dollars (\$\_\_\_\_\_USD) per ton for all tons which SELLER failed to load as scheduled in accordance with Section 2.03. Make-up of tons not loaded as scheduled shall be at PURCHASER'S sole discretion. Title to the coal and risk of loss thereof



# DRAFT

shall transfer to PURCHASER at the time PURCHASER'S river barges are completely loaded and have been released by SELLER or as coal passes to terminal hopper (for belted vessels).

**2.03 Shipment.** It is presently contemplated that coal sold hereunder will be shipped by barge from \_\_\_\_\_ river docks specified by PURCHASER.

SELLER warrants its terminals provide adequate and safe dock and harbor facilities for river barges and are free of wharfage, dockage or port charges. SELLER further warrants its terminals are capable of loading a minimum of three (3) 1,500 net ton river barges per day without unusual shifting or loading delay. SELLER shall operate its terminals twenty-four (24) hour per day, seven (7) days per week, if and as needed to load PURCHASER'S barges. PURCHASER shall nominate load dates to SELLER on a month-by-month basis; SELLER'S approval of such not to be unreasonable withheld. SELLER shall be responsible for all loss of, or damage to, any barge provided hereunder and for the loss of any coal in said barge (other than damage or loss due to normal wear and tear, latent or patent defects in the barge existing at the time of delivery) occurring after such barge has been delivered to SELLER at SELLER'S terminal and while in the custody, control and possession of SELLER, if such loss or damage was caused by SELLER'S negligence. SELLER shall, at its own expense, carry and maintain wharfinger's liability insurance or equivalent coverage for its terminals naming PURCHASER as an additional insured under the policy. SELLER agrees to provide to PURCHASER a copy of this insurance within ten (10) working days from the signing of this Agreement. SELLER shall have the right, but not the duty, to refuse to load any barges which SELLER considers unseaworthy. In such event, SELLER shall promptly notify PURCHASER. The loading and switching of barges between the time PURCHASER delivers the barges and the time PURCHASER picks up the barges shall be SELLER'S risk and expense.

# DRAFT

PURCHASER shall be solely responsible for making and providing all necessary arrangements with barge carriers for barges to be loaded hereunder. PURCHASER shall provide or cause its barge carrier to provide SELLER seven (7) and one (1) day advance notices of the estimated time of arrival of barges at the loading origin.

A barge shall be deemed to have been delivered to SELLER and be in SELLER'S custody, control and possession when it has been secured by or on behalf of PURCHASER at SELLER'S terminal to await loading, and shall be deemed to be released when untied for pickup by or on behalf of PURCHASER from SELLER'S terminal.

SELLER agrees to load purchaser's barges in a good and workmanlike manner according to drafts or other instructions as issued by PURCHASER or its agent. Any costs associated with SELLER'S failure to load barges in accordance with instructions issued by PURCHASER or its agent; such as, dead freight or reducing overloaded barges, shall be for SELLER'S account. SELLER shall make every reasonable effort to avoid loading barges which contain excess free water, ice, metal, wood or other debris. SELLER shall not load in each end piece barge less than 1,400 net tons and in each box barge less than 1,600 net tons unless otherwise instructed by PURCHASER or its agent.

**2.04 Freight Charges.** Subject to reimbursement provided by Sections 2.05, PURCHASER shall pay all freight and other charges imposed by its barge carrier.

**2.05 Excess Loading Costs Chargeable to SELLER.** SELLER shall be responsible for any origin river barge demurrage costs assessed by PURCHASER'S barge contractor provided such demurrage costs are, in fact, incurred by PURCHASER and are not excused pursuant to

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Section 4.01 hereof. SELLER agrees to exercise its best efforts to load PURCHASER'S barges in an expeditious manner.

**2.06 Payment of Excess Costs to PURCHASER.** Any payments required by Sections 2.05 above shall be promptly paid on receipt by SELLER of a written statement from PURCHASER itemizing such charges and showing facts necessary to permit SELLER to verify such charges. At either party's election, such charges may be credited against amounts then owed by PURCHASER to SELLER hereunder.

**2.07 Freeze Proofing.** When required by the river transfer terminal, PURCHASER-approved freeze proofing material will be applied at the rate of \_\_\_\_ (\_\_\_\_) pints per ton at a cost of \_\_\_\_\_ cents (\$.\_\_\_\_\_) per ton.

**3.01 Coal Specifications.** Coal delivered hereunder shall be crushed to two inches (2") by zero inches (0") in size with no intermediate sizes added or removed. It shall be prepared so as to be free of bone, slate, shale, fire clay, wood, metal, rock, loose clay and other impurities, as determined by PURCHASER, shall have a temperature below 131 degrees Fahrenheit and shall have the following per vessel specifications analyzed on an "as-received" basis. SELLER or SELLER'S terminal shall provide magnets and/or metal detectors, as required, to ensure that metal is eliminated from product.

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SPECIFICATION	REQUIREMENTS
Moisture (Total)	_____ % (maximum)
Ash	_____ % (maximum)
Sulfur Dioxide	1.2 LB SO <sub>2</sub> Per Million Btu (maximum)
Pyritic Sulfur	_____ % (maximum)
Volatile	_____ % (minimum) _____ % (maximum)
Ash Fusion - Initial Deformation	_____ ° (minimum)
Ash Fusion - Softening (H-1/2W), Reducing	_____ ° (minimum)
Grindability	_____ (minimum)
Calorific Value	_____ Btu/LB (guaranteed)
Fines (minus 1/4 inch)	_____ % (maximum)

**3.02 Sampling and Analysis.** For all coal delivered under this Agreement, PURCHASER shall appoint a mutually agreeable third party commercial laboratory to collect and analyze a representative sample of each shipment. At PURCHASER'S discretion, sampling may be performed at loading, transloading, or unloading facility.

**A. Standards.** Current versions of the ASTM standards or subsequent revisions thereof shall apply to equipment and methods used for sampling and analyzing coal under this Agreement, unless specifically stated and mutually agreed to otherwise. PURCHASER and SELLER shall agree as required on standard reference materials for use in performing analyses where applicable.

**B. Sampling.** Sampling of coal subject to this Agreement shall be performed by a third party laboratory selected by PURCHASER with an automatic sampling system at the mine, loading point, transloading point, or at Crystal River's unloading facility, at PURCHASER'S discretion, in conformance with the specifications of ASTM Standards D 2234 and D 2013 except for deviations agreed to in writing by PURCHASER and SELLER. In case of failure of the automatic sampler, shipments shall be hand-sampled per ASTM D 4915. SELLER shall perform bias testing on sampling systems at intervals not to exceed two (2) years as a condition for consideration of utilizing loading samples for basis of payment. PURCHASER has the right to

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perform or cause to be performed bias tests at any time during the period that this Agreement is in effect at PURCHASER'S cost.

Four sub-samples will be divided from each gross sample according to ASTM Standard 2013. All sub-samples shall be placed in suitable containers and distributed as follows:

Sub-sample one shall be for analyses as specified in Sections (c) and (d), and shall be called the Laboratory Sample.

Sub-sample two shall be maintained for a period of thirty days as referee samples as described in Section (e).

Sub-sample three shall be for SELLER'S disposition.

Sub-sample four shall be for PURCHASER'S disposition.

**C. Air Drying.** The laboratory sample shall be air-dried according to ASTM Standards D 2013 and D 3302 except that new minimum and maximum times or procedures may be employed by mutual agreement. An analysis sample shall be prepared from the air-dried sample for further analyses.

**D. Analysis to be Made.** The analyses to be made by a third party commercial laboratory, according to methods described in the applicable standards, are as follows:

Moisture, in weight percentage

Ash Content, in weight percentage

Calorific Value, in Btu's per pound

Sulfur, in weight percentage

Volatile Matter, in weight percentage

PURCHASER may also request analysis for HGI and Ash Fusion tests from time to time. Upon request, additional sub-sample(s) shall be maintained to allow SELLER to perform additional analysis.

**E. Acceptance of Results.** The results of the sampling and analysis by third party laboratory shall be accepted as the quality and characteristics of the coal delivered hereunder in the shipments represented by such samples, and the same shall be accepted as the monthly analysis for the shipments delivered during such month; provided, however, that if either party should at any time question the correctness of the original analysis made on the laboratory sample, it shall have the right to have sub-sample two analyzed by a testing laboratory mutually selected by

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SELLER and PURCHASER. Said laboratory shall use methods approved by ASTM or other mutually-accepted procedures, and mutually-agreeable standard reference materials.

The analysis of sub-sample two as determined by the commercial testing laboratory shall be accepted as being representative for the lot of coal under consideration. The party questioning the correctness of the original analysis shall pay the cost of such analyses, and the price of coal represented by such samples shall immediately be adjusted in accordance with the provisions of this Agreement, and any amounts due either PURCHASER or SELLER shall be paid in accordance with Section 5 hereof.

PURCHASER shall have the right to have a representative present at any and all times to observe said sampling and analysis and to take reasonable samples.

**3.03 Quality Reports.** Notice of the quality of coal delivered hereunder shall be given by telephone and telecopy to PURCHASER the day following the loading of coal at origin.

**3.04 Coal Specifications Deficiencies.** For purposes of this Agreement, a "shipment" shall mean the quantity actually received in any vessel {term for foreign coal} barge {term for domestic coal}. If the coal delivered hereunder in any single shipment fails to meet any of the specifications set out in Section 3.01 other than sulfur content, PURCHASER shall have each of the following options to be exercised in its sole discretion:

(1) PURCHASER may notify SELLER that PURCHASER will accept such coal subject to and in accordance with the provisions set forth in this Agreement including Appendix A; provided, however, that PURCHASER'S exercise of this option shall in no way constitute a waiver of PURCHASER'S right at any time thereafter to exercise any of the other options set forth herein with respect to subsequent deliveries of coal hereunder; or

(2) PURCHASER will have the option to reject any shipment which exceeds any of the minimum/maximum specifications listed in 3.01, and PURCHASER may notify SELLER to suspend further deliveries of coal hereunder until SELLER demonstrates to PURCHASER'S sole

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satisfaction that it can deliver coal that will conform on a per shipment basis to the specifications set forth in Section 3.01; provided, however, that PURCHASER'S exercise of this option shall in no way constitute a waiver of PURCHASER'S right at any time thereafter to exercise any of the other options set forth herein with respect to subsequent deliveries of coal hereunder. If SELLER fails to make the above demonstration to PURCHASER'S satisfaction within thirty (30) days after notice by PURCHASER, PURCHASER shall have the right to terminate or cancel this Agreement and, in addition, pursue every other remedy provided by law or equity.

**3.05 Sulfur Content Warranty.** SELLER warrants and represents that the average total sulfur content of each shipment shall not contain more than 1.20 LB of sulfur dioxide per million Btu's heat input (the "calculated sulfur limit") and not more than .2 percent pyritic sulfur.

In the event SELLER delivers to PURCHASER any shipment of coal with a total sulfur content or a pyritic sulfur content in excess of the calculated sulfur limits set forth above, the following shall apply:

(1) If, in PURCHASER'S sole determination, PURCHASER is able to use such coal by blending directly with other coal from the active stockpile so that the blended coal shall not exceed 1.20 LB of sulfur dioxide per million Btu's or .2 percent pyritic sulfur, PURCHASER shall accept such coal and the price of the coal delivered in such shipment shall be reduced from the invoice price PURCHASER would otherwise have been required to pay for such coal under this Agreement by the amount of PURCHASER'S cost of blending such coal determined by the following adjustment:

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Sulfur Adjustment = 1 percent (I)

Where:

I - Invoice price which would apply excluding the sulfur adjustment.

Such adjusted price shall become the price for purposes of applying any adjustments provided in Appendix A. No Btu premiums shall be allowed on any shipment which received the above sulfur penalty.

(2) If PURCHASER rejects any shipment under 3.04 or is unable to use such coal under any circumstances because the burning of such coal will cause PURCHASER'S buyer's generating unit or units to have emissions that exceed 1.20 LB of sulfur dioxide per million Btu's of heat input, PURCHASER may reject such shipment without payment and SELLER shall be obligated to pay the cost of disposing of such rejected shipment of coal and any other reasonable costs of disposition incurred. If PURCHASER rejects a shipment from SELLER under the provisions of this paragraph, PURCHASER and SELLER shall meet promptly thereafter to see what reasonable steps may be taken on the part of both parties to allow this Agreement to continue. If PURCHASER and SELLER fail to reach agreement within thirty (30) days as to what steps can be taken to correct the situation, then PURCHASER shall have the right to terminate this agreement by giving notice of termination to SELLER and, in addition, pursue every other remedy provided by law or equity.

SELLER shall be permitted to have a representative present to observe tests conducted by PURCHASER'S buyer of burning in PURCHASER'S buyer's facilities, and to observe sampling, analysis and tests conducted to determine the content of flue gases resulting from the burning of such coal. PURCHASER shall also make available to SELLER at reasonable times the results of such tests and analysis, as well as charts and other information resulting from the monitoring of stack gas emissions.



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4.01 Force Majeure. As used herein, the term "force majeure" shall mean any event beyond the control and without fault or negligence of the party affected thereby and which, by the exercise of reasonable diligence or the incurring of reasonable expense, such party is unable to prevent or overcome, regardless of whether such event was foreseeable, including, without limitation, act of God, act of public authorities (including courts and commissions of competent jurisdiction), act of the public enemy, insurrection, riot, labor dispute, labor or material shortage, fire, explosion, flood, breakdown of or damage to plant equipment or facilities (including emergency outages of equipment or facilities to make repairs to avoid breakdowns thereof or damage thereto), interruption to transportation or transportation delay, river freeze-up, embargo, order or act of civil or military authority, legislative, regulatory, permitting, judicial rule or order adopted, amended or newly interpreted subsequent to the date of this Agreement and any other event of a similar or dissimilar nature which wholly or partially prevents the mining, hauling, handling, processing or loading of coal by SELLER or the receiving, handling, transporting and/or delivering by PURCHASER'S carrier thereof or the accepting, handling, utilizing and/or unloading thereof by PURCHASER or PURCHASER'S intended buyer, PEF.

In the event performance of SELLER'S obligations hereunder or PURCHASER'S obligations hereunder is made impossible, impractical or illegal by reason of force majeure (other than obligations to pay or expend money for or in connection with the performance of the transactions contemplated by this Agreement) and such party promptly gives to each other party hereto written notice of the details thereof, then the obligations of the parties hereto shall be totally excused to the extent made necessary by such force majeure and during its continuance; provided, however, that such party giving such notice shall use its best efforts to eliminate such force majeure to the extent economically feasible to do so and with a minimum of delay. Any

# DRAFT

deficiencies in deliveries of coal hereunder as a result of force majeure shall not be made up except at the sole discretion of the PURCHASER. In the event force majeure results in a partial reduction in the total quantity of coal SELLER is obligated to deliver hereunder, the quantity of coal SELLER shall be obligated to deliver to PURCHASER hereunder during the continuance of such force majeure shall be limited to the amount of coal required to be delivered during such period but for this section multiplied by a fraction, the denominator of which is the production capacity of the Coal Property immediately prior to such force majeure and the numerator of which is the production capacity of the Coal Property during the continuance of such force majeure.

In the event that restrictions are imposed during the term of this Agreement by governmental bodies, agencies, entities, officials or courts which preclude or restrict PEF from burning coal of the specifications hereunder, such restriction shall be deemed to be an event of force majeure under this Agreement unless its effect can be avoided in a lawful manner and will not, in PEF's sole judgment, result in unreasonable expense to PEF, the obligations of the parties hereto shall be totally excused during the continuance of such force majeure.

**4.02 Waiver.** The failure of either party to insist on strict performance of any provisions of this Agreement or to take advantage of any right hereunder shall not be construed as a waiver or relinquishment of such provision or right but the same shall continue and remain in full force and effect.

**4.03 Remedies Cumulative.** Remedies provided under this Agreement shall be cumulative and in addition to other remedies provided by law.

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**4.04 Cure of Default.** Except as otherwise expressly provided in this Agreement, no default of either party to this Agreement in the performance of any of its covenants or obligations hereunder, which, except for this provision, would be the legal basis for cancellation or termination of this Agreement by the other party hereto, shall give or result in such a right unless and until the party committing such default shall fail to correct the default but in no event later than within thirty (30) days after written notice of claim of such default is given to such defaulting party by the other party hereto.

**4.05 Attorney's Fees.** In the event either party should default under the terms hereof or fail to perform any of the terms and conditions of this Agreement and a party employs an attorney to protect its interest and obtains a judgment in court or through arbitration in its favor, then the cost of such reasonable attorney's fee shall be and will form a portion of such judgment and shall be included in such judgment.

**4.06 Indemnification.** SELLER shall indemnify, defend and hold PURCHASER harmless from and against any claim, demand, loss, damage or injury caused by or resulting from any act or omission, whether negligent or otherwise, of SELLER. PURCHASER shall indemnify, defend and hold SELLER harmless from and against any claim, demand, loss, damage or injury caused by or resulting from any act or omission, whether negligent or otherwise, of PURCHASER. However, notwithstanding the above, neither party assumes any responsibility for damage or injury to officers, agents or employees of the other party.

**4.07 Environment, Health, and Safety.**

# DRAFT

**A. Compliance and Indemnification.** SELLER shall comply with all applicable EHS laws and shall indemnify PURCHASER against any EHS claims and costs arising from SELLER'S performance under this Agreement.

**B. Audits.** PURCHASER may audit SELLER'S EHS compliance. Within thirty (30) days of PURCHASER'S request, SELLER shall deliver to PURCHASER (1) all records regarding (a) SELLER'S actual or alleged violations of EHS laws and (b) EHS claims asserted against SELLER, in each case in the five year period preceding PURCHASER'S request and (2) any executed consent form(s) necessary for PURCHASER to obtain from regulatory agencies and other third parties information regarding SELLER'S EHS compliance.

**D. Definitions (as used in this Agreement).**

1. **Claim** means administrative, regulatory or judicial action, suite, dispute, liability, judgment, penalty, damages, directive, order or claim.

2. **EHS** means relating to the management of any material or the protection of human health, public safety, occupational/mine safety and health, the environment or natural resources.

3. **Indemnify** means to indemnify, defend, and reimburse the indemnitee and its successors and assigns on an after-tax basis.

4. **Law** means any binding authority, demand, or permitting requirement issued by a legislative, judicial, or executive governmental body.

5. **Manage or management, with respect to any material,** means the manufacture, disturbance, generation, use, transportation, emission, discharge, treatment, storage, disposal, release, or threatened release thereof.

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**4.08 Notice of Problem.** Whenever either party hereto encounters or discovers or reasonably anticipates any problem which could delay or prevent performance of this Agreement, such party shall immediately notify in writing the other party of all relevant circumstances and any remedial steps being taken.

**5.01 Independent Contractor.** The parties recognize and agree that SELLER is not an agent or employee of PURCHASER but is independent of any managerial or other control or direction by PURCHASER in its work hereunder and is free to perform, by such means and in such manner as SELLER may choose, all work in pursuance of commitments hereunder.

**5.02 Binding Effect.** This Agreement shall bind and inure to the benefit of the parties and their successors and assigns under Section 5.03 hereof. This Agreement shall not create any rights or remedies in any entity not a part hereto.

**5.03 Assignments.** Neither party may assign nor transfer this Agreement nor any rights nor obligations hereunder without the prior written consent of the other party hereto. In the event that there shall be a change of control of SELLER or any company which controls SELLER directly or indirectly (as the term control is defined in the Federal Securities Law), PURCHASER will have the right to terminate this Agreement.

**5.04 Captions.** The captions to sections hereof are for convenience only and shall not be considered in construing the intent of the parties.

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**5.05 Applicable Law and Venue.** All questions relating to execution, construction, performance, termination or breach of this Agreement shall be resolved under the laws of the State of Florida without regard to the choice of law provisions thereof. In the event of any lawsuit filed hereunder, the parties hereto authorize venue in Pinellas County, Florida, and/or the federal court district encompassing said county.

**5.06 Conflict of Interest Policy.** PURCHASER has adopted a conflict of interest policy, applicable to all its full-time employees (hereafter "Employee"), and intended to ensure that all business activities of PURCHASER will be conducted in a manner so as to avoid any conflict of interest or appearance of a conflict.

SELLER agrees to conduct its activities in support of said conflict of interest policy, specifically as follows:

(a) SELLER shall promptly disclose to PURCHASER the existence of any material financial interest in SELLER held, at any time during the term of this Agreement, by any Employee or member of an Employee's immediate family. The holding of publicly traded securities in SELLER need not be disclosed unless the Employee is directly or indirectly involved in dealing with the SELLER.

(b) SELLER shall not accept on its own behalf the service or employment in any capacity (such as director, officer, employee, representative or consultant) of any Employee, unless such service or employment is specifically authorized by the President or Board of Directors of PURCHASER.

(c) SELLER shall not offer to any Employee or member of an Employee's immediate family any gifts of more than token value, special preference loans, lavish entertainment or other substantial favors.

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Breach of this provision by SELLER shall constitute a material breach of this Agreement; and in the event thereof, PURCHASER shall have the right to terminate this Agreement and pursue any and all other remedies at law or equity.

**5.07 Entire Agreement.** This instrument contains the entire agreement between the parties and there are no representations, understandings or agreements, oral or written, which are not included herein. This Agreement cannot be changed except by duly authorized representatives of both parties in writing. It is understood that PURCHASER or SELLER from time to time in the administration of this Agreement may issue and transmit each to the other documents designated as "Purchase Orders" and "Change Orders;" these documents serve instructional or accounting functions only and are not amendments to or constructions of this Agreement.

**5.08 Confidentiality.** Each party hereto recognizes that this Agreement contains confidential commercial information, the public disclosure of all or any part of which could be damaging to the parties hereto. Accordingly, each party hereto agrees not to disclose any of the terms or provisions of this Agreement to any person or persons not a part hereto, except for affiliated corporations or unincorporated divisions of the parties hereto, without the prior consent in writing thereto of the other party hereto, which consent shall not be unreasonably withheld, except to the extent such party is legally compelled to make such disclosure pursuant to applicable law or to the extent such disclosure is reasonably necessary in connection with any regulatory, administrative or other legal proceeding in which such party, or any such affiliated corporation or unincorporated division, is involved. When disclosure is made within the terms of the above mentioned exceptions, such disclosure shall be made only to the extent reasonably necessary. It is further understood and agreed that whenever any such information is disclosed by any party

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hereto in accordance with the above mentioned exceptions, such party will advise each person to whom disclosure is made of the confidential nature of the information disclosed and, except for routine regulatory reporting by PURCHASER, provide written notice of such disclosure, in advance thereof, if possible, to the other party to this Agreement.

**5.09 Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their authorized officers, all as of the date and year first above written.

**WITNESSES:**

\_\_\_\_\_  
\_\_\_\_\_

**PROGRESS FUELS CORPORATION**

BY: \_\_\_\_\_  
Vice President - Coal Procurement  
Date Executed: \_\_\_\_\_

**WITNESSES:**

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
**{COMPANY NAME}**  
BY: \_\_\_\_\_  
**{TITLE}**  
Date Executed: \_\_\_\_\_





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## APPENDIX A

### Adjustments for Calorific Value

Base price is based upon Subject Coal having weighted average calorific value of \_\_\_\_\_ Btu's per pound avoirdupois ("Pound"), "as received" at the point of weighing referred to in Section 2.01. The Base Price shall be subject to adjustment each month in accordance with the following provisions in order to compensate for variations in the calorific value of the Coal delivered during that month, with the result of such adjustment being taken into account in determining the price to be paid for the Coal received during that month. Price adjustments shall be calculated on a per-shipment basis and totaled for the month.

1. The variation of any given month shall be ascertained by comparing the per shipment calorific value of the Coal delivered and accepted that month with the calorific value of \_\_\_\_\_ Btu's per Pound.
2. If the calorific value in any shipment is greater than or less than \_\_\_\_\_ Btu's per Pound, the adjustment to be made therefor shall be computed on the basis of the following formula:

$$(\text{Actual Btu's Per Pound} - \text{Guaranteed Btu's Per Pound}) \div \text{Guaranteed Btu's Per Pound} \times \text{Base Price} = \text{Cents Per Ton (FOB Mine) (Premium if positive—penalty if negative.)}$$
**PENALTIES WILL RECEIVE A MULTIPLIER OF TWO.**

Shipments that do not meet one or more contract minimum or maximum specifications will be excluded from premium calculations.

### Adjustments for Ash Content

Base price is based upon Subject Coal having weighted average ash content of eleven percent (11.0%) maximum "as received" at the point of weighing referred to in Section 2.01. The Base Price shall be subject to the following deductions:

ASH CONTENT	AMOUNT TO BE DEDUCTED FROM BASE PRICE
_____ % to _____ %	_____ of the Base Price
_____ % to _____ %	_____ of the Base Price
_____ % to _____ %	_____ of the Base Price
_____ % and Greater	_____ of the Base Price

1  
2  
3  
4

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## APPENDIX B

### Vessel Dispatch/Demurrage Provisions

{To Be Negotiated}

# DRAFT

MASTER  
RAIL

AGREEMENT FOR  
THE SALE AND PURCHASE OF COAL

BETWEEN  
PROGRESS FUELS CORPORATION  
AND

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# DRAFT

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# DRAFT

## AGREEMENT FOR THE SALE AND PURCHASE OF COAL

This AGREEMENT (hereinafter the "Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between PROGRESS FUELS CORPORATION, a Florida corporation, 200 Central Avenue, One Progress Plaza, St. Petersburg, Florida, 33701 hereinafter "PURCHASER") and \_\_\_\_\_, a \_\_\_\_\_ (state) corporation, \_\_\_\_\_ (street address) hereinafter "SELLER"),

WHEREAS, PURCHASER does supply coal to Progress Energy Florida, Inc., a Florida corporation (hereinafter "PEF"), under a purchase and sale agreement for use as fuel at PEF's Crystal River Units No. \_\_\_\_\_ and No. \_\_\_\_\_ near Red Level, Citrus County, Florida (hereinafter "PEF's generating units"); and

WHEREAS, PURCHASER desires to purchase and SELLER desires to mine and sell coal for use as fuel in PEF's generating units;

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties hereto as herein stated and intending to be legally bound, PURCHASER and SELLER agree as follows:

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**1.01 Mutual Obligations.** SELLER agrees to mine, sell and deliver to PURCHASER, and PURCHASER agrees to buy from SELLER, coal of the quality and in the quantities and on the terms and conditions, set forth below.

**2.01 SELLER'S Reserves and Preparations for Selling Coal.** SELLER represents and warrants that SELLER owns or leases the Coal Property. SELLER further represents and warrants that the Coal Property contains economically recoverable coal of a quality and in quantities which, under present mining laws, practices, governmental rules and regulations will be sufficient to satisfy all the requirements of this Agreement during the entire term of this Agreement. SELLER agrees and warrants that it will immediately proceed to mine coal from the Coal Property and provide loading facilities capable of loading at the rate required to comply with this Agreement, all on such a schedule as to put SELLER in position to commence its sales and deliveries of coal to PURCHASER in accordance with the further provisions hereof. SELLER hereby expressly dedicates to PURCHASER sufficient reserves of coal meeting the quality specifications hereof and lying on or in the Coal Property so as to fulfill the quantity specifications hereof. SELLER shall not ship any coal hereunder mined from any source other than the Coal Property without the prior written approval of PURCHASER.

## SHORT-TERM LANGUAGE

**3.01 Quantity.** During the initial term hereof, the quantity of coal to be delivered hereunder shall be \_\_\_\_\_. Amounts under any renewal period shall be mutually agreed to by PURCHASER and SELLER by \_\_\_\_\_

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## LONG-TERM LANGUAGE

**3.01 Quantity and Source.** During each calendar year during the term hereof, the quantity of coal to be delivered hereunder shall be \_\_\_\_\_ tons, prorated for any partial calendar year. At PURCHASER'S option, to be declared in writing by October 1 of the preceding calendar year, annual quantity may be varied between \_\_\_\_\_ tons and \_\_\_\_\_ tons. Coal to be supplied under this Agreement shall only be from the Coal Property.

**4.01 Term.** The initial term of this Agreement will commence on \_\_\_\_\_, \_\_\_\_\_, and will continue in effect for a period of \_\_\_\_\_ (\_\_\_\_) months. PURCHASER shall have an option, exercisable by notice in writing prior to \_\_\_\_\_, 20\_\_\_\_, renew this Agreement for an additional term of \_\_\_\_\_ (\_\_\_\_) months. If PURCHASER and SELLER fail to agree on a new Base Price as defined in Section 5.01, Base Price, this Agreement will expire on \_\_\_\_\_, 20\_\_\_\_.

**5.01 Base Price.** The base price per ton of coal, f.o.b. SELLER'S mine loading site, (hereinafter "base price") shall be \$\_\_\_\_\_ per ton, adjusted monthly for the quality of coal in accordance with the formula and procedures set out in Appendix A hereto, during the initial term of this Agreement. Base Price during the optional additional term shall be negotiated by \_\_\_\_\_, 20\_\_\_\_.

## LONG-TERM LANGUAGE

**5.02 Adjustment to the Base Price.** For coal delivered to PURCHASER in each subsequent calendar year, the base price shall be adjusted annually every January 1, as follows:



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The immediately preceding year's base price shall be apportioned 80 percent to the escalating or de-escalating component and 20 percent to the non-escalating component. The escalating or de-escalating base price component shall be apportioned 75 percent into a "PPI component" and 25 percent into a "GDP component." Each escalating or de-escalating base price component shall be adjusted by multiplying it by the change in the appropriate index as defined below.

The change in each appropriate index shall be expressed as a fraction, the numerator of which is the appropriate index first published in January of such subsequent calendar year, and the denominator of which is the appropriate index for the immediately preceding year. The appropriate indices for this adjustment shall be (i) for the PPI component, the December Producers Price Index for Industrial Commodities Less Fuel, Table 8, and (ii) for the GDP component, the fourth quarter Gross Domestic Product Implicit Price Deflator. The base price will be allowed to escalate or de-escalate according to appropriate indices. The base price shall carry a cap of \_\_\_\_\_ (\$\_\_\_\_\_) per year as a maximum escalation. Appendix C lists examples of how this escalation clause is applied.

**6.01 Billing and Payment.** SELLER shall invoice PURCHASER monthly for the coal delivered to PURCHASER during the preceding month at the base price as shown in Section 5.01 hereof. Each invoice shall be paid by PURCHASER within twenty (20) days of the date of the invoice or fifteen (15) days from receipt of the invoice, whichever is later. Adjustments under Appendix A shall be separately stated and if not calculated in time for preparation of the monthly invoice may be stated as a retroactive adjustment on the monthly invoice next following the calculation date. A statement showing the basis for the adjustment shall accompany said invoice.

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**7.01 Delivery and Title.** Delivery shall commence during \_\_\_\_\_. Time is of the essence. Delivery will be at PURCHASER'S option as provided in Section 7.02, in railroad cars or trucks f.o.b. the Coal Property and will be so scheduled as to permit loading in unit train lots in accordance with the terms of the applicable contract or tariff (as defined hereinafter). PURCHASER represents that it will supply transportation equipment as required for delivery. Delivery shall be in approximately equal monthly installments wherever possible; however, PURCHASER retains the right to alter monthly shipping schedules on a reasonable basis to meet monthly burn requirements at PEF's Generating Units and to conform to PURCHASER'S unit train and river barge tonnage requirements. Title to the coal and risk of loss thereof shall transfer to PURCHASER at the time the trains or trucks are completely loaded and have been released by SELLER.

**7.02 Shipment; Applicable Contract or Tariff.** It is currently contemplated that coal sold hereunder will be shipped by rail from SELLER'S unit train loading facilities at \_\_\_\_\_ to destinations specified by PURCHASER. Notwithstanding the foregoing, PURCHASER shall have the option to ship the coal by truck or rail to river docks for movement on the American inland waterway system. Coal for shipment by river from a single origin shall be scheduled in shipments to meet PURCHASER'S river barge requirements, not to exceed 22,500 tons for loading into fifteen (15) barge unit tows.

Unless waived in writing by PURCHASER (as may be done in the case of river shipments), SELLER will provide, at its own expense, off-mainline rail trackage sufficient for efficient and dependable loading of unit trains at or near the mine loading site or at another mutually acceptable location in accordance with schedules set by PURCHASER. SELLER shall operate such loading facilities twenty-four (24) hours per day, seven (7) days per week, if and as needed, regardless of

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mine holidays or vacation periods, and shall fully load unit trains comprised of up to ninety (90) one-hundred (100) ton cars within four (4) hours of their arrival (minimum weight 9,600 tons per 90-car unit train or 107.0 minimum tons per car) at such loading facilities or in accordance with the applicable contract or tariff for shipments hereunder. SELLER shall load each car at least to the minimum tonnage requirements of the railroad as defined in the CSXT-8200 Series Tariff in effect at the time shipments are made. "Arrival" shall be deemed to have occurred when the SELLER is notified by the CSX trainmaster that a train is **available** for loading. Requests by the SELLER to the CSX to "hold" trains will not allow SELLER to avoid charges referenced in Appendix B.

In no event shall SELLER load a car in excess of the maximum weight limitation per car as currently allowed by the railroad over the route of movement. If a car is found to be loaded in excess of the maximum weight limitation, the provision and charges published in Item 400, Tariff ICC CSXT-8200-Series, including supplements thereto or reissues thereof, will apply; and SELLER shall be responsible for such charges.

Shipment of coal under this Agreement (other than by truck) shall be made in accordance with the contract which PURCHASER has negotiated with the railroad or in the absence thereof the applicable tariff (herein called the "applicable contract or tariff"). SELLER acknowledges receipt of same and expressly assumes the obligations imposed on the consignor under the applicable contract or tariff, and SELLER agrees to load unit trains in a manner and at an effective rate sufficient to load the quantities of coal scheduled for delivery under this Agreement and sufficient to qualify PURCHASER for the applicable contract or tariff without demurrage, car detention, dead freight or other penalties or charges; provided, however, that PURCHASER provides transportation equipment on a regularly scheduled basis sufficient to enable SELLER to fulfill the terms of this Agreement. SELLER agrees and warrants that no agreement of SELLER providing for the joint use of surface facilities will interfere with or impair SELLER'S obligations as set forth in

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this Agreement. The provisions of Sections 7.04 and 7.05 of this Agreement shall not be deemed to limit or modify any of SELLER'S obligations or PURCHASER'S rights hereunder.

If the applicable contract or tariff is amended, supplemented or replaced, subsequent shipments of coal shall be made by SELLER in accordance with the terms of the applicable contract or tariff as amended, supplemented or replaced. Notwithstanding anything in this Agreement to the contrary, if the applicable contract or tariff as amended, supplemented or replaced imposes more costly car-loading terms, conditions or duties on SELLER than those specifically assumed by SELLER under this Agreement, PURCHASER either shall pay SELLER, as a direct result of the imposition of such additional costly car-loading terms, conditions or duties on SELLER, reasonable additional per ton charges or, at PURCHASER'S sole discretion, may terminate the Agreement. Payments shall begin within thirty (30) days after receipt from SELLER of a written statement itemizing such costs (which may include SELLER'S additional costs for labor, materials, amortization of capital items or a combination of these) and showing facts necessary to permit PURCHASER to verify such costs.

**7.03 Freight Charges.** Subject to reimbursement provided by Sections 7.04 and 7.05, PURCHASER shall pay all freight and other charges imposed by the applicable tariff.

**7.04 Excess Loading Costs Chargeable to SELLER.** If SELLER fails to satisfy the loading requirements of the applicable tariff and such failure is not excused pursuant to force majeure as provided in Section 10.01 hereof or the applicable tariff, SELLER shall pay PURCHASER or railroad any resulting car detention penalties, demurrage, crew charges or charges for cars not timely loaded to marked capacity which PURCHASER is required to pay under the applicable tariff. In addition, SELLER shall pay PURCHASER reasonable lost railcar

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utilization charges for failure to timely and fully load and/or time lost to unload overloaded railcars of PURCHASER. Examples of these charges are listed in Appendix B.

**7.05 Excess Freight Costs Chargeable to SELLER.** If SELLER fails to have available sufficient coal to satisfy the quantity requirements of Section 3.01 on the regularly scheduled basis referred to in Section 7.01 and thereby fails to satisfy the tonnage requirements of the applicable contract or tariff (dead freight, volume incentive threshold, annual volume guarantee) and such failure is not excused pursuant to force majeure as provided in Section 11.01 hereof, SELLER shall pay PURCHASER any resulting freight charges which PURCHASER is required by such contract or tariff to pay in excess of the amount of such charges that would have been payable with respect to the coal actually shipped had tonnage requirements been met. In the event locomotives, caboose and train crew are released without a unit train of loaded cars being released to the railroad, detention charges, which include charges for locomotives, if any, will cease at the time of notification of such release. When a train crew, caboose and locomotives are again required by SELLER for service, a charge of \$1,635.00, as adjusted by the railroad, will be assessed by the railroad and paid by SELLER and the detention and free time provisions will again be applicable upon the arrival of locomotives, caboose and crew at the mine loading site.

**7.06 Payment of Excess Costs to PURCHASER.** Any payments required by Sections 7.04 and 7.05 above shall be promptly paid on receipt by SELLER of a written statement from PURCHASER itemizing such charges and showing facts necessary to permit SELLER to verify such charges. At either party's election, such charges may be credited against amounts then owed by PURCHASER to SELLER hereunder.

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**7.07 Freeze Proofing.** When required by the river transfer terminal, a PURCHASER approved freeze proofing material will be applied by SELLER at the rate of \_\_\_\_ (\_\_\_\_) pints per ton at a cost of \_\_\_\_\_ cents (\$.\_\_\_\_\_) per ton to PURCHASER. Freeze proofing will not be required on direct rail shipments.

**8.01 Weighing.** The net weight of coal sold and delivered hereunder shall be determined by SELLER'S certified scales (if available) at origin for unit train shipments or, if the origin scales are inoperable or are not certified, PURCHASER may order weighing by the carrying railroad over certified scales or may use the average of the net weights of the five (5) prior unit trains. Notwithstanding the above, at PURCHASER'S option, weight may be determined by certified scale at discharge point.

**8.02 Sampling and Analysis.**

**A. Sampling.** Sampling of coal subject to this Agreement shall be performed on each shipment with an automatic sampling system by a third party employed by PURCHASER at the mine or at PEF's Crystal River power plant in conformance with the specifications of ASTM Standards, except for deviations agreed to in writing by PURCHASER and SELLER. In case of any failure of the automatic sampler, trainloads may be hand-sampled in accordance with ASTM 4915 or by other mutually agreed to method. The cost of sampling coals shall be for the account of PURCHASER.

The SELLER shall perform or cause to be performed bias/performance tests on mechanical sampling systems at two-year intervals. PURCHASER shall be furnished bias test reports performed within two (2) years of commencement of shipments. PURCHASER has the

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right to perform or cause to be performed bias/performance tests at any time during the period that this Agreement is in effect at PURCHASER'S cost.

A minimum of four sub-samples shall be divided from the shipment sample according to ASTM Standard D 2013. The fourth sub-sample shall be placed in a suitable container and sent to PURCHASER. The third sub-sample shall be placed in a suitable container and saved for SELLER'S disposition only. The second sub-sample shall be placed in a suitable container and retained for thirty (30) days as a check sample. The first sub-sample, which is called the laboratory sample, shall be used for analyses as specified in the following paragraphs. Appropriate additional splits shall be retained for additional tests as needed.

**B. Air Drying.** The laboratory sample shall be air-dried according to ASTM Standards D 2013 and D 3302, except that modified procedures may be employed by mutual agreement. The air-dried sample shall then be prepared for further analyses.

**C. Analyses to be Made.** The analyses to be made according to methods described in the applicable standards are as follows:

- Moisture, in weight percentage
- Ash Content, in weight percentage
- Calorific Value, in Btu's per pound
- Sulfur, in weight percentage
- Volatile, in weight percentage
- Grindability, in Hardgrove Index units
- Ash Fusion, in degrees Fahrenheit
- Pyritic Sulfur, in weight percentage
- Screen Analysis, in weight percentage (separate sampling required)

**D. Acceptance of Results.** The results of the third party sampling and analysis of the laboratory sample shall be accepted as the quality and characteristics of the coal delivered hereunder in the trainloads represented by such samples and the same shall be accepted as the monthly analysis for the trainloads delivered during such month; provided, however, that if either party, within thirty (30) days, questions the correctness of the original analysis made on the labora-

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tory sample, it shall have the right to have the check sample analyzed by a commercial testing laboratory mutually selected by SELLER and PURCHASER and said laboratory shall use methods approved by ASTM or other mutually acceptable procedures. The results obtained on the check sample will be accepted as the quality and characteristics of the lot of coal involved. The party questioning the correctness of the original analyses shall pay the cost of such analyses. The price for the coal represented by such samples shall be adjusted in accordance with the provisions of this Agreement and any amounts due shall be paid in accordance with Section 6 hereof.

PURCHASER and SELLER shall have the right to have a representative present at any and all times to observe said sampling and analyses and to take a reasonable number of samples.

**8.03 Quality Reports.** Notice of the quality of coal delivered hereunder shall be given to PURCHASER and SELLER as soon as practical following the loading of coal at origin.

**9.01 Coal Specifications.** Coal delivered hereunder shall be a homogenous coal, crushed to two inches (2") by zero inches (0") in size with no intermediate sizes removed. The coal shall be prepared so as to be free from excess quantities of bone, slate, shale, fire clay, wood, metal, rock, loose clay, and other mine impurities as determined by PURCHASER and shall have a temperature below 131° Fahrenheit, and shall have the following specifications per shipment on an "as-received" basis:



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SPECIFICATION	REQUIREMENTS
Moisture	_____% (maximum)
Ash	_____% (maximum)
Sulfur	1.2 LB/SO <sub>2</sub> per Million Btu (maximum)
Volatile	____ (minimum) ____ (maximum)
Ash Fusion - Softening (H=W), Reducing	____°F (minimum)
Grindability	____ HGI (minimum) ____ HGI (maximum)
Calorific Value	____ Btu/LB (guaranteed)
Pyritic Sulfur	.2% (maximum)
Fines (-1/4")	____ (maximum)

No metal should be contained in shipments. SELLER shall provide magnets and metal detectors or other suitable equipment should the need arise. Inclusion of metal in coal shipments, if continued, shall be grounds for immediate termination of this Agreement.

**9.02 Coal Specifications Deficiencies.** For purposes of this Agreement, a "shipment" shall mean the quantity actually received in any unit train load or, in the event barge transportation is utilized, each barge loaded. If the coal delivered hereunder in any single shipment fails to meet any of the specifications set out in Section 9.01 other than sulfur content, PURCHASER shall have each of the following options to be exercised in its sole discretion:

(1) PURCHASER may notify SELLER that PURCHASER will accept such coal subject to and in accordance with the provisions set forth in this Agreement including Appendix A; provided, however, that PURCHASER'S exercise of this option shall in no way constitute a waiver of PURCHASER'S right at any time thereafter to exercise any of the other options set forth herein with respect to subsequent deliveries of coal hereunder; or

(2) PURCHASER will have the option to reject any shipment which exceeds any of the minimum/maximum specifications listed in 9.01, and PURCHASER may notify SELLER to

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suspend further deliveries of coal hereunder until SELLER demonstrates to PURCHASER'S satisfaction that it can deliver coal that will conform on a per shipment basis to the specifications set forth in Section 9.01; provided, however, that PURCHASER'S exercise of this option shall in no way constitute a waiver of PURCHASER'S right at any time thereafter to exercise any of the other options set forth herein with respect to subsequent deliveries of coal hereunder. If SELLER fails to make the above demonstration to PURCHASER'S satisfaction within thirty (30) days after notice by PURCHASER, PURCHASER shall have the right to terminate or cancel this Agreement and, in addition, pursue every other remedy provided by law or equity; and


(3) No premiums shall be paid on coals that fail to meet Section 9.01 specifications.

**9.03 Sulfur Content Warranty.** SELLER warrants and represents that the average total sulfur content of each shipment shall not contain more than 1.20 LB of sulfur dioxide per million Btu's heat input (the "calculated sulfur limit") and not more than .2 percent pyritic sulfur.

In the event SELLER delivers to PURCHASER any shipment of coal with a total sulfur content or a pyritic sulfur content in excess of the calculated sulfur limits set forth above, the following shall apply:

(1) If PURCHASER is able to use such coal by blending directly with other coal from the active stockpile so that the blended coal shall not exceed 1.20 LB of sulfur dioxide per million Btu's or .2 percent pyritic sulfur, PURCHASER shall accept such coal and the price of the coal delivered in such shipment shall be reduced from the invoice price PURCHASER would otherwise have been required to pay for such coal under this Agreement by the amount of PURCHASER'S cost of blending such coal determined by the following adjustment:

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Sulfur Adjustment =  percent (I)

I

Where:

I - Invoice price which would apply excluding the sulfur adjustment.

Such adjusted price shall become the price for purposes of applying any adjustments provided in Appendix A. No premiums shall be paid for shipments that fail to meet Section 9.01 sulfur specifications.

(2) If PURCHASER rejects any shipment under 9.02 or is unable to use such coal under any circumstances because the burning of such coal will cause PURCHASER'S buyer's generating unit or units to have emissions that exceed 1.20 LB of sulfur dioxide per million Btu's of heat input, PURCHASER may reject such shipment without payment and SELLER shall be obligated to pay PURCHASER'S costs involved in transporting such coal from the point of SELLER'S delivery to the PURCHASER'S buyer's unit, the cost of disposing of such rejected shipment of coal and any other reasonable costs of disposition incurred, including PURCHASER'S railcar utilization costs and cost of transportation of such coal from PURCHASER'S buyer's unit to the point of disposition. If PURCHASER rejects a shipment from SELLER under the provisions of this paragraph, PURCHASER and SELLER shall meet promptly thereafter to see what reasonable steps may be taken on the part of both parties to allow this Agreement to continue. If PURCHASER and SELLER fail to reach agreement within thirty (30) days as to what steps can be taken to correct the situation, then PURCHASER shall have the right to terminate this agreement by giving notice of termination to SELLER and, in addition, pursue every other remedy provided by law or equity.

SELLER shall be permitted to have a representative present to observe tests conducted by PURCHASER'S buyer of burning in PURCHASER'S buyer's facilities, and to observe sampling, analysis and tests conducted to determine the content of flue gases resulting

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from the burning of such coal. PURCHASER shall also make available to SELLER at reasonable times the results of such tests and analysis, as well as charts and other information resulting from the monitoring of stack gas emissions.

**10.01 Force Majeure.** As used herein, the term "force majeure" shall mean any event beyond the control and without fault or negligence of the party affected thereby and which, by the exercise of reasonable diligence or the incurring of reasonable expense, such party is unable to prevent or overcome, regardless of whether such event was foreseeable, including, without limitation, act of God, act of public authorities (including courts and commissions of competent jurisdiction), act of the public enemy, insurrection, riot, labor dispute, labor or material shortage, fire, explosion, flood, breakdown of or damage to plant equipment or facilities (including emergency outages of equipment or facilities to make repairs to avoid breakdowns thereof or damage thereto), interruption to transportation or transportation delay, river freeze-up, embargo, order or act of civil or military authority, legislative, regulatory, judicial rule or order adopted, amended or newly interpreted subsequent to the date of this Agreement and any other event of a similar or dissimilar nature which wholly or partially prevents the mining, hauling, processing or loading of coal by SELLER or the receiving, transporting, handling, storing, and/or delivering by PURCHASER'S carrier thereof or the accepting, handling, utilizing and/or unloading thereof by PURCHASER or PURCHASER'S intended buyer, PEF.

In the event performance of SELLER'S obligations hereunder or PURCHASER'S obligations hereunder is made impossible, impractical or illegal by reason of force majeure (other than obligations to pay or expend money for or in connection with the performance of the transactions contemplated by this Agreement) and such party promptly gives to each other party hereto written notice of the details thereof, then the obligations of the parties hereto shall be totally

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excused to the extent made necessary by such force majeure and during its continuance; provided, however, that such party giving such notice shall use its best efforts to eliminate such force majeure to the extent economically feasible to do so and with a minimum of delay. Any deficiencies in deliveries of coal hereunder as a result of force majeure shall not be made up except at the sole discretion of the PURCHASER. In the event force majeure results in a partial reduction in the total quantity of coal SELLER is obligated to deliver hereunder, the quantity of coal SELLER shall be obligated to deliver to PURCHASER hereunder during the continuance of such force majeure shall be limited to the amount of coal required to be delivered during such period but for this section multiplied by a fraction, the denominator of which is the production capacity of the Coal Property immediately prior to such force majeure and the numerator of which is the production capacity of the Coal Property during the continuance of such force majeure.

In the event that restrictions are imposed during the term of this Agreement by governmental bodies, agencies, entities, officials or courts which preclude or restrict PEF from burning coal of the specifications hereunder, such restriction shall be deemed to be an event of force majeure under this Agreement unless its effect can be avoided in a lawful manner and will not, in PEF's sole judgment, result in unreasonable expense to PEF, the obligations of the parties hereto shall be totally excused during the continuance of such force majeure.

## **{LONG-TERM LANGUAGE}**

**11.01 Audit.** SELLER agrees to maintain books, records, documents and other evidences pertaining to the costs of producing, mining, handling or loading of coal under this Agreement (herein collectively called the "records") to the extent and in such detail as will properly reflect all items of whatever nature for which payment, reimbursement or adjustment in base price of coal is claimed under the provisions of this Agreement. Upon the request of PURCHASER, SELLER shall

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make available at SELLER'S office any and all said records along with related correspondence, receipts, vouchers and memoranda pertaining to this Agreement for inspection, audit or reproduction by any authorized representative of PURCHASER. SELLER shall preserve all such records with respect to each shipment of coal for a period of twenty-four (24) months after final payment for such shipment, during which time PURCHASER shall complete any audit it may desire; provided, however, such time limitation shall not apply in cases whereby material misrepresentation, fraud or similar circumstances are claimed. The applicable records shall be preserved until audit is completed or, should there otherwise be questions raised regarding such recording, until agreement with regard to same is reached.

## {LONG-TERM LANGUAGE}

**11.02 Mine Access Rights.** SELLER shall at all times carry out its mining operations consistent with obligations to meet the production and delivery schedule as provided herein. PURCHASER shall have the right from time to time during the term of this Agreement to arrange for geologists, consultants and engineers (PURCHASER'S "agents"), as well as PURCHASER'S own employees, to visit the mine at PURCHASER'S expense and risk, so long as it does not unreasonably interfere with SELLER'S operations. PURCHASER and its agents shall have access to the mine and to any and all data related to SELLER'S mining plans and reserves used to produce the quantity and quality of coal required by this Agreement.

**12.01 Waiver.** The failure of either party to insist on strict performance of any provisions of this Agreement or to take advantage of any right hereunder shall not be construed as a waiver or relinquishment of such provision or right but the same shall continue and remain in full force and effect.

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**12.02 Remedies Cumulative.** Remedies provided under this Agreement shall be cumulative and in addition to other remedies provided by law.

**13.01 Cure of Default.** Except as otherwise expressly provided in this Agreement, no default of either party to this Agreement in the performance of any of its covenants or obligations hereunder, which, except for this provision, would be the legal basis for cancellation or termination of this Agreement by the other party hereto, shall give or result in such a right unless and until the party committing such default shall fail to correct the default but in no event later than within thirty (30) days after written notice of claim of such default is given to such defaulting party by the other party hereto.

**14.01 Attorney's Fees.** In the event either party should default under the terms hereof or fail to perform any of the terms and conditions of this Agreement and a party employs an attorney to protect its interest and obtains a judgment in court or through arbitration in its favor, then the cost of such reasonable attorney's fee shall be and will form a portion of such judgment and shall be included in such judgment.

**15.01 Indemnification.** SELLER shall indemnify, defend and hold PURCHASER harmless from and against any claim, demand, loss, damage or injury caused by or resulting from any act or omission, whether negligent or otherwise, of SELLER. PURCHASER shall indemnify, defend and hold SELLER harmless from and against any claim, demand, loss, damage or injury caused by or resulting from any act or omission, whether negligent or otherwise, of PURCHASER. However,

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notwithstanding the above, neither party assumes any responsibility for damage or injury to officers, agents or employees of the other party.

## **15.02 Environment, Health, and Safety.**

**A. Compliance and Indemnification.** SELLER shall comply with all applicable EHS laws and shall indemnify PURCHASER against any EHS claims and costs arising from SELLER'S performance under this Agreement.

**B. Audits.** PURCHASER may audit SELLER'S EHS compliance. Within thirty (30) days of PURCHASER'S request, SELLER shall deliver to PURCHASER (1) all records regarding (a) SELLER'S actual or alleged violations of EHS laws and (b) EHS claims asserted against SELLER, in each case in the five year period preceding PURCHASER'S request and (2) any executed consent form(s) necessary for PURCHASER to obtain from regulatory agencies and other third parties information regarding SELLER'S EHS compliance.

### **D. Definitions (as used in this Agreement).**

1. **Claim** means administrative, regulatory or judicial action, suite, dispute, liability, judgment, penalty, damages, directive, order or claim.

2. **EHS** means relating to the management of any material or the protection of human health, public safety, occupational/mine safety and health, the environment or natural resources.

3. **Indemnify** means to indemnify, defend, and reimburse the indemnitee and its successors and assigns on an after-tax basis.

4. **Law** means any binding authority, demand, or permitting requirement issued by a legislative, judicial, or executive governmental body.



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5. **Manage or management, with respect to any material,** means the manufacture, disturbance, generation, use, transportation, emission, discharge, treatment, storage, disposal, release, or threatened release thereof.

**16.01 Notice of Problem.** Whenever either party hereto encounters or discovers or reasonably anticipates any problem which could delay or prevent performance of this Agreement, such party shall immediately notify in writing the other party of all relevant circumstances and any remedial steps being taken.

**17.01 Independent Contractor.** The parties recognize and agree that SELLER is not an agent or employee of PURCHASER but is independent of any managerial or other control or direction by PURCHASER in its work hereunder and is free to perform, by such means and in such manner as SELLER may choose, all work in pursuance of commitments hereunder.

**18.01 Binding Effect.** This Agreement shall bind and inure to the benefit of the parties and their successors and assigns under Section 5.03 hereof. This Agreement shall not create any rights or remedies in any entity not a part hereto.

**19.01 Assignments.** Neither party may assign nor transfer this Agreement nor any rights nor obligations hereunder without the prior written consent of the other party hereto. In the event that there shall be a change of control of SELLER or any company which controls SELLER directly or indirectly (as the term control is defined in the Federal Securities Law), PURCHASER will have the right to terminate this Agreement.

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**20.01 Partial Dispute.** Should any bona fide dispute involving the price of coal hereunder extend only to a portion of any amount claimed due hereunder, the undisputed portion shall be paid as and when due. Should it later be determined that additional payments are due from PURCHASER to SELLER, such amount shall be paid together with interest from the date payment was due as provided herein at the prime rate for preferred customers on loans not to exceed thirty (30) days as from time to time quoted by the Morgan Guaranty Trust Company of New York, New York, during pendency of the dispute.

## {LONG-TERM LANGUAGE}

**21.01 Oil Back Out.** If during the term of this Agreement, the New York Harbor Daily Spot Market Cargo Price for No. 6 Fuel Oil, 1.0 percent maximum sulfur, as published in Platt's U. S. Marketscan under the heading "Estimated Gulfcoast Waterborne," averaged over a thirty (30) consecutive day period (hereinafter the "average" price), is less than or equal to the price specified below (hereinafter the "target price"), then PURCHASER, at its sole option, may reduce the monthly ratable quantity of coal purchased hereunder by 50 percent for each calendar month that the average price is less than or equal to the target price. The target price shall be \$13 per barrel during calendar year. PURCHASER may exercise this option by giving written notice to SELLER within fifteen (15) business days of the date that that PURCHASER determined that the average price is less than or equal to the target price at or below the aforementioned values. The 50 percent reduction percentage, if PURCHASER exercises its option, shall be effective at the beginning of the calendar month immediately following the calendar month in which notice is given to SELLER. The foregoing provision shall apply irrespective of whether PURCHASER or PURCHASER'S intended customer, PEF, obtains replacement fuel or power as a consequence of oil prices.

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**22.01 Captions.** The captions to sections hereof are for convenience only and shall not be considered in construing the intent of the parties.

**23.01 Applicable Law and Venue.** All questions relating to execution, construction, performance, termination or breach of this Agreement shall be resolved under the laws of the State of Florida without regard to the choice of law provisions thereof. In the event of any lawsuit filed hereunder, the parties hereto authorize venue in Pinellas County, Florida, and/or the federal court district encompassing said county.

**24.01 Conflict of Interest Policy.** PURCHASER has adopted a conflict of interest policy, applicable to all its full-time employees (hereafter "Employee"), and intended to ensure that all business activities of PURCHASER will be conducted in a manner so as to avoid any conflict of interest or appearance of a conflict.

SELLER agrees to conduct its activities in support of said conflict of interest policy, specifically as follows:

(a) SELLER shall promptly disclose to PURCHASER the existence of any material financial interest in SELLER held, at any time during the term of this Agreement, by any Employee or member of an Employee's immediate family. The holding of publicly traded securities in SELLER need not be disclosed unless the Employee is directly or indirectly involved in dealing with the SELLER.

(b) SELLER shall not accept on its own behalf the service or employment in any capacity (such as director, officer, employee, representative or consultant) of any Employee,

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unless such service or employment is specifically authorized by the President or Board of Directors of PURCHASER.

(c) SELLER shall not offer to any Employee or member of an Employee's immediate family any gifts of more than token value, special preference loans, lavish entertainment or other substantial favors.

Breach of this provision by SELLER shall constitute a material breach of this Agreement; and in the event thereof, PURCHASER shall have the right to terminate this Agreement and pursue any and all other remedies at law or equity.

**25.01 Entire Agreement.** This instrument contains the entire agreement between the parties and there are no representations, understandings or agreements, oral or written, which are not included herein. This Agreement cannot be changed except by duly authorized representatives of both parties in writing. It is understood that PURCHASER or SELLER from time to time in the administration of this Agreement may issue and transmit each to the other documents designated as "Purchase Orders" and "Change Orders;" these documents serve instructional or accounting functions only and are not amendments to or constructions of this Agreement.

**26.01 Confidentiality.** Each party hereto recognizes that this Agreement contains confidential commercial information, the public disclosure of all or any part of which could be damaging to the parties hereto. Accordingly, each party hereto agrees not to disclose any of the terms or provisions of this Agreement to any person or persons not a part hereto, except for affiliated corporations or unincorporated divisions of the parties hereto, without the prior consent in writing thereto of the other party hereto, which consent shall not be unreasonably withheld, except to the extent such party is legally compelled to make such disclosure pursuant to applicable law or

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to the extent such disclosure is reasonably necessary in connection with any regulatory, administrative or other legal proceeding in which such party, or any such affiliated corporation or unincorporated division, is involved. When disclosure is made within the terms of the above mentioned exceptions, such disclosure shall be made only to the extent reasonably necessary. It is further understood and agreed that whenever any such information is disclosed by any party hereto in accordance with the above mentioned exceptions, such party will advise each person to whom disclosure is made of the confidential nature of the information disclosed and, except for routine regulatory reporting by PURCHASER, provide written notice of such disclosure, in advance thereof, if possible, to the other party to this Agreement.

**27.01 Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their authorized officers, all as of the date and year first above written.

WITNESS:

\_\_\_\_\_  
\_\_\_\_\_

**PROGRESS FUELS CORPORATION**

BY: \_\_\_\_\_  
Vice President—Coal Procurement  
Date Executed: \_\_\_\_\_

WITNESS:

\_\_\_\_\_  
\_\_\_\_\_

BY: \_\_\_\_\_  
President  
Date Executed: \_\_\_\_\_

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## APPENDIX A

### Adjustments for Calorific Value

Base price is based upon Subject Coal having weighted average calorific value of \_\_\_\_\_ Btu's per pound avoirdupois ("Pound"), "as received" at the point of weighing referred to in Section 8.01. The Base Price shall be subject to adjustment each month in accordance with the following provisions in order to compensate for variations in the calorific value of the Coal delivered during that month, with the result of such adjustment being taken into account in determining the price to be paid for the Coal received during that month. Price adjustments shall be calculated on a per-shipment basis and totaled for the month.

1. The variation of any given month shall be ascertained by comparing the per shipment calorific value of the Coal delivered and accepted that month with the calorific value of \_\_\_\_\_ Btu's per Pound.
2. If the calorific value in any shipment is greater than or less than \_\_\_\_\_ Btu's per Pound, the adjustment to be made therefor shall be computed on the basis of the following formula:

$$(\text{Actual Btu's Per Pound} - \text{Guaranteed Btu's Per Pound}) \div \text{Guaranteed Btu's Per Pound} \times \text{Base Price} = \text{Cents Per Ton (FOB Mine) (Premium if positive—penalty if negative.)}$$

**PENALTIES WILL RECEIVE A MULTIPLIER OF TWO.**

Shipments that do not meet one or more contract minimum or maximum specifications will be excluded from premium calculations.

### Adjustments for Ash Content

Base price is based upon Subject Coal having weighted average ash content of \_\_\_\_\_ percent (\_\_\_\_%) maximum "as received" at the point of weighing referred to in Section 2.01. The Base Price shall be subject to the following deductions:

ASH CONTENT	AMOUNT TO BE DEDUCTED FROM BASE PRICE
_____ % to _____ %	_____ of the Base Price
_____ % to _____ %	_____ of the Base Price
_____ % to _____ %	_____ of the Base Price
_____ % and Greater	_____ of the Base Price

1  
2  
3  
4

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## APPENDIX B

### Railroad and Railcar Detention Costs

#### A. RAILROAD CHARGES:

1. Detention: As published in Tariff ICC CSXT-8200-Series, including supplements thereto and re-issues thereof.
2. Dead Freight: Actual railroad charges.
3. Crew Change: [REDACTED] per change, subject to periodic adjustment by the railroad. )

#### B. PFC RAILCAR CHARGES:

1. Lost Utilization Charges: Sum of a. and b. below.
  - a. Delay of Train = [REDACTED] per car per day of delay. 2
  - b. Failure to Fully Load Cars =  $((9,600 \div 90 \times AC) - AW) \times [REDACTED] = P\$$  3

Where: AC = actual number railcars  
AW = actual weight of trains  
P\$ = penalty in dollars

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## APPENDIX C {LONG-TERM APPENDIX}

Example (2 Years 1999 and 2000)

1. EXAMPLE FOR DETERMINING 1999 BASE PRICE:	Base Price 07/01/98	Adjusted Base Price 07/01/99
<p>1998 Base Price = [REDACTED]</p> <p>Fixed: 25% x \$22.00</p> <p>Escalatable/De-escalatable:</p> <p>PPI = 75% x 75% x [REDACTED]</p> <p>PPI June '99 ÷ June '98 = [REDACTED] ÷ [REDACTED]</p> <p>GDP = 75% x 25% x [REDACTED]</p> <p>GDP 2<sup>nd</sup> Qtr. '99 ÷ 2<sup>nd</sup> Qtr. '98 = [REDACTED] ÷ [REDACTED] x [REDACTED]</p> <p>Total</p> <p>Rounded</p> <p>Less 1998 Base Price</p> <p>Increase to Base Price (Cap @ [REDACTED])</p> <p>Plus 1998 Base Price</p> <p>1999 Base Price</p>	<p>\$ [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>\$ [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	<p>\$ [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
2. EXAMPLE FOR DETERMINING 2000 BASE PRICE:	Base Price 07/01/99	Adjusted Base Price 07/01/00
<p>1999 Base Price = [REDACTED]</p> <p>Fixed: 25% x \$ [REDACTED]</p> <p>Escalatable/De-escalatable:</p> <p>PPI = 75% x 75% x [REDACTED]</p> <p>PPI June '00 ÷ June '99 = [REDACTED] ÷ [REDACTED]</p> <p>GDP = 75% x 25% x [REDACTED]</p> <p>GDP 2<sup>nd</sup> Qtr. '00 ÷ 2<sup>nd</sup> Qtr. '99 = [REDACTED] ÷ [REDACTED]</p> <p>Total</p> <p>Rounded</p> <p>Less 1999 Base Price</p> <p>Increase to Base Price (Cap @ [REDACTED])</p> <p>Plus 1999 Base Price</p> <p>2000 Base Price</p>	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>



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## APPENDIX D {LONG-TERM APPENDIX}

### Sampling Standards

Current versions of the following ASTM Standards or subsequent revisions thereof shall apply to equipment and methods used for sampling and analyzing coal under this Agreement, unless specifically stated and mutually agreed to otherwise:

- D 4749 Test Method for Performing Sieve Analysis of Coal and Designating Coal Size (Replaces D 410)
- D 1857 Test for Fusibility of Coal and Coke Ash
- D 2013 Preparing Coal Samples for Analysis
- D 2015 Test for Gross Calorific Value of Solid Fuel by the Adiabatic Bomb Calorimeter
- D 2234 Collection of a Gross Sample of Coal
- D 3172 Proximate Analysis of Coal and Coke
- D 3173 Test for Moisture in the Analysis Sample of Coal and Coke
- D 3174 Test of Ash in the Analysis Sample of Coal and Coke
- D 4239 Test for Total Sulfur in the Analysis Sample of Coal and Coke Using High Temperature Tube Furnace Combustion Methods
- D 3286 Test for Gross Calorific Value of Coal and Coke by Isoperibol Bomb Calorimeter
- D 3302 Test for Total Moisture in Coal
- D 409 Test for Grindability of Coal
- D 1989 Test for Gross Calorific Value of Coal and Coke by Microprocessor Controller Isoperibol Calorimeter
- D 121 Terminology of Coal and Coke
- D 3175 Test for Volatile Matter in the Analysis Sample of Coal and Coke
- D 3176 Test Method for Ultimate Analysis of Coal and Coke
- D 3178 Test for Carbon and Hydrogen in the Analysis Sample of Coal

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- D 3179 Test for Nitrogen in the Analysis Sample of Coal
- D 2492 Test Method for Forms of Sulfur in Coal
- D 3682 Test Method for Major and Minor Elements in Coal and Coke Ash by Atomic Absorption
- D 4208 Test for Chlorine in Coal by Oxygen Bomb Combustion/Ion Selective Electrode
- D 3761 Test for Fluorine in Coal by Oxygen Bomb Combustion/Ion Selective Electrode
- D 4915 Practice for Manual Sampling of Coals From Tops of Railcars
- D 3180 Practice for Calculating Coal and Coke Analyses from As Determined to Other Bases
- D 5142 Test Method for Proximate Analysis of the Analysis Sample of Coal and Coke by Instrumental Procedures
- D 4606 Test Method For Determination of Arsenic and Selenium in Coal by Hydride Generation/Atomic Absorption Method
- D 3683 Test Method for Trace Elements in Coal and Coke Ash by Atomic Absorption
- D 3684 Test for Mercury in Coal by Oxygen Bomb Combustion/Atomic Absorption



**Ott, Robin (PFC)**

---

From: John.Tanner@arlp.com  
Sent: Wednesday, May 12, 2004 12:30 PM  
To: Pitcher, Al (PFC)  
Cc: Ott, Robin (PFC)  
Subject: RE: FW: 2005-2007 bid

OK. Thank you for the latitude extended. It will not happen again

John W. Tanner  
tannerj@arlp.com

"Pitcher, Al  
(PFC)"  
<APitcher@progressfuels.com>

05/12/2004 12:19  
PM

<John.Tanner@arlp.com>

"Ott, Robin (PFC)"  
<ROtt@progressfuels.com>

RE: FW: 2005-2007 bid

To

cc

Subject

We will review, as we always have, the bid. However, it will be noted as non-responsive for the "official recording." DO NOT SEND A FED EX FOR ARRIVAL TOMORROW. THAT WILL ONLY COMPOUND THE PROBLEM.

Al Pitcher

-----Original Message-----

From: John.Tanner@arlp.com [mailto:John.Tanner@arlp.com]  
Sent: Wednesday, May 12, 2004 12:14 PM  
To: Pitcher, Al (PFC)  
Cc: Ott, Robin (PFC)  
Subject: RE: FW: 2005-2007 bid

Al & Robin -

I'm sorry that we're in this situation, but we are. I'm deep into moving from Orlando to Miami and this just got away from me. I'm appealing to your practical side here. I can gladly put the offer to letterhead and Fed Ex for receipt tomorrow (5/13) or print and fax. If is that critical and you must disallow us, then there's not much else I can do. Please advise under the current circumstances.

John W. Tanner  
tannerj@arlp.com

"Pitcher, Al  
(PFC) "  
<APitcher@progres  
To sfuels.com> <John.Tanner@arlp.com>  
cc 05/12/2004 11:56 "Ott, Robin (PFC) "  
AM <ROtt@progressfuels.com>  
Subject RE: FW: 2005-2007 bid

We clearly indicated in our RFP that email or Fax's would not be accepted.

Al Pitcher

-----Original Message-----

From: John.Tanner@arlp.com [mailto:John.Tanner@arlp.com]  
Sent: Wednesday, May 12, 2004 11:47 AM  
To: Pitcher, Al (PFC)  
Cc: Ott, Robin (PFC)  
Subject: Re: FW: 2005-2007 bid

Do you need me to send on letterhead, faxed in today, as well? We felt the e-mail was considered legally acceptable. Please advise.

John W. Tanner  
tannerj@arlp.com

"Pitcher, Al  
(PFC) "  
<APitcher@progres

To sfuels.com> "Ott, Robin (PFC)"  
<ROtt@progressfuels.com>  
05/12/2004 11:42  
cc AM <John.Tanner@arlp.com>  
Subject FW: 2005-2007 bid

This is really a non-responsive bid. John had called earlier and indicated they were going to send something into us which would "act as an amendment to the current contract." I had no idea he was going to email the response. It should have been sent via a letter. Please record as applicable, we will evaluate, but may not consider this.

Al Pitcher

-----Original Message-----

From: John.Tanner@arlp.com [mailto:John.Tanner@arlp.com]  
Sent: Wednesday, May 12, 2004 11:11 AM  
To: Pitcher, Al (PFC)  
Subject: 2005-2007 bid

Al -

With regards to your current RFP for Crystal River, we are proposing making an addendum to our current contract that will contain the below offered criteria. All tonnage offered is to originate from our MC Mining, LLC operation, served by CSX:

2005 - additional 150,000 tons; those tons to be priced @ [REDACTED]/ton FOB mine\* 1

2006 - additional 150,000 tons; the price of those tons TBD via negotiations during Q3 of 2005 with a collar of [REDACTED]/ton (floor that Buyer would have to accept coal) - [REDACTED]/ton (that Seller would have to ship coal)\* 2

2007 - 600,000 tons; price of those tons TBD via negotiations during Q3 of 2006 with a [REDACTED]/ton collar off the 2006 contract price\* 3  
4

\* offered coal quality to remain consistent with that in our current contract.

Coal offered is subject to prior sale. We will be receptive to negotiate any facet of this offer, pending your needs. Thanks for the opportunity to offer additional tonnage and the possibility to grow our business relationship. Contact me if additional detail and/or explanation is required.

John W. Tanner  
407.523.9797  
tannerj@arlp.com





























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CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
CRYSTAL RIVER 4 & 5  
PAGE 1 OF 3

PRODUCER NAME: Central Coal Company		
STREET ADDRESS: 148 Bristol East Road, Bristol, VA 24202		
CONTACT: Clark Wisman	TELEPHONE NO. 276-669-8599	
MINE(S): Kanawha Eagle BOM DISTRICT: 8	COUNTY: Kanawha	STATE: WV
ORIGIN RAILROAD(S)/DISTRICT: EK CV Big Sandy Other		R/R TIPPLE DESIGNATION/NUMBER:
TYPE OF LOADING FACILITY: UNIT TRAIN: SINGLE CAR: TRAINLOAD:		
MAXIMUM LOADING CAPACITY: TONS HOURS TRACK CAPACITY		
WATER DELIVERY CAPABILITY: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		IMPORT COAL: LOAD PORT Kanawha River
SHIP THROUGH: Winifrede DOCK		LOAD RATE:
TOTAL PRODUCTION CAPACITY PER MONTH: 250,000 TONS		
PRODUCTION PER MONTH—MEETING OUR COAL SPECIFICATIONS: 200,000 TONS		
TYPE OF MINE: 100% DEEP % STRIP % AUGER		
SEAMS: Coalburg	BLEND RATIOS: 100	
COAL PREPARATION: RAW 100 WASHED COMBINATION		
TYPE OF COAL WASHER, IF WASHED: Heavy Media		
TYPE OF COAL SAMPLING: J.B. Long Automatic		
TYPE OF LABOR CONTRACT(S): N/A		DATE FOR RENEGOTIATION:
TYPE OF COAL WEIGHING: Draft Weights		SCALE CERTIFIED? <input type="checkbox"/> YES <input type="checkbox"/> NO
PERIOD	TONNAGE	BASE PRICE PER TON FOB MINE
Jan 2005 - Dec 2006	25,000 TPM	FOB Barge
IF THIS COAL IS OFFERED BY A COMPANY OR INDIVIDUAL WHICH IS NOT THE PRODUCER PLEASE INDICATE SO BY MAKING AN "X" IN THIS SPOT.		
PRODUCER'S COMMENTS: Coal Subject to Prior Sale		
CREDIT REFERENCES (Minimum two): Wachovia Caterpillar		
INDUSTRY REFERENCES (Minimum four): Duke Power Progress Energy Carolina		
SIGNATURE: <i>Clark Wisman</i>	TITLE: Sales	DATE: 5/11/04
MAIL THIS FORM AND ANY ADDITIONAL INFORMATION TO MRS. ROBIN OTT PROGRESS FUELS CORPORATION ONE PROGRESS PLAZA, SUITE 600 ST. PETERSBURG, FLORIDA 33701 OR POST OFFICE BOX 15208 ST. PETERSBURG, FLORIDA 33733 PHONE NO. 727/824-6670 FAX NO. 727/824-6601		



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COAL PRODUCERS' SOLICITATION FORM  
CRYSTAL RIVER 4 & 5  
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**CURRENT QUALITY**

DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS	
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED	SUB-BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %	7.0	8.0 <sup>4</sup>	8.0% MAX.	30.0% MAX.
SURFACE MOISTURE %	5.0	5.0	5.0% MAX.	5.0% MAX.
ASH %	11.0	12.0 <sup>4</sup>	10.0% MAX <sup>2</sup>	7.8% MAX <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	1.2	1.2	1.2 LB/MAX. <sup>1</sup>	1.2 LB/MAX. <sup>1</sup>
BTU/LB	12,300	12,300 <sup>4</sup>	12,300 MIN.	8,200/LB MIN.
ASH SOFTENING DEGREES FAHRENHEIT H=W (R)	2700	2500 <sup>4</sup>	2,500 MIN.	2,200 MIN.
VOLATILE %	33.00	31.00 <sup>4</sup>	31.0% MIN. <sup>1</sup>	31.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	45	42 <sup>4</sup>	42 MIN. <sup>3</sup>	65 MIN. <sup>3</sup>
SIZE	2" X 0	2" X 0	2" X 0"	2" X 0"
FINES (-1/4" X 0")	45	45	45% MAX. <sup>5</sup>	30% MAX. <sup>5</sup>
PYRITIC SULFUR	.2	.2	0.2% MAX. <sup>1</sup>	0.2% MAX. <sup>1</sup>
FIXED CARBON %	70.05	68.00	—	—
HYDROGEN %	4.55	4.0	—	—
NITROGEN %	1.34	1.5	—	—
CHLORINE %	.2	.2	—	—
OXYGEN %	7.3	8.0	—	—

<sup>1</sup>Must be met on an individual shipment basis.

<sup>4</sup>Economic analyses will be based on these values.

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV.
P <sub>2</sub> O <sub>5</sub>	.21	.03	Antimony		
SiO <sub>2</sub>	59.77	3.0	Arsenic		
Fe <sub>2</sub> O <sub>3</sub>	2.63	.50	Beryllium		
Al <sub>2</sub> O <sub>3</sub>	29.80	2.0	Cadmium		
TiO <sub>2</sub>	2.10	.50	Chromium		
CaO	1.12	.20	Cobalt		
MgO	.77	.05	Fluorine		
SO <sub>3</sub>	.38	.05	Lead		
K <sub>2</sub> O	2.68	.30	Lithium		
Na <sub>2</sub> O	.27	.03	Manganese		
Undetermined	.27	.02	Mercury		
Base/Acid Ratio	.08	.02	Nickel		
Maximum Base/Acid Ratio	.15	.02	Selenium		



**CMC**

Coal Marketing Company Ltd

Francisco J. Garcia  
Marketing Manager

May 12, 2004

Mr. Al W. Pitcher  
Vice President Coal Procurement  
Progress Energy  
St. Petersburg, Florida 33701  
USA

Dear Al:

We appreciate the opportunity to make the following proposal for the supply of Cerrejon coal to Progress Energy, for its Crystal River Plant in Florida, under the following terms and conditions:

**Term**

CMC would be willing to negotiate and enter into a mutually agreeable coal sale and purchase contract (Contract) to supply coal from January 1 to December 31, 2005.

**Source**

Coal would be supplied from the Cerrejon mines and would be loaded at Puerto Bolivar, Republic of Colombia, South America.

**Tonnage**

CMC would be willing to supply 400,000 short tons of Quality C coal and 200,000 short tons of Quality B coal during calendar year 2005, at final dates to be mutually agreed.

### Delivery

Coal would be supplied either CIF Electrocoal Terminal, New Orleans, or CIF McDuffie, Mobile. Except as provided otherwise herein, the provisions of Incoterms 2000 would apply.

### Quality

Coal would be unwashed, crushed, and would have typical specifications as shown below on an "as received" basis as sampled at Puerto Bolivar. The average quality of Buyer's coal may vary due to deviations in the quality of coal being mined at the time of loading. The term "as received" basis has that meaning defined in ASTM specifications D3180.

<u>Typical Coal Analysis</u>	<u>Typical</u>	<u>Typical</u>	<u>ASTM Test Nr.</u>
Calorific value (Btu/lb gar)	11,800	11,600	D1989
Total moisture (wt percent)	11.4	11.6	D3302
Ash (wt percent)	7.3	8.2	D3174
Volatile Matter (wt percent)	34.0	33.4	D3175
Sulfur (wt percent)	0.6	0.6	D4239C
Hardgrove Index	48	48	D409
Nominal Top Size (mm)	50	50	D4749
% below 1/4 inch	45	45	
SO <sub>2</sub> /MBTU	1.0	1.12	
Carbon (wt percent)	65.5	65.2	
Hydrogen (wt percent)	4.6	4.6	
Nitrogen (wt percent)	1.2	1.2	
Chlorine (wt percent)	0.03	0.03	
Oxygen (wt percent)	8.1	8.1	

Note: CMC recognizes that our B coal does not comply with your pyritic sulfur restrictions for non compliance coal, but offers this quality as an alternative

### Price

CMC would supply low sulfur thermal coal, as stated in your bid forms, at the price of:

- US\$ [REDACTED] per short ton CIF Electrocoal Terminal, New Orleans at 11,800 Btu/lb gar 1
- US\$ [REDACTED] per short ton CIF McDuffie, Mobile at 11,800 Btu/lb gar 2
- US\$ [REDACTED] per short ton CIF Electrocoal Terminal, New Orleans at 11,600 Btu/lb gar 3
- US\$ [REDACTED] per short ton CIF McDuffie, Mobile at 11,600 Btu/lb gar 4

These are indicative prices, valid 20 days after May12, 2004, subject to CMC's Board approval

#### Scheduling

Delivery schedule would be mutually agreed.

#### Other

This offer shall not be binding on either party until the parties reach a mutual agreement on each of the terms proposed above, as well as other contractual clauses covering payment terms, passage of title, scheduling and shipping, weighing, sampling and analysis, quality adjustments, taxes, insurance, force majeure, limitation of warranties, no consequential damages, applicable law, arbitration, assignment, and confidentiality. This offer shall not be binding on either party until a definitive agreement has been approved by the management of each company and executed by an authorized representative of each party.

#### Expiration

This indicative proposal is valid 20 days after May 12, 2004. We request that you treat this proposal and supporting information as confidential.

We will be glad to further discuss our offer, at your convenience.

Sincerely,

  
Francisco J. Garcia



**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
Crystal River 1 & 2  
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CONTACT: Francisco J. Garcia -Marketing Manager-			TELEPHONE NO. 57-5-350-2123				
MINE(S): Cerrejon, Colombia		BOM DISTRICT: N/A		COUNTY: N/A		STATE: N/A	
ORIGIN RAILROAD(S)/DISTRICT: EK CV Big Sandy Other: Imported Coal				R/R TIPPLE DESIGNATION/NUMBER: N/A			
MAXIMUM LOADING CAPACITY: N/A TONS HOURS TRACK CAPACITY							
WATER DELIVERY CAPABILITY: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO				IMPORT COAL: Cerrejon, Colombia		LOAD PORT: Puerto Bolivar, Colombia	
SHIP THROUGH: DOCK				LOAD RATE: 6,000 short tons per hour			
TOTAL PRODUCTION CAPACITY PER MONTH: 2.5 Million short TONS							
PRODUCTION PER MONTH—MEETING OUR COAL SPECIFICATIONS: 500,000 short TONS							
SEAMS: Multiseam operation				BLEND RATIOS:			
TYPE OF COAL SAMPLING: Automatic sweep arm type, manufactured by J. B. Long							
TYPE OF LABOR CONTRACT(S): Union			DATE FOR RENEGOTIATION: 2005				
TYPE OF COAL WEIGHING: Vessel Draft Survey				SCALE CERTIFIED? <input type="checkbox"/> YES <input type="checkbox"/> NO			
PERIOD		TONNAGE		BASE PRICE PER TON			
January 1 – December 31, 2005		200,000 short tons		per short ton CIF McDuffie, Mobile @ 11,800 Btu/lb gar Indicative price, valid for 20 days after May 12, 2004, subject to CMC's Board approval			
IF THIS COAL IS OFFERED BY A COMPANY OR INDIVIDUAL WHICH IS NOT THE PRODUCER PLEASE INDICATE SO BY MAKING AN "X" IN THIS SPOT.							
PRODUCER'S COMMENTS:							
CREDIT REFERENCES (Minimum two):							
CUSTOMER REFERENCES (Minimum four): JEA, Southern Company, Nova Scotia Power, New Brunswick Power							
SIGNATURE: Francisco Garcia							
TITLE: Marketing Manager							
DATE: May 12, 2004							



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CORPORATION

COAL PRODUCERS' SOLICITATION FORM

Crystal River 1 & 2

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MAIL THIS FORM AND ANY ADDITIONAL INFORMATION TO:

MRS. ROBIN OTT  
PROGRESS FUELS CORPORATION  
ONE PROGRESS PLAZA, SUITE 600  
ST. PETERSBURG, FLORIDA 33701

OR

MRS. ROBIN OTT  
PROGRESS FUELS CORPORATION  
POST OFFICE BOX 15208  
ST. PETERSBURG, FLORIDA 33733

**CURRENT QUALITY**

DESCRIPTION	OFFERED COAL SPECIFICATIONS CERREJON "B" COAL		REQUIRED COAL SPECIFICATIONS
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %	11.4	12.0	8.0% MAX.
SURFACE MOISTURE %	2.5	3.0	5.0% MAX.
ASH %	7.3	8.3	12% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	1.0	1.2	2.1 LB/MAX. <sup>1</sup>
BTU/LB	11,800	11,800	12,000/LB MIN
ASH SOFTENING DEGREES FAHRENHEIT H=W (R)	2350	2290	2,500 MIN.
VOLATILE %	34.0	33.0	31.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	48	45	42 MIN. <sup>3</sup>
SIZE	2" X 0"	2" X 0"	2" X 0"
FINES (-1/4" X 0") %	45	51	45% MAX. <sup>4</sup>
FIXED CARBON %	47.3		-----
HYDROGEN %	4.6		-----
NITROGEN %	1.2		-----
CHLORINE %	0.03		-----
OXYGEN %	8.6		-----

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV
P <sub>2</sub> O <sub>5</sub>	0.21	0.02	Antimony	0.9	
SiO <sub>2</sub>	60.3	0.75	Arsenic	3.0	
Fe <sub>2</sub> O <sub>3</sub>	8.3	0.5	Beryllium	0.7	
Al <sub>2</sub> O <sub>3</sub>	20.2	1.0	Cadmium	0.4	
TiO <sub>2</sub>	1.0	0.1	Chromium	11	
CaO	2.4	0.2	Cobalt	1.0	
MgO	2.2	0.3	Fluorine	51	
SO <sub>3</sub>	2.1	0.25	Lead	3.0	
K <sub>2</sub> O	2.2	0.3	Lithium	1.9	
Na <sub>2</sub> O	0.6	0.15	Manganese	69	





**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM

Crystal River 1 & 2

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Undetermined	0.49		Mercury	<0.1	
Base/Acid Ratio	0.19	0.02	Nickel	10	
Maximum Base/Acid Ratio	0.23		Selenium	3.0	<b>PROJECTED QUALITY</b>

\*NOTE: ADD SHEETS IF MORE THAN ONE SEAM

DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %	11.4	12.0	8.0% MAX.
SURFACE MOISTURE %	2.5	3.0	5.0% MAX.
ASH %	7.3	8.3	12% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	1.0	1.2	2.1 LB/MAX. <sup>1</sup>
BTU/LB	11,800	11,800	12,000/LB MIN
ASH SOFTENING DEGREES FAHRENHEIT H=W (R)	2350	2290	2,500 MIN.
VOLATILE %	34.0	33.0	31.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	48	45	42 MIN. <sup>3</sup>
SIZE	2"X 0"	2"X 0"	2" X 0"
FINES (-1/4" X 0")	45	51	45% MAX. <sup>5</sup>
FIXED CARBON %	47.3		-----
HYDROGEN %	4.6		-----
NITROGEN %	1.2		-----
CHLORINE %	0.03		-----
OXYGEN %	8.6		-----

<sup>1</sup> MUST BE MET ON AN INDIVIDUAL SHIPMENT BASIS.

<sup>2</sup> ADJUSTABLE IN DIRECT PROPORTION TO BTU.

<sup>3</sup> ADJUSTABLE IN INVERSE PROPORTION TO BTU.

<sup>4</sup> PREFERRED VALUE, COALS NOT MEETING THIS SPECIFICATION WILL BE CONSIDERED.

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DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV.
P <sub>2</sub> O <sub>5</sub>	0.21	0.02	Antimony	0.9	
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Fe <sub>2</sub> O <sub>3</sub>	8.3	0.5	Beryllium	0.7	
Al <sub>2</sub> O <sub>3</sub>	20.2	1.0	Cadmium	0.4	
TiO <sub>2</sub>	1.0	0.1	Chromium	11	
CaO	2.4	0.2	Cobalt	1.0	
MgO	2.2	0.3	Fluorine	51	
SO <sub>3</sub>	2.1	0.25	Lead	3.0	
K <sub>2</sub> O	2.2	0.3	Lithium	1.9	



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COAL PRODUCERS' SOLICITATION FORM  
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Na <sub>2</sub> O	0.6	0.15	Manganese	69	
Undetermined	0.49		Mercury	<0.1	
Base/Acid Ratio	0.19	0.02	Nickel	10	
Maximum Base/Acid Ratio	0.23		Selenium	3.0	



Francisco J. Garcia  
Marketing Manager

May 12, 2004

Mr. Al W. Pitcher  
Vice President Coal Procurement  
Progress Energy  
St. Petersburg, Florida 33701  
USA

Dear Al:

We appreciate the opportunity to make the following proposal for the supply of Cerrejon coal to Progress Energy, for its Crystal River Plant in Florida, under the following terms and conditions:

**Term**

CMC would be willing to negotiate and enter into a mutually agreeable coal sale and purchase contract (Contract) to supply coal from January 1 to December 31, 2005.

**Source**

Coal would be supplied from the Cerrejon mines and would be loaded at Puerto Bolivar, Republic of Colombia, South America.

**Tonnage**

CMC would be willing to supply 400,000 short tons of Quality C coal and 200,000 short tons of Quality B coal during calendar year 2005, at final dates to be mutually agreed.

### Delivery

Coal would be supplied either CIF Electrocoal Terminal, New Orleans, or CIF McDuffie, Mobile. Except as provided otherwise herein, the provisions of Incoterms 2000 would apply.

### Quality

Coal would be unwashed, crushed, and would have typical specifications as shown below on an "as received" basis as sampled at Puerto Bolivar. The average quality of Buyer's coal may vary due to deviations in the quality of coal being mined at the time of loading. The term "as received" basis has that meaning defined in ASTM specifications D3180.

<u>Typical Coal Analysis</u>	<u>Typical</u>	<u>Typical</u>	<u>ASTM Test Nr.</u>
Calorific value (Btu/lb gar)	11,800	11,600	D1989
Total moisture (wt percent)	11.4	11.6	D3302
Ash (wt percent)	7.3	8.2	D3174
Volatile Matter (wt percent)	34.0	33.4	D3175
Sulfur (wt percent)	0.6	0.6	D4239C
Hardgrove Index	48	48	D409
Nominal Top Size (mm)	50	50	D4749
% below 1/4 inch	45	45	
SO2/MBTU	1.0	1.12	
Carbon (wt percent)	65.5	65.2	
Hydrogen (wt percent)	4.6	4.6	
Nitrogen (wt percent)	1.2	1.2	
Chlorine (wt percent)	0.03	0.03	
Oxygen (wt percent)	8.1	8.1	

Note: CMC recognizes that our B coal does not comply with your pyritic sulfur restrictions for non compliance coal, but offers this quality as an alternative

### Price

CMC would supply low sulfur thermal coal, as stated in your bid forms, at the price of:

"D"  
Coal

- US [REDACTED] per short ton CIF Electrocoal Terminal, New Orleans at 11,800 Btu/lb  
gar

1

- US [REDACTED] per short ton CIF McDuffie, Mobile at 11,800 Btu/lb gar

2

"A"  
Coal

- US [REDACTED] per short ton CIF Electrocoal Terminal, New Orleans at 11,600 Btu/lb  
gar

3

- US [REDACTED] per short ton CIF McDuffie, Mobile at 11,600 Btu/lb gar

4

These are indicative prices, valid 20 days after May12, 2004, subject to CMC's Board approval

#### Scheduling

Delivery schedule would be mutually agreed.

#### Other

This offer shall not be binding on either party until the parties reach a mutual agreement on each of the terms proposed above, as well as other contractual clauses covering payment terms, passage of title, scheduling and shipping, weighing, sampling and analysis, quality adjustments, taxes, insurance, force majeure, limitation of warranties, no consequential damages, applicable law, arbitration, assignment, and confidentiality. This offer shall not be binding on either party until a definitive agreement has been approved by the management of each company and executed by an authorized representative of each party.

#### Expiration

This indicative proposal is valid 20 days after May 12, 2004. We request that you treat this proposal and supporting information as confidential.

We will be glad to further discuss our offer, at your convenience.

Sincerely,

  
Francisco J. Garcia



**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
Crystal River 1 & 2  
PAGE 1 OF 3

PRODUCER NAME: Coal Marketing Company Ltd -CMC-		
STREET ADDRESS: 7 Bachelor's Walk, Dublin 1, Ireland		
CONTACT: Francisco J. Garcia -Marketing Manager-		TELEPHONE NO. 57-5-350-2123
MINE(S): Cerrejon, Colombia	BOM DISTRICT: N/A	COUNTY: N/A
ORIGIN RAILROAD(S)/DISTRICT: EK CV Big Sandy Other: Imported Coal		STATE: N/A
TYPE OF LOADING FACILITY: Imported coal		R/R TIPPLE DESIGNATION/NUMBER: N/A
UNIT TRAIN: N/A	SINGLE CAR: N/A	TRAINLOAD: N/A
MAXIMUM LOADING CAPACITY: N/A		
TONS	HOURS	TRACK CAPACITY
WATER DELIVERY CAPABILITY: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		IMPORT COAL: Cerrejon, Colombia
Bolivar, Colombia		LOAD PORT: Puerto
SHIP THROUGH: DOCK		LOAD RATE: 6,000 short tons per hour
TOTAL PRODUCTION CAPACITY PER MONTH: 2.5 Million short TONS		
PRODUCTION PER MONTH—MEETING OUR COAL SPECIFICATIONS: 500,000 short TONS		
SEAMS: Multiseam operation		
BLEND RATIOS:		
TYPE OF COAL SAMPLING: Automatic sweep arm type, manufactured by J. B. Long		
TYPE OF LABOR CONTRACT(S): Union		DATE FOR RENEGOTIATION: 2005
TYPE OF COAL WEIGHING: Vessel Draft Survey		SCALE CERTIFIED? <input type="checkbox"/> YES <input type="checkbox"/> NO
PERIOD	TONNAGE	BASE PRICE PER TON
January 1 – December 31, 2005	200,000 short tons	per short ton CIF NOLA @ 11,800 Btu/lb gar Indicative price, valid for 20 days after May 12, 2004, subject to CMC's Board approval
IF THIS COAL IS OFFERED BY A COMPANY OR INDIVIDUAL WHICH IS NOT THE PRODUCER PLEASE INDICATE SO BY MAKING AN "X" IN THIS SPOT.		
PRODUCER'S COMMENTS:		
CREDIT REFERENCES (Minimum two):		
CUSTOMER REFERENCES (Minimum four): JEA, Southern Company, Nova Scotia Power, New Brunswick Power		

Francisco Garcia

TITLE: Marketing Manager

DATE: May 12, 2004



**PROGRESS  
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COAL PRODUCERS' SOLICITATION FORM  
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MAIL THIS FORM AND ANY ADDITIONAL INFORMATION TO:

MRS. ROBIN OTT  
PROGRESS FUELS CORPORATION  
ONE PROGRESS PLAZA, SUITE 600  
ST. PETERSBURG, FLORIDA 33701

OR

MRS. ROBIN OTT  
PROGRESS FUELS CORPORATION  
POST OFFICE BOX 15208  
ST. PETERSBURG, FLORIDA 33733

**CURRENT QUALITY**

DESCRIPTION	OFFERED COAL SPECIFICATIONS CERREJON "B" COAL		REQUIRED COAL SPECIFICATIONS
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %	11.4	12.0	8.0% MAX.
SURFACE MOISTURE %	2.5	3.0	5.0% MAX.
ASH %	7.3	8.3	12% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	1.0	1.2	2.1 LB/MAX. <sup>1</sup>
BTU/LB	11,800	11,800	12,000/LB MIN.
ASH SOFTENING DEGREES FAHRENHEIT H=W (R)	2350	2290	2,500 MIN.
VOLATILE %	34.0	33.0	31.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	48	45	42 MIN. <sup>3</sup>
SIZE	2"X 0"	2"X 0"	2" X 0"
FINES (-1/4" X 0") %	45	51	45% MAX. <sup>4</sup>
FIXED CARBON %	47.3		-----
HYDROGEN %	4.6		-----
NITROGEN %	1.2		-----
CHLORINE %	0.03		-----
OXYGEN %	8.6		-----

<sup>1</sup> MUST BE MET ON AN INDIVIDUAL SHIPMENT BASIS.

<sup>2</sup> ADJUSTABLE IN DIRECT PROPORTION TO BTU.

<sup>3</sup> ADJUSTABLE IN INVERSE PROPORTION TO BTU.

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MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV.
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SiO <sub>2</sub>	60.3	0.75	Arsenic	3.0	
Fe <sub>2</sub> O <sub>3</sub>	8.3	0.5	Beryllium	0.7	
Al <sub>2</sub> O <sub>3</sub>	20.2	1.0	Cadmium	0.4	
TiO <sub>2</sub>	1.0	0.1	Chromium	11	
CaO	2.4	0.2	Cobalt	1.0	
MgO	2.2	0.3	Fluorine	51	
SO <sub>3</sub>	2.1	0.25	Lead	3.0	
K <sub>2</sub> O	2.2	0.3	Lithium	1.9	
Na <sub>2</sub> O	0.6	0.15	Manganese	69	



Undetermined	0.49		Mercury	<0.1	
Base/Acid Ratio	0.19	0.02	Nickel	10	
Maximum Base/Acid Ratio	0.23		Selenium	3.0	<b>PROJECTED QUALITY</b>

\*NOTE: ADD SHEETS IF MORE THAN ONE SEAM

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CaO	2.4	0.2	Cobalt	1.0	
MgO	2.2	0.3	Fluorine	51	
SO <sub>3</sub>	2.1	0.25	Lead	3.0	
K <sub>2</sub> O	2.2	0.3	Lithium	1.9	





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Maximum Base/Acid Ratio	0.23		Selenium	3.0	
*NOTE: ADD SHEETS IF MORE THAN ONE SEAM					

Ott, Robin (PFC)

---

From: Pitcher, Al (PFC)  
Sent: Wednesday, May 12, 2004 12:02 PM  
To: Ott, Robin (PFC)  
Subject: FW: DTE Offer Summary

FYI.

Al Pitcher

-----Original Message-----

From: Rolando Sanz-Guerrero [mailto:rsanzg@attwireless.blackberry.net]  
Sent: Wednesday, May 12, 2004 12:01 PM  
To: Pitcher, Al (PFC)  
Subject: Re: DTE Offer Summary

Oops...sorry.

Rolando

-----Original Message-----

From: "Pitcher, Al (PFC)" <APitcher@progressfuels.com>  
Date: Wed, 12 May 2004 11:59:36  
To: <rsanzg@attwireless.blackberry.net>  
Subject: RE: DTE Offer Summary

Our procedures do not allow for me to see this information prior to 5:00 PM. Robin will enclose it with the bids. Please do not send this type of information in the future prior to the expiration of the RFP submission.

Al Pitcher

-----Original Message-----

From: Sanz-Guerrero, Rolando [mailto:SanzguR@dtcs.com]  
Sent: Wednesday, May 12, 2004 11:49 AM  
To: Pitcher, Al (PFC)  
Subject: DTE Offer Summary

Al:

I sent all the official offers to Robin as requested in the RFP. I wanted to summarize the different options for your information.

All offers are for minimum one train/month (168,000 tons) and up to 3 trains/month (504,000 tons). All offers are for calendar 2005.

\* Offer one- This covers both rail cars and transportation to the Cora terminal. The price is [REDACTED] / ton. This offer is good for 30 days, as requested. 1

\* Offer two- The price includes rail cars, transportation and Cora terminal fees, in other words FOB Barge mile post Cora terminal. The Price is [REDACTED]/ton plus [REDACTED]/ton if the transfer is from rail to barge directly. If the transfer is from rail to ground to barge the fee is [REDACTED]/ton. This offer is also good for 30 days, as requested. 2  
3

\* Offer three- The price includes Offer two plus Coal supply. The price is [REDACTED]/ton for direct transload from train to barge and [REDACTED]/ton if reclaimed from ground to barge. Because of the volatility of Coal prices, DTE can make this Offer firm for one week (May 20,2004). After that date I need to reconfirm the coal price.

I hope this e-mail finds you well. Please call me if you have any questions or when you have some information on the short list.

Have a great day!

Rolando

734-913-5877

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## **DTE Energy**



*DTE Coal Services*

425 South Main St., Suite 201  
Ann Arbor, MI 48104  
Telephone: (734) 913-5877  
Facsimile: (734) 994-5849  
Email: sanzgur@dtcs.com

Rolando Sanz-Guerrero  
Director of Sales

3 Bids

Tuesday, May 11, 2004

VIA Fed-ex

Mrs. Robin Ott  
Progress Fuels Corporation  
One Progress Plaza, Suite 600  
St. Petersburg, FL 33701

### **COAL SUPPLY AND TRANSPORTATION PROPOSAL (FOB BARGE)**

Dear Mrs. Ott:

In response to your recent request for proposal, DTE Coal Services ("Seller") proposes the supply of coal and transportation to Progress Fuels Corporation ("Buyer") based on the terms shown below.

#### **1. PROPOSAL SUMMARY**

Up to 3 trains/mo of 8800 Btu/Lb., 0.8 Lb SO<sub>2</sub>/MMBtu SPRB coal delivered from January 1, 2005 – December 31 2005 (APPROXIMATELY 504,000 tons, assuming 14,000 ton trains).

#### **2. TERM**

January 1, 2005 – December 31, 2005.

#### **3. QUANTITY**

36 trains (APPROXIMATELY 504,000 tons, assuming 14,000 ton trains).

#### **4. SOURCE**

The source of the coal would be one or more joint-line served Southern Powder River Basin mines (the "Mine") in Campbell or Converse Counties, Wyoming. Sources could include coal from any of the following mines: Black Thunder, Antelope, North Rochelle or the North Antelope/Rochelle Complex.

#### **5. DELIVERY POINT**

The Delivery Point for the coal would be F.O.B. Barge (Cora). Title and risk of loss would pass to Buyer at the Delivery Point.

## 6. QUALITY

- a. The coal would be substantially free of magnetic material and other foreign material impurities.
- b. The typical coal quality for the coal to be shipped during the term of this agreement is shown below. All quality information provided in or with this proposal is for Buyer's information only, and will not constitute a warranty. Any warranty will be subject to mutual agreement.

	Wt. <u>Av.</u>	Train <u>Rej.</u>
Btu/Lb.	8800	8600
Lb. SO <sub>2</sub> /MMBtu	0.8	1.2
Moisture %	27	N/A
Ash %	5.5	N/A

## 7. PRICE

The Price would be [REDACTED]/ton on a direct transload to barge from train. 1

The Price would be \$ [REDACTED]/ton if coal is reclaimed from ground storage to barge. 2

The above Price does not include any sales or use taxes. Buyer would either provide Seller with a valid Wyoming sales tax exemption certificate or be responsible for any applicable sales or use taxes.

The Price would be adjusted for changes in Seller's royalties and taxes on coal delivered to Buyer and for changes in costs incurred by Seller resulting from changes in government regulations.

## 8. STORAGE

If Storage is required at Cora terminal the fees are as follows:

- First 50,000 tons- Free
- Anything over 50,000- [REDACTED]/ton/month. 3

## 9. PRICE ADJUSTMENT FOR HEAT CONTENT VARIATION

The Price will be adjusted, at the end of each month, to reflect actual calorific value of the coal received during such month according to the following formula:

$$\text{BTU Adjusted Price} = \text{Price} \times (1 + (\text{Actual BTU} - \text{Typical BTU}) / \text{Typical BTU})$$

#### 10. PRICE ADJUSTMENT FOR SULFUR CONTENT VARIATION

The Price will be adjusted, at the end of each month, to reflect actual SO<sub>2</sub> value of the coal received during such month according to the following formula:

SO<sub>2</sub> Adjusted Price = [0.8-Actual Monthly Weighted Average SO<sub>2</sub>(lbSO<sub>2</sub>/mmbtu)] x Monthly Weighted Average Btu/lb/1,000,000 x Spot Price of SO<sub>2</sub> Emission Allowances. Where: Spot Price of SO<sub>2</sub> Emission Allowances for any given delivery month would be calculated by averaging the weekly SO<sub>2</sub> indices published in Energy Argus' Air Daily (e.g., spot price for allowances for January 2000 would be calculated by averaging the weekly indices published in Energy Argus' Air Daily during January 2000.)

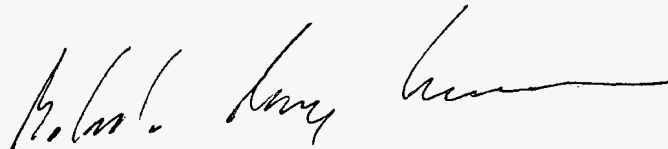
#### 11. PROPOSAL VALIDITY PERIOD

Subject to prior sale, this proposal will remain valid until close of business on May 20, 2004. Following that date, this proposal will be subject to Seller's reconfirmation.

The supply of Coal would be covered by an agreement to be negotiated and mutually agreed upon, based on the terms of this proposal, along with other terms and provisions usually included in Coal supply agreements. Any agreement would be subject to the approval of the management of Seller and Buyer. In addition, the final contract between the parties would be subject to both parties' review and acceptance of the other party's credit status.

Please call me at (734) 913-5877 if you need further information or have any questions.

Sincerely,



Rolando Sanz-Guerrero  
Director of Sales, DTECS

Proximate Analysis	
Moisture	26.70%
Ash	5.64%
Sulfur	0.30%
BTU	8796
MAF BTU	13001
Pounds SO2/MM BTU	0.69
Pounds Ash/MM BTU	6.42
Ash To Sulfur Ratio	18.72
Volitile Matter	31.65
Fixed Carbon	36.00

Ash Fusion Temperatures (Deg F)	
<u>Reducing</u>	
Initial	2138
Softening	2160
Hemispherical	2173
Fluid	2231
<u>Oxidizing</u>	
Initial	2224
Softening	2232
Hemispherical	2256
Fluid	2320

Ultimate Analysis (Dry Basis)	
Moisture	NA
Ash	7.70%
Hydrogen	4.68%
Carbon	70.83%
Nitrogen	0.79%
Sulfur	0.41%
Oxygen	15.59%

Sulfur Forms	
Pyritic	0.04%
Sulfate	0.01%
Organic	0.25%
Total	0.31%

Ash Mineral Analysis -Ignited Basis	
Silicon Dioxide	39.83%
Aluminum Oxide	16.54%
Titanium Dioxide	1.36%
Ferric Oxide	5.26%
Sulfur Trioxide	8.20%
Calcium Oxide	19.80%
Potassium Oxide	0.59%
Magnesium Oxide	4.04%
Sodium Oxide	1.26%
Iron Oxide	5.26%
Phosphorus Pentoxide	1.00%
Manganese Dioxide	0.02%
Strontium Oxide	0.27%
Barium Oxide	0.51%
Undetermined	1.57%

Other Information	
Hardgrove Grindability Index	51
Free Swelling Index	0.0
Equilibrium Moisture	25.98%
Base - Acid Ratio	0.54
% Acidic	57.73%
% Basic	30.95%
SI/AL Ratio	2.41
T250 - Deg F	2290

*The information depicted on this document is intended for informational purposes only and represents typical results from laboratory analysis procedures using prescribed ASTM methods. As with any tests, results will vary with sampling methods, equipment, technicians, etc. Typical results may also vary due to geologic influences within the mining reserve area.*

## **DTE Energy**



*DTE Coal Services*

425 South Main St., Suite 201  
Ann Arbor, MI 48104  
Telephone: (734) 913-5877  
Facsimile: (734) 994-5849  
Email: sanzgur@dtcs.com

Rolando Sanz-Guerrero  
Director of Sales

Tuesday, May 11, 2004

**VIA Fed-ex**

Mrs. Robin Ott  
Progress Fuels Corporation  
One Progress Plaza, Suite 600  
St. Petersburg, FL 33701

### **COAL TRANSPORTATION SUPPLY PROPOSAL (FOB BARGE)**

Dear Mrs. Ott:

In response to your recent request for proposal, DTE Coal Services ("Seller") proposes the supply of Transportation to Progress Fuels Corporation ("Buyer") based on the terms shown below.

#### **1. PROPOSAL SUMMARY**

Up to 3 trains/mo of Southern Powder River Basin ("SPRB") coal transportation and coal terminal transfer delivered from January 1, 2005 – December 31, 2005 (Up to APPROXIMATELY 504,000 tons, assuming 14,000 ton trains).

#### **2. TERM**

January 1, 2005 – December 31, 2005.

#### **3. QUANTITY**

36 trains (APPROXIMATELY 504,000 tons, assuming 14,000 ton trains).

#### **4. SOURCE**

The source of the coal supply could be from any one or more joint-line served SPRB mines (the "Mine") in Campbell or Converse Counties, Wyoming.

#### **5. DELIVERY POINT**



The Delivery Point for the coal would be the Cora Terminal in Seller's provided rail cars.

## 6. PRICE

The Transportation Price would be \$[REDACTED]/ton to Cora Terminal; an additional fee would be assessed as a transfer fee according to the following:

- If direct from railcar to barge the fee would be an additional [REDACTED]/ton
- If the coal goes from Railcar to ground to barge the fee would be an additional [REDACTED]/ton

Storage fees are as follows:

- First 50,000 tons – Free
- Anything over 50,000 tons would cost an additional [REDACTED]/ton/month.

This price includes (a) rail rate from Mine and (b) rail cars to Delivery Point. Plus any transfer fees to the barge

The above price does not include the price for the Coal. Buyer to provide coal at Mine.

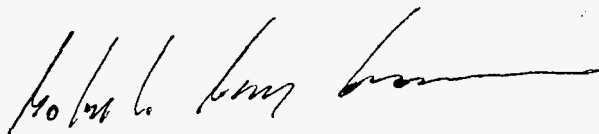
## 7. PROPOSAL VALIDITY PERIOD

This proposal will remain valid until close of business on June 12, 2004. Following that date, this proposal will be subject to Seller's reconfirmation.

The supply of Transportation would be covered by an agreement to be negotiated and mutually agreed upon, based on the terms of this proposal, along with other terms and provisions usually included in Transportation supply agreements. Any agreement would be subject to the approval of the management of Seller and Buyer. In addition, the final contract between the parties would be subject to both parties' review and acceptance of the other party's credit status.

Please call me at (734) 913-5877 if you need further information or have any questions.

Sincerely,



Rolando Sanz-Guerrero

Director of Sales, DTECS

## **DTE Energy**



*DTE Coal Services*

425 South Main St., Suite 201  
Ann Arbor, MI 48104  
Telephone: (734) 913-5877  
Facsimile: (734) 994-5849  
Email: sanzgur@dtcs.com

Rolando Sanz-Guerrero  
Director of Sales

Tuesday, May 11, 2004

**VIA Fed-ex**

- Mrs. Robin Ott  
Progress Fuels Corporation  
One Progress Plaza, Suite 600  
St. Petersburg, FL 33701

### **COAL TRANSPORTATION SUPPLY PROPOSAL (FOB CORA TERMINAL)**

Dear Mrs. Ott:

In response to your recent request for proposal, DTE Coal Services ("Seller") proposes the supply of Transportation to Progress Fuels Corporation ("Buyer") based on the terms shown below.

**1. PROPOSAL SUMMARY**

Up to 3 trains/mo of Southern Powder River Basin ("SPRB") coal Transportation delivered from January 1, 2005 – December 31 2005 (Up to APPROXIMATELY 504,000 tons, assuming 14,000 ton trains).

**2. TERM**

January 1, 2005 – December 31, 2005.

**3. QUANTITY**

36 trains (APPROXIMATELY 504,000 tons, assuming 14,000 ton trains).

**4. SOURCE**

The source of the coal supply could be from any one or more joint-line served SPRB mines (the "Mine") in Campbell or Converse Counties, Wyoming.

**5. DELIVERY POINT**

The Delivery Point for the coal would be the Cora Terminal in Seller-provided railcars.

**6. PRICE**

The Transportation Price would be [REDACTED]/ton.

This price includes (a) rail rate from Mine and (b) rail cars from Source (s) to Delivery Point.

The above price does not include the price for the Coal. Buyer to provide coal at Mine.

**7. PROPOSAL VALIDITY PERIOD**

This proposal will remain valid until close of business on June 12, 2004. Following that date, this proposal will be subject to Seller's reconfirmation.

The supply of Transportation would be covered by an agreement to be negotiated and mutually agreed upon, based on the terms of this proposal, along with other terms and provisions usually included in Transportation supply agreements. Any agreement would be subject to the approval of the management of Seller and Buyer. In addition, the final contract between the parties would be subject to both parties' review and acceptance of the other party's credit status.

Please call me at (734) 913-5877 if you need further information or have any questions.

Sincerely,



Rolando Sanz-Guerrero  
Director of Sales, DTECS



**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
CRYSTAL RIVER 4 & 5  
PAGE 1 OF 3

2 BIDS

PRODUCER NAME: GLENCORE LTD.		OFFER A
STREET ADDRESS: 301 TRESSER BLVD. STAMFORD, CT 06901		
CONTACT: JOHN McCONAGHY		TELEPHONE NO. 203-328-4958
MINE(S): CALENTURITAS (COLOMBIA) BOM DISTRICT:		COUNTY: STATE:
ORIGIN RAILROAD(S)/DISTRICT: EK CV Big Sandy Other VESSEL		R/R TIPPLE DESIGNATION/NUMBER:
TYPE OF LOADING FACILITY: UNIT TRAIN: SINGLE CAR: TRAINLOAD:		
MAXIMUM LOADING CAPACITY: 15,000 TONS 24 HOURS TRACK CAPACITY		
WATER DELIVERY CAPABILITY: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		IMPORT COAL: LOAD PORT PUERTO PRODECO, COLOMBIA
SHIP THROUGH: IMT OR TECO NEW ORLEANS, LA DOCK		UNLOAD RATE: 10,000 MT SHINC PER DAY
TOTAL PRODUCTION CAPACITY PER MONTH: 200,000 MT TONS		
PRODUCTION PER MONTH—MEETING OUR COAL SPECIFICATIONS: 200,000 MT TONS		
TYPE OF MINE: % DEEP 100 % STRIP % AUGER		
SEAMS: VARIOUS		BLEND RATIOS: NONE
COAL PREPARATION: <input checked="" type="checkbox"/> RAW <input type="checkbox"/> WASHED <input type="checkbox"/> COMBINATION		
TYPE OF COAL WASHER, IF WASHED:		
TYPE OF COAL SAMPLING: AUTOMATIC BELT SAMPLING		
TYPE OF LABOR CONTRACT(S): COLLECTIVE		DATE FOR RENEGOTIATION: 2007
TYPE OF COAL WEIGHING: VESSEL DRAFT SURVEY		SCALE CERTIFIED? <input type="checkbox"/> YES <input type="checkbox"/> NO
PERIOD	TONNAGE	BASE PRICE PER TON CIF
JANUARY - DECMEBER 2005 EVENLY SPREAD	150,000 NT +/- 10% IN SELLERS OPTION	NT BASIS 12,000 PRO RATA CIF IMT OR TECO NEW ORLEANS, LA
IF THIS COAL IS OFFERED BY A COMPANY OR INDIVIDUAL WHICH IS NOT THE PRODUCER PLEASE INDICATE SO BY MAKING AN "X" IN THIS SPOT.		
PRODUCER'S COMMENTS: PLEASE NOTE THIS OFFER IS VALID UNTIL 12 NOON EST MAY 14, 2004 AND SUBJECT TO RECONFIRMATION THEREAFTER. SHIPMENTS DATES ARE TO BE EVENLY SPREAD AND MUTUALLY AGREED IN HANDIMAX OR PANAMAX VESSELS TO BE GEARED/GRABBED SELF-DISCHARGING INTO BARGES		
CREDIT REFERENCES (Minimum two): BNP PARIBAS, CONTACT SALLY HASWEL (212) 841-2010, JP MORGAN CHASE MANHATTAN BANK, CONTACT CARLOS SANTIAGO (212) 552-6311		
INDUSTRY REFERENCES (Minimum four): PSE+G (HARRY PAPADOPOULOS (973) 430-5930), NORTHEAST UTILITIES (KEITH SAUNDERS (860) 665-4571), TAMPA ELECTRIC (MARTIN DUFF (813) 228-1596), US GEN (TOM NETZEL (301) 280-6792).		
SIGNATURE:		TITLE: TRADER DATE: 5/11/04
MAIL THIS FORM AND ANY ADDITIONAL INFORMATION TO: MRS. ROBIN OTT PROGRESS FUELS CORPORATION ONE PROGRESS PLAZA, SUITE 600 ST. PETERSBURG, FLORIDA 33701 OR POST OFFICE BOX 15208 ST. PETERSBURG, FLORIDA 33733		



**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
CRYSTAL RIVER 4 & 5  
PAGE 2 OF 3

**CURRENT QUALITY**

PHONE NO. 727/824-6670  
FAX NO. 727/824-6601

DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS	
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED	SUB-BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %	9.0 %	10.0%	8.0% MAX.	30.0% MAX.
SURFACE MOISTURE %	4.5 %	6.5%	5.0% MAX.	5.0% MAX.
ASH %	7.5%	9.0%	10.0% MAX. <sup>2</sup>	7.8% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	1.10 LB/BTU	1.15 LB/BTU	1.2 LB/MAX. <sup>1</sup>	1.2 LB/MAX. <sup>1</sup>
BTU/LB	12,000 BTU/LB	12,000 BTU/LB	12,300 MIN.	8,200/LB MIN
ASH SOFTENING DEGREES FAHRENHEIT H=W (R)	2,550 DEGREES	2,500 DEGREES	2,500 MIN	2,200 MIN
VOLATILE %	35.5 %	34.0%	31.0% MIN. <sup>1</sup>	31.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	48	46	42 MIN. <sup>3</sup>	65 MIN. <sup>3</sup>
SIZE	2" X 0"	2" X 0"	2" X 0"	2" X 0"
FINES (-1/4" X 0")	35%	40%	45% MAX. <sup>5</sup>	30% MAX. <sup>5</sup>
PYRITIC SULFUR	0.15 %	0.2 %	0.2% MAX. <sup>1</sup>	0.2% MAX. <sup>1</sup>
FIXED CARBON %	67.5 %	67.5 %	-----	-----
HYDROGEN %	4.25 %	4.25 %	-----	-----
NITROGEN %	1.25 %	1.25 %	-----	-----
CHLORINE %	0.03 %	0.03 %	-----	-----
OXYGEN %	9.25 %	9.25 %	-----	-----

<sup>1</sup>Must be met on an individual shipment basis

<sup>2</sup>Adjustable in direct proportion to Btu.

<sup>3</sup>Adjustable in inverse proportion to Btu.

<sup>4</sup>Economic analyses will be based on these values.

<sup>5</sup>Preferred value, coals not meeting this specification will be considered

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV	DESCRIPTION	AVERAGE	STD DEV.
P <sub>2</sub> O <sub>5</sub>	0.20 %	+/- 0.05 %	Antimony	1.0	+/- .5
SiO <sub>2</sub>	59.0 %	+/- 3.0 %	Arsenic	<0.1	-
Fe <sub>2</sub> O <sub>3</sub>	9.0 %	+/- 1.0 %	Beryllium	<0.1	-
Al <sub>2</sub> O <sub>3</sub>	19.75 %	+/- 3.0 %	Cadmium	<0.4	-
TiO <sub>2</sub>	0.90 %	+/- 0.3 %	Chromium	2.0	+/- .75
CaO	2.90 %	+/- 0.5 %	Cobalt	2.0	
MgO	2.10 %	+/- 0.5 %	Fluorine	40.0	+/- 5.0
SO <sub>3</sub>	2.3 %	+/- 0.5 %	Lead	1	+/- .5
K <sub>2</sub> O	2.0 %	+/- 0.75 %	Lithium	4	+/- 1.5
Na <sub>2</sub> O	0.65 %	+/- 0.2 %	Manganese	30.0	+/- 10.0
Undetermined	1.2 %	+/- 0.2 %	Mercury	<0.01	
Base/Acid Ratio	0.25	+/- 0.05	Nickel	7.0	+/- 3.0
Maximum Base/Acid Ratio			Selenium	<2.0	



**PROJECTED QUALITY**

\*NOTE: ADD SHEETS IF MORE THAN ONE SEAM

DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS	
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED	SUB-BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %	9.0 %	10.0%	8.0% MAX.	30.0% MAX.
SURFACE MOISTURE %	4.5 %	6.5%	5.0% MAX.	5.0% MAX.
ASH %	7.5%	9.0%	10.0% MAX. <sup>2</sup>	7.8% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	1.10 LB/BTU	1.15 LB/BTU	1.2 LB/MAX. <sup>1</sup>	1.2 LB/MAX. <sup>1</sup>
BTU/LB	12,000 BTU/LB	12,000 BTU/LB	12,300 MIN.	8,200/LB MIN.
ASH SOFTENING DEGREES FAHRENHEIT H=W(R)	2,550 DEGREES	2,500 DEGREES	2,500 MIN.	2,200 MIN.
VOLATILE %	35.5 %	34.0%	31.0% MIN. <sup>1</sup>	31.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	48	46	42 MIN. <sup>3</sup>	65 MIN. <sup>3</sup>
SIZE	2" X 0"	2" X 0"	2" X 0"	2" X 0"
FINES (-1/4" X 0")	35%	40%	45% MAX. <sup>5</sup>	30% MAX. <sup>5</sup>
PYRITIC SULFUR	0.15 %	0.2 %	0.2% MAX. <sup>1</sup>	0.2% MAX. <sup>1</sup>
FIXED CARBON %	67.5 %	67.5 %	-----	-----
HYDROGEN %	4.25 %	4.25 %	-----	-----
NITROGEN %	1.25 %	1.25 %	-----	-----
CHLORINE %	0.03 %	0.03 %	-----	-----
OXYGEN %	9.25 %	9.25 %	-----	-----

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV
P <sub>2</sub> O <sub>5</sub>	0.20 %	+/- 0.05 %	Antimony	1.0	+/- .5
SiO <sub>2</sub>	59.0 %	+/- 3.0 %	Arsenic	<0.1	
Fe <sub>2</sub> O <sub>3</sub>	9.0 %	+/- 1.0 %	Beryllium	<0.1	
Al <sub>2</sub> O <sub>3</sub>	19.75 %	+/- 3.0 %	Cadmium	<0.4	
TiO <sub>2</sub>	0.90 %	+/- 0.3 %	Chromium	2.0	+/- .75
CaO	2.90 %	+/- 0.5 %	Cobalt	2.0	+/- .75
MgO	2.10 %	+/- 0.5 %	Fluorine	40.0	+/- 5.0
SO <sub>3</sub>	2.3 %	+/- 0.5 %	Lead	1	+/- .5
K <sub>2</sub> O	2.0 %	+/- 0.75 %	Lithium	4	+/- 1.5
Na <sub>2</sub> O	0.65 %	+/- 0.2 %	Manganese	30.0	+/- 10.0
Undetermined	1.2 %	+/- 0.2 %	Mercury	<0.01	-
Base/Acid Ratio	0.25	+/- 0.05	Nickel	7.0	+/- 3.0
Maximum Base/Acid Ratio			Selenium	<2.0	



**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
CRYSTAL RIVER 4 & 5  
PAGE 1 OF 3

PRODUCER NAME: GLENORE LTD.		OFFER B
STREET ADDRESS: 301 TRESSER BLVD. STAMFORD, CT 06901		
CONTACT: JOHN McCONAGHY		TELEPHONE NO. 203-328-4958
MINE(S): CMU (COLOMBIA)	BOM DISTRICT:	COUNTY: STATE:
ORIGIN RAILROAD(S)/DISTRICT: EK CV Big Sandy Other VESSEL		R/R TIPPLE DESIGNATION/NUMBER
TYPE OF LOADING FACILITY: UNIT TRAIN: SINGLE CAR: TRAINLOAD		
MAXIMUM LOADING CAPACITY 15,000 TONS 24 HOURS TRACK CAPACITY		
WATER DELIVERY CAPABILITY: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		IMPORT COAL: LOAD PORT PUERTO PRODECO, COLOMBIA
SHIP THROUGH: IMT OR TECO NEW ORELANDS, LA DOCK		UNLOAD RATE: 10,000 MT SHINC PER DAY
TOTAL PRODUCTION CAPACITY PER MONTH: 150,000 MT TONS		
PRODUCTION PER MONTH—MEETING OUR COAL SPECIFICATIONS: 150,000 MT TONS		
TYPE OF MINE: % DEEP 100 % STRIP % AUGER		
SEAMS: VARIOUS		BLEND RATIOS: NONE
COAL PREPARATION: <input checked="" type="checkbox"/> RAW <input type="checkbox"/> WASHED <input type="checkbox"/> COMBINATION		
TYPE OF COAL WASHER, IF WASHED:		
TYPE OF COAL SAMPLING: AUTOMATIC BELT SAMPLING		
TYPE OF LABOR CONTRACT(S): COLLECTIVE		DATE FOR RENEGOTIATION: 2007
TYPE OF COAL WEIGHING: VESSEL DRAFT SURVEY		SCALE CERTIFIED? <input type="checkbox"/> YES <input type="checkbox"/> NO
PERIOD	TONNAGE	BASE PRICE PER TON CIF
JANUARY – DECMEBER 2005 EVENLY SPREAD	150,000 NT +/- 10% IN SELLERS OPTION	NT BASIS 12,400 PRO RATA CIF IMT OR TECO NEW ORLEANS, LA
IF THIS COAL IS OFFERED BY A COMPANY OR INDIVIDUAL WHICH IS NOT THE PRODUCER PLEASE INDICATE SO BY MAKING AN "X" IN THIS SPOT.		
PRODUCER'S COMMENTS: PLEASE NOTE THIS OFFER IS VALID UNTIL 12 NOON EST MAY 14, 2004 AND SUBJECT TO RECONFIRMATION THEREAFTER. SHIPPING DATES ARE TO BE EVENLY SPREAD AND MUTUALLY AGREED IN HANDIMAX OR PANAMAX VESSELS TO BE GEARED/GRABBED SELF-DISCHARGING INTO BARGES.		
CREDIT REFERENCES (Minimum two): BNP PARIBAS, CONTACT SALLY HASWEL (212) 841-2010, JP MORGAN CHASE MANHATTAN BANK, CONTACT CARLOS SANTIAGO (212) 552-6311		
INDUSTRY REFERENCES (Minimum four): PSE+G (HARRY PAPADOPOULOS (973) 430-5930), NORTHEAST UTILITIES (KEITH SAUNDERS (860) 665-4571), TAMPA ELECTRIC (MARTIN DUFF (813) 228-1596), US GEN (TOM NETZEL (301) 280-6792).		
SIGNATURE:	TITLE: TRADER	DATE: 5/11/04
MAIL THIS FORM AND ANY ADDITIONAL INFORMATION TO MRS. ROBIN OTT PROGRESS FUELS CORPORATION ONE PROGRESS PLAZA SUITE 600 ST. PETERSBURG, FLORIDA 33701 OR POST OFFICE BOX 15208 ST. PETERSBURG, FLORIDA 33733		



**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
CRYSTAL RIVER 4 & 5  
PAGE 2 OF 3

**CURRENT QUALITY**

PHONE NO. 727/824-6670  
FAX NO. 727/824-6601

DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS	
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED	SUB-BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %	8.0 %	9.0%	8.0% MAX.	30.0% MAX.
SURFACE MOISTURE %	4.0 %	6.0%	5.0% MAX.	5.0% MAX.
ASH %	7.0%	8.0 %	10.0% MAX. <sup>2</sup>	7.8% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	1.15 LB/BTU	1.20 LB/BTU	1.2 LB/MAX. <sup>1</sup>	1.2 LB/MAX. <sup>1</sup>
BTU/LB	12,400 BTU/LB	12,400 BTU/LB	12,300 MIN.	8,200/LB MIN.
ASH SOFTENING DEGREES FAHRENHEIT H=W (R)	2,550DEGREES	2,500 DEGREES	2,500 MIN.	2,200 MIN.
VOLATILE %	36.0%	35.0%	31.0% MIN. <sup>1</sup>	31.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	48	46	42 MIN. <sup>3</sup>	65 MIN. <sup>3</sup>
SIZE	2" X 0"	2" X 0"	2" X 0"	2" X 0"
FINES (-1/4" X 0")	35%	40%	45% MAX. <sup>5</sup>	30% MAX. <sup>5</sup>
PYRITIC SULFUR	0.15 %	0.2 %	0.2% MAX. <sup>1</sup>	0.2% MAX. <sup>1</sup>
FIXED CARBON %	69.5 %	69.5 %	-----	-----
HYDROGEN %	4.50 %	4.50 %	-----	-----
NITROGEN %	1.25 %	1.25 %	-----	-----
CHLORINE %	0.03 %	0.03 %	-----	-----
OXYGEN %	9.0 %	9.0 %	-----	-----

<sup>1</sup>Must be met on an individual shipment basis.

<sup>2</sup>Adjustable in direct proportion to Btu.

<sup>3</sup>Adjustable in inverse proportion to Btu.

<sup>4</sup>Economic analyses will be based on these values.

<sup>5</sup>Preferred value, coals not meeting this specification will be considered.

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV.
P <sub>2</sub> O <sub>5</sub>	0.20 %	+/- 0.05 %	Antimony	1.0	+/- .5
SiO <sub>2</sub>	59.0 %	+/- 3.0 %	Arsenic	<0.1	
Fe <sub>2</sub> O <sub>3</sub>	9.0 %	+/- 1.0 %	Beryllium	<0.1	
Al <sub>2</sub> O <sub>3</sub>	19.75 %	+/- 3.0 %	Cadmium	<0.4	-
TiO <sub>2</sub>	0.90 %	+/- 0.3 %	Chromium	2.0	+/- .75
CaO	2.90 %	+/- 0.5 %	Cobalt	2.0	+/- .75
MgO	2.10 %	+/- 0.5 %	Fluorine	40.0	+/- 5.0
SO <sub>3</sub>	2.3 %	+/- 0.5 %	Lead	1	+/- .5
K <sub>2</sub> O	2.0 %	+/- 0.75 %	Lithium	4	+/- 1.5
Na <sub>2</sub> O	0.65 %	+/- 0.2 %	Manganese	30.0	+/- 10.0
Undetermined	1.2 %	+/- 0.2 %	Mercury	<0.01	
Base/Acid Ratio	0.25	+/- 0.05	Nickel	7.0	+/- 3.0
Maximum Base/Acid Ratio			Selenium	<2.0	





**PROJECTED QUALITY**

\*NOTE: ADD SHEETS IF MORE THAN ONE SEAM

DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS	
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED	SUB-BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %	8.0 %	9.0%	8.0% MAX.	30.0% MAX.
SURFACE MOISTURE %	4.0 %	6.0%	5.0% MAX.	5.0% MAX.
ASH %	7.0%	8.0 %	10.0% MAX. <sup>2</sup>	7.8% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	1.15 LB/BTU	1.20 LB/BTU	1.2 LB/MAX. <sup>1</sup>	1.2 LB/MAX. <sup>1</sup>
BTU/LB	12,400 BTU/LB	12,400 BTU/LB	12,300 MIN.	8,200/LB MIN
ASH SOFTENING DEGREES FAHRENHEIT H=W (R)	2,550 DEGREES	2,500 DEGREES	2,500 MIN.	2,200 MIN.
VOLATILE %	36.0%	35.0%	31.0% MIN. <sup>1</sup>	31.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	48	46	42 MIN. <sup>3</sup>	65 MIN. <sup>3</sup>
SIZE	2" X 0"	2" X 0"	2" X 0"	2" X 0"
FINES (-1/4" X 0")	35%	40%	45% MAX. <sup>5</sup>	30% MAX. <sup>5</sup>
PYRITIC SULFUR	0.15 %	0.2 %	0.2% MAX. <sup>1</sup>	0.2% MAX. <sup>1</sup>
FIXED CARBON %	69.5 %	69.5 %	-----	-----
HYDROGEN %	4.50 %	4.50 %	-----	-----
NITROGEN %	1.25 %	1.25 %	-----	-----
CHLORINE %	0.03 %	0.03 %	-----	-----
OXYGEN %	9.0 %	9.0 %	-----	-----

<sup>1</sup>Must be met on an individual shipment basis.

<sup>2</sup>Adjustable in direct proportion to Btu.

<sup>3</sup>Adjustable in inverse proportion to Btu.

<sup>4</sup>Economic analyses will be based on these values.

<sup>5</sup>Preferred value, coals not meeting this specification will be considered.

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV.
P <sub>2</sub> O <sub>5</sub>	0.20 %	+/- 0.05 %	Antimony	1.0	+/- .5
SiO <sub>2</sub>	59.0 %	+/- 3.0 %	Arsenic	<0.1	-
Fe <sub>2</sub> O <sub>3</sub>	9.0 %	+/- 1.0 %	Beryllium	<0.1	-
Al <sub>2</sub> O <sub>3</sub>	19.75 %	+/- 3.0 %	Cadmium	<0.4	-
TiO <sub>2</sub>	0.90 %	+/- 0.3 %	Chromium	2.0	+/- .75
CaO	2.90 %	+/- 0.5 %	Cobalt	2.0	+/- .75
MgO	2.10 %	+/- 0.5 %	Fluorine	40.0	+/- 5.0
SO <sub>3</sub>	2.3 %	+/- 0.5 %	Lead	1	+/- .5
K <sub>2</sub> O	2.0 %	+/- 0.75 %	Lithium	4	+/- 1.5
Na <sub>2</sub> O	0.65 %	+/- 0.2 %	Manganese	30.0	+/- 10.0
Undetermined	1.2 %	+/- 0.2 %	Mercury	<0.01	-
Base/Acid Ratio	0.25	+/- 0.05	Nickel	7.0	+/- 3.0
Maximum Base/Acid Ratio			Selenium	<2.0	-



2 Bids

Mrs. Robbin Ott  
Progress Fuels Corporation  
One Progress Plaza  
Suite 600  
St. Petersburg  
Florida 33701

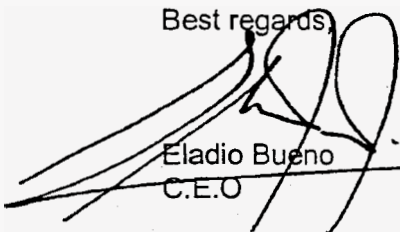
London, May 7<sup>th</sup>, 2004

Dear Mrs. Ott,

**RE: Your R.F.P. Crystal River Units Nos. 4 and 5 (BID May 12, 2004)**

Please find attached our offer for Paso Diablo and Mina Norte coal. If you have any question please do not hesitate to contact us.

Best regards,

  
Eladio Bueno  
C.E.O.

pg. 1

Mrs. Robbin Ott  
Progress Fuels Corporation  
One Progress Plaza  
Suite 600  
St. Petersburg  
Florida 33701

London, May 7<sup>th</sup>, 2004

Dear Mrs. Ott,

**RE: Your R.F.P. Crystal River Units Nos. 4 and 5 (BID May 12, 2004)**  
**(Paso Diablo)**

**Seller:** Guasare Coal International n.v. (GCI)

**Buyer:** Progress Fuel Corporation (PFC)

**Contract Period:** January 1<sup>st</sup> 2005 to December 31<sup>st</sup> 2005.

**Quantity:**

- a) First contractual year (2005):  
300.000 metric tons +/- 10% seller's option.
- b) Second contractual year (2006):  
300.000 metric tons +/- 10% seller's option.
- c) Third contractual year (2007):  
300.000 metric tons +/- 10% seller's option.
- d) The above mentioned volume shall be delivered in  
cargos between 40 to 50.000 Metric tons at Seller's  
option and each cargo to be +/-10% at Seller's option,  
evenly spread through the each 12 months period.  
Loading Laycan of each cargo to be mutually agreed.

**Shipment:** Seller shall nominate a self-discharge (grabbed & crained) vessel into IMT terminal or Buyer's barges, capable of discharging 10.000 Metric tons per day SHINC. Buyer shall guarantee to receive the above mentioned discharge rate. Buyer shall pay Seller vessel demurrage as per governing Charter Party.



Buyer will accept or reject the corresponding vessel nomination presented by Seller within 24 hours of such nomination.

**Coal Quality:** As per Coal Supply Agreement dated 7<sup>th</sup> August 2003 attached herewith.

**Price:** The price of the coal shall be Gross as Received, DES at International Marine Terminal (IMT), New Orleans, USA as follows:

- a. First Contractual year (January 1<sup>st</sup> 2005 to December 31<sup>st</sup> 2005) US\$ [REDACTED] per million BTU.
- b. Second Contractual year (January 1<sup>st</sup> 2006 to December 31<sup>st</sup> 2006) US\$ [REDACTED] per million BTU.
- c. Third Contractual year (January 1<sup>st</sup> 2007 to December 31<sup>st</sup> 2007) US\$ [REDACTED] per million BTU.
- d. Above prices are valid for a three year contract and total volume offered. The prices shall be adjusted to reflect lower contractual period and/or volume.

1  
2  
3

**Coal producer solicitation form:**

As per information presented on June 30, 2003 (attached herewith).

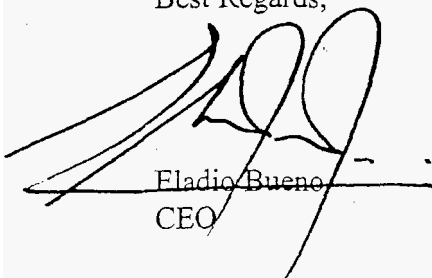
**Other terms and conditions:**

As per the existing Coal Supply Agreement dated 7<sup>th</sup> August 2003.

**Subject and validity:**

This offer is subject to Carbones del Guasare S.A. Board approval and valid up to 12<sup>th</sup> June 2004.

Best Regards,



Eladio Bueno  
CEO

Customers/efc/contracts/documents CSA Paso Diablo 2004 (Oct)31/6/7/03

p.3

## APPENDIX 1

### Paso Diablo Premium Coal Specifications (As Received Basis)

PROXIMATE ANALYSIS		Typical
Total moisture, %		7.50
Ash, %		6.50
Volatile Matter, %		35.00
Pyritic Sulphur, %		0.2
Total Sulphur, %		0.70
Gross Calorific Value, BRU/lb		12800
Kcal/Kg		7100
Net Calorific Value, Kcal/Kg		6810
GRINDABILITY		47
FREE SWELLING INDEX		6
ULTIMATE ANALYSIS		
Total moisture, %		7.50
Carbon		71.50
Hydrogen		4.80
Nitrogen		1.30
Chlorine		0.04
Total Sulphur, %		0.70
Ash, %		6.50
Oxygen (by Diff.)		7.66
ASH FUSION TEMPERATURE		°C (°F)
Red. Atm. Initial Deformation		1230 (2246)
Softening (H=W)		1260 (2300)
Hemispherical (H=1/2W)		1310 (2390)
Fluid		1360 (2480)
Ox. Atm. Initial Deformation		1280 (2336)
Softening (H=W)		1300 (2372)
Hemispherical (H=1/2W)		1360 (2480)
Fluid		1400 (2552)
ASH ANALYSIS		
% SiO <sub>2</sub>		58.50
% Al <sub>2</sub> O <sub>3</sub>		20.00
% TiO <sub>2</sub>		0.95
% Fe <sub>2</sub> O <sub>3</sub>		7.00
% CaO		4.00
% MgO		2.80
% K <sub>2</sub> O		1.70
% Na <sub>2</sub> O		0.50
% MnO <sub>2</sub>		0.10
% P <sub>2</sub> O <sub>5</sub>		0.20
% S <sub>03</sub>		3.50
Undetermined		0.75
SIZING (0 x 50 mm)		
Role hole screens % + 50 mm		5.0 % max.
% - 6.3 mm		40.0% max.

*[Signature]*  
May 7, 2004

*[Signature]*

Mrs. Robbin Ott  
Progress Fuels Corporation  
One Progress Plaza  
Suite 600  
St. Petersburg  
Florida 33701

London, May 7<sup>th</sup>, 2004

Dear Mrs. Ott,

**RE: Your R.F.P. Crystal River Units Nos. 4 and 5 (BID May 12, 2004)**  
**(Mina Norte)**

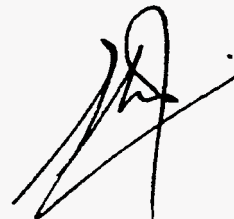
**Seller:** Guasare Coal International n.v. (GCI)

**Buyer:** Progress Fuel Corporation (PFC)

**Contract Period:** January 1<sup>st</sup> 2005 to December 31<sup>st</sup> 2005 (first contractual year) and January 1<sup>st</sup> 2006 to December 31<sup>st</sup> 2006 (second contractual year). January 1<sup>st</sup> 2007 to December 31<sup>st</sup> 2008 (third contractual year).

**Quantity:** For first contractual year four (4) firm cargoes and for second and third contractual year five (5) firm cargoes per each contractual year. Each cargo shall be 40 to 50.000 metric tons at Seller's option and each cargo to be +/-10% at Seller's option, evenly spread through each contractual year (at least one per calendar quarter). Loading Laycan of each cargo to be mutually agreed.

**Shipment:** Seller shall nominate a self-discharge (grabbed & crained) vessel into IMT terminal or Buyer barges, capable of discharging 10.000 Metric tons per day SHINC. Buyer shall guarantee to receive the above mentioned discharge rate. Buyer shall pay Seller vessel demurrage as per governing Charter Party.  
Buyer will accept or reject the corresponding vessel nomination presented by Seller within 24 hours of such nomination.



**Coal Quality  
& Origin:**

As per Coal Supply Agreement dated 7<sup>th</sup> August 2003  
(Appendix 1) attached herewith.

**Price:**

The price of the coal shall be Gross As Received, DES at International Marine Terminal (IMT), New Orleans, USA to be US\$ [REDACTED] per million BTU for the first contractual year, US\$ [REDACTED] per million BTU for the second contractual year and US\$ [REDACTED] per million BTU for third contractual year

Above prices are valid for a three year contract and total cargoes offered. The prices shall be adjusted to reflect lower contractual period and/or cargoes.

1  
2  
3

**Coal Producer Solicitation Form:**

As per information presented on 08/07/2003 (attached herewith) except BTU/lb as received to be 13.000 instead of min. 12.800..

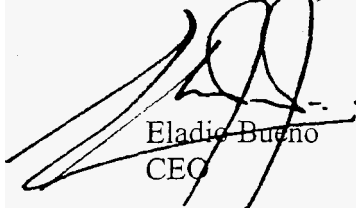
**Other terms and conditions:**

As per the existing Coal Supply Agreement dated 7<sup>th</sup> August 2003

**Subject and validity:**

This offer is subject to prior sale for 2005 cargoes offered and GCI board approval with validity up to 12<sup>th</sup> June 2004.

Best Regards,



Eladio Bueno  
CEO

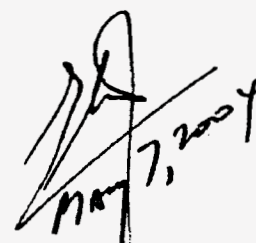
Customers/EFC/contracts/documents/MN/CSA MN 2004 to On/gj/31/07/03

2

# APPENDIX 1

Mina Norte Premium Grade as Receive Basis

	Typical	Range
Total moisture %	6.0	5.0-7.50
Ash %	5.50	4.50-6.50
Volatile Matter %	34.0	33.0-35.0
Btu/LB	13,000	12,800-13,500
Fixed Carbon	53.8	52.00-55.70
Total Sulphur %	0.65	0.60-0.75
Pyritic Sulphur %	0.2	
Grindability	48	46-48
Ash Fusion Temp.	Softening F (H-W) 2400	2350-2450
Sizing	+4" 0% max 0%	
	+3" 1% max 1%	
	+2" 2% max 4%	
	-1/4" 40% max 45%	
	-1mm 17% max 20%	





**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
CRYSTAL RIVER 4 & 5  
PAGE 1 OF 3

PRODUCER NAME <u>Drummond Co. Ltd (Interocean Coal Sales, LDC)</u>		
STREET ADDRESS <u>530 Beacon Parkway West, Ste. 800, Birmingham, AL 35209</u>		
CONTACT: <u>Dennis Steul</u>	TELEPHONE <u>205-945-6411</u>	
MINES: <u>Pribbenow</u>	BOM DISTRICT: <u>N/A</u>	COUNTY: <u>N/A</u> STATE <u>Colombia, S.A.</u>
ORIGIN RAILROAD(S)/DISTRICT: BK <u>CV</u> Big Sandy <u>Qher</u> <u>N/A</u>		CERTIFIED DESIGNATION NUMBER <u>N/A</u>
TYPE OF LOADING FACILITY: <u>N/A</u> UNIT TRAIN <u>                    </u> SINGLE CAR <u>                    </u> TRAIN LOAD <u>                    </u>		
MAXIMUM LOADING CAPACITY: <u>                    </u> TONS <u>N/A</u> <u>                    </u> HOURS <u>                    </u> TRACK CAPACITY <u>                    </u>		
WATER DELIVERY CAPABILITY: <u>X</u> YES <u>                    </u> NO IMPORT COAL: LOAD PORT <u>Mobile, AL</u>		
SHIP THROUGH <u>McDuffie</u> DOCK LOAD RATE: <u>                    </u>		
TOTAL PRODUCTION CAPACITY PER MONTH <u>2,000,000</u> TONS		
PRODUCTION PER MONTH MEETING OUR COAL SPECIFICATIONS <u>1,700,000</u> TONS		
TYPE OF MINE <u>0</u> % DEEP <u>100</u> % STRIP <u>                    </u> % AUGER		
SEAMS <u>Various</u>		BLEND RATIO <u>                    </u>
COAL PREPARATION <u>95%</u> RAW <u>5%</u> WASHED <u>                    </u> COMBINATION <u>                    </u>		
TYPE OF COAL WASHER IF WASHED <u>Jig</u>		
TYPE OF COAL SAMPLING <u>J. B. Long Mechanical samples</u>		
TYPE OF LABOR CONTRACT(S) <u>2-yr-local</u>		DATE FOR RENEGOTIATION <u>March 2006</u>
TYPE OF COAL VOUCHING <u>Draft survey</u>		SCALE CERTIFIED? <u>                    </u> YES <u>                    </u> NO <u>N/A</u>
PERIOD	TONNAGE	BASE PRICE PER TON FOB <u>WATER BARGE</u>
<u>2007</u>	<u>1,000,000 net tons per year</u>	<u>2007 - <del>                    </del></u>
IF THIS COAL IS OFFERED BY A COMPANY OR INDIVIDUAL WHO IS NOT THE PRODUCER PLEASE INDICATE SO BY MAKING AN "X" IN THIS SPOT.		
PRODUCER'S COMMENTS <u>Interocean Coal Sales, LDC</u>		
CREDIT REFERENCES (Minimum two): <u>Progress Fuels, Citibank</u>		
INDUSTRY REFERENCES (Minimum four): <u>Progress Fuels, Alabama Power, Gulf Power, Mississippi Power</u>		
SIGNATURE <u>[Signature]</u> TITLE <u>Attorney-in-Fact</u> DATE <u>                    </u>		
MAIL THIS FORM AND ANY ADDITIONAL INFORMATION TO MRS. ROBIN OTT PROGRESS FUELS CORPORATION ONE PROGRESS PLAZA, SUITE 600 ST. PETERSBURG, FLORIDA 33701 OR POST OFFICE BOX 15208 ST. PETERSBURG, FLORIDA 33733 PHONE NO 727/824-6670 FAX NO 727/824-6601		



**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
CRYSTAL RIVER 4 & 5  
PAGE 2 OF 3

*PROJECTED QUALITY  
AND  
CURRENT QUALITY*

DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS	
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED	SUB-BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %	12	14.00 <sup>4</sup>	8.0% MAX	30.0% MAX
SURFACE MOISTURE %	3	5.00	5.0% MAX	5.0% MAX
ASH %	4.50	5.50 <sup>4</sup>	10.0% MAX <sup>2</sup>	7.8% MAX <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	1.10 Max	1.2 Max	1.2 LB/MAX <sup>1</sup>	1.2 LB/MAX <sup>1</sup>
BTULB	11,750	11,700 <sup>4</sup>	12,300 MIN	8,200 LB/MIN
ASH SOFTENING DEGREES FAHRENHEIT H-W(R)	2,550	2,500 <sup>4</sup>	2,500 MIN	2,200 MIN
VOLATILE %	36.50	31 <sup>4</sup>	31.0% MIN <sup>1</sup>	31.0% MIN <sup>1</sup>
GRINDABILITY, HARDGROVE	45	43 <sup>4</sup>	42 MIN <sup>3</sup>	65 MIN <sup>3</sup>
SIZE	3x0	3x0	2" X 0"	2" X 0"
FINES (-1/4" X 0")	38%	45%	45% MAX <sup>5</sup>	30% MAX <sup>5</sup>
PHYTIC SULFUR	0.18	0.20	0.2% MAX <sup>1</sup>	0.2% MAX <sup>1</sup>
FIXED CARBON %	47.00		—	—
HYDROGEN %	4.73	Range	—	—
NITROGEN %	1.29	1.20 - 1.45	—	—
CHLORINE %	0.03	0.02 - 0.04	—	—
OXYGEN %	9.61		—	—

<sup>1</sup> Must be met on an individual shipment basis.

<sup>2</sup> Adjustable in direct proportion to Btu.

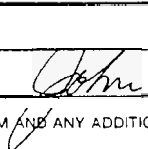
<sup>3</sup> Adjustable in inverse proportion to Btu.

<sup>4</sup> Economic analyses will be based on these values.

<sup>5</sup> Preferred value, coals not meeting this specification will be considered.

MINERAL ANALYSIS %/WGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD. DEV.
P <sub>2</sub> O <sub>5</sub>	0.20		Antimony	2.0	
SiO <sub>2</sub>	58.54		Arsenic	2.9	
Fe <sub>2</sub> O <sub>3</sub>	9.00		Beryllium	<0.2	
Al <sub>2</sub> O <sub>3</sub>	23.40		Cadmium	<0.03	
TiO <sub>2</sub>	0.87		Chromium	8.1	
	2.35		Cobalt		
MgO	1.09		Fluorine	30	
SO <sub>3</sub>	1.24		Lead	4.2	
K <sub>2</sub> O	1.71		Lithium		
Na <sub>2</sub> O	0.47	Typical Min/Max 0.35-0.55	Manganese		
Undetermined	1.13		Mercury	0.08	
Base/Acid Ratio			Nickel	14	
Maximum Base/Acid Ratio			Selenium	3	

\* NOTE: ADD SHEETS IF MORE THAN ONE SEAM

CONTACT: Cathy Frazier		TELEPHONE NO. 304-792-0040	
MINE(S): Highland	BOM DISTRICT: 8	COUNTY: Logan	STATE: West Virginia
CSX DISTRICT: EK <input type="checkbox"/> CV <input type="checkbox"/> Big Sandy <input type="checkbox"/> Other <input checked="" type="checkbox"/> Kanawha/Logan		R/R TIPPLE DESIGNATION/NUMBER:	
NORFOLK SOUTHERN DISTRICT: Thacker <input type="checkbox"/> CV2 <input type="checkbox"/> Kenova <input type="checkbox"/> Other <input type="checkbox"/>		R/R TIPPLE DESIGNATION/NUMBER: 0596	
TOTAL PRODUCTION CAPACITY PER MONTH: 550,000 TONS			
PRODUCTION PER MONTH—MEETING OUR COAL SPECIFICATIONS: 500,000 TONS			
TYPE OF MINE: 75 % DEEP 25 % STRIP % AUGER			
SEAMS: Upper Cedar Grove		BLEND RATIOS:	
COAL PREPARATION: 75% RAW 25% WASHED COMBINATION			
TYPE OF COAL WASHER, IF WASHED: Daniels Washer - Heavy Media - Cyclones - Spirals			
TYPE OF COAL SAMPLING: John B. Long - 2 Stage Automatic			
TYPE OF LABOR CONTRACT(S):		DATE FOR RENEGOTIATION:	
TYPE OF COAL WEIGHING: Certified Batch Weigh		SCALE CERTIFIED? <input checked="" type="checkbox"/> X YES <input type="checkbox"/> NO	
PERIOD	TONNAGE	BASE PRICE PER TON FOB MINE	
January 2005 - December 2005	60,000 tons/month total	<div style="background-color: black; width: 100px; height: 1em; display: inline-block;"></div> FOB MINE / <div style="background-color: black; width: 100px; height: 1em; display: inline-block;"></div> FOB Barge KRT Ceredo	
IF THIS COAL IS OFFERED BY A COMPANY OR INDIVIDUAL WHICH IS NOT THE PRODUCER PLEASE INDICATE SO BY MAKING AN "X" IN THIS SPOT.			
PRODUCER'S COMMENTS:			
This proposal is subject to prior sale & subject to mutually agreeable terms and conditions.			
CREDIT REFERENCES (Minimum two): Duke Energy, Joy Manufacturing			
CUSTOMER REFERENCES: AEP, LG&E/KU; Public Service New Jersey			
		TITLE: Senior Vice President	DATE: 5/11/04
<div style="display: flex; justify-content: space-between;"> <div> MAIL THIS FORM AND ANY ADDITIONAL INFORMATION TO  MRS. ROBIN OTT  PROGRESS FUELS CORPORATION  ONE PROGRESS PLAZA, SUITE 600  ST. PETERSBURG, FLORIDA 33701 </div> <div>OR</div> <div> MRS. ROBIN OTT  PROGRESS FUELS CORPORATION  POST OFFICE BOX 15208  ST. PETERSBURG, FLORIDA 33733 </div> </div> <div style="text-align: center; margin-top: 10px;"> PHONE NO. 727/824-6670  FAX NO. 727/824-6601 </div>			

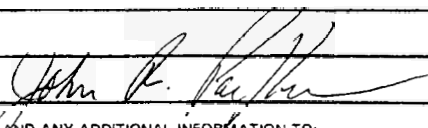
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DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS	
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	CAROLINA BITUMINOUS "AS RECEIVED"	CAROLINAS BITUMINOUS "AS RECEIVED"
MOISTURE (TOTAL) %	7.02	8.00	8.0% MAX.	8.0% MAX.
SURFACE MOISTURE %	4.70	5.00	5.0% MAX.	5.0% MAX.
ASH %	12.75	13.00	13.0% MAX. <sup>2</sup>	13% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	1.18	1.20	1.2 LB/MAX. <sup>1, 6</sup>	2.0 LB/MAX. <sup>1</sup> 3.2 LB/MAX. <sup>1</sup>
BTU/LB	12,200	12,100	12,000 MIN.	12,000/LB MIN.
ASH SOFTENING DEGREES FAHRENHEIT H = 1/2W (R)	2600	2600	2,500 MIN	2,500 MIN.
VOLATILE %		31.00	28.0% MIN. <sup>1</sup>	28.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	43	42	37 MIN. <sup>3</sup>	37 MIN. <sup>3</sup>
SIZE	2 x 0	2 x 0	2" X 0"	2" X 0"
FINES (-1/4" X 0")	45%	45%	40% MAX. <sup>5</sup>	45% MAX. <sup>5</sup>
FIXED CARBON %	48.35		-----	-----
HYDROGEN %	4.28		-----	-----
NITROGEN %	1.24		-----	-----
CHLORINE %	0.16		-----	-----
OXYGEN %	5.42		-----	-----

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV.
P <sub>2</sub> O <sub>5</sub>	0.13		Antimony		
SiO <sub>2</sub>	61.90		Arsenic	5.8	
Fe <sub>2</sub> O <sub>3</sub>	5.15		Beryllium	2.1	
Al <sub>2</sub> O <sub>3</sub>	30.65		Cadmium	0.1	
TiO <sub>2</sub>	1.21		Chromium	33	
CaO	0.74		Cobalt	4.1	
MgO	0.65		Fluorine		
SO <sub>3</sub>	0.58		Lead	5.2	
K <sub>2</sub> O	1.88		Lithium		
Na <sub>2</sub> O	0.67		Manganese		
Undetermined			Mercury	0.049	
Base/Acid Ratio	0.10		Nickel		
Maximum Base/Acid Ratio			Selenium	5.1	

**PROGRESS  
FUELS**  
CORPORATION

**COAL PRODUCERS' SOLICITATION FORM**  
**Crystal River 1 & 2**  
PAGE 1 OF 3

PRODUCER NAME: Sidney Coal Company		
STREET ADDRESS: 115 N. Big Creek Road - Sidney, Kentucky 41564		
CONTACT: Sid Young	TELEPHONE NO. 606-353-7201	
MINE(S): Clean; Freedom	BOM DISTRICT: 8	COUNTY: Pike STATE: Kentucky
CSX DISTRICT: EK _____ Big Sandy _____ Other _____	R/R TIPPLE DESIGNATION/NUMBER:	
NORFOLK SOUTHERN DISTRICT: Thacker _____ CV-1 _____ Kenova <input checked="" type="checkbox"/> Other _____	R/R TIPPLE DESIGNATION/NUMBER:	
MAXIMUM LOADING CAPACITY: 10,000 TONS 4 HOURS 110 loads 110 empties TRACK CAPACITY		
SEAMS: Pond Creek BLEND RATIOS:		
TYPE OF LABOR CONTRACT(S): Non-Union DATE FOR RENEGOTIATION: N/A		
TYPE OF COAL WEIGHING: Railroad Weights		SCALE CERTIFIED? YES NO
PERIOD	TONNAGE	BASE PRICE PER TON FOB BARGE
January 2005 - December 2005	50,000 tons/month	KRT Ceredo / fob Railcar
IF THIS COAL IS OFFERED BY A COMPANY OR INDIVIDUAL WHICH IS NOT THE PRODUCER PLEASE INDICATE SO BY MAKING AN "X" IN THIS SPOT.		
PRODUCER'S COMMENTS:		
This proposal is subject to prior sale and subject to mutually agreeable terms.		
CREDIT REFERENCES (Minimum two): Duke Energy, Joy Manufacturing		
CUSTOMER REFERENCES: Duke Energy, Detroit Edison, Ontario Power		
SIGNATURE: 	TITLE: Senior Vice President	DATE: 5/10/04
MAIL THIS FORM AND ANY ADDITIONAL INFORMATION TO:		
MRS. ROBIN OTT PROGRESS FUELS CORPORATION ONE PROGRESS PLAZA, SUITE 600 ST. PETERSBURG, FLORIDA 33701		
OR		
MRS. ROBIN OTT PROGRESS FUELS CORPORATION POST OFFICE BOX 15208 ST. PETERSBURG, FLORIDA 33733		
PHONE NO. 727/824-6670 FAX NO. 727/824-6601		

**COAL PRODUCERS' SOLICITATION FORM**

Crystal River 1 & 2

PAGE 2 OF 3

**PROGRESS**

**FUELS**

CORPORATION

**CURRENT QUALITY**

DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS	
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	NORTH CAROLINA BITUMINOUS "AS RECEIVED"	CAROLINA BITUMINOUS "AS RECEIVED"
MOISTURE (TOTAL) %	7.02	8.00	8.0% MAX.	8.0% MAX.
SURFACE MOISTURE %	4.70	5.00	5.0% MAX.	5.0% MAX.
ASH %	12.75	12.50	13.0% MAX. <sup>2</sup>	13% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	1.18#	1.20#	1.2 LB/MAX. <sup>1</sup>	2.0 LB/MAX. <sup>1</sup> 3.2 LB/MAX. <sup>1</sup>
BTU/LB	12400	12300	12,000 MIN.	12,000/LB MIN
ASH SOFTENING DEGREES FAHRENHEIT H= 1/2W (R)	2600	2500	2,500 MIN.	2,500 MIN
VOLATILE %	30.00	31.00	28.0% MIN. <sup>1</sup>	28.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	43	42	37 MIN. <sup>3</sup>	37 MIN. <sup>3</sup>
SIZE		2 x 0	2" X 0"	2" X 0"
FINES (-1/4" X 0")	45	48	40% MAX. <sup>5</sup>	45% MAX. <sup>5</sup>
FIXED CARBON %	49.50		-----	-----
HYDROGEN %	4.25		-----	-----
NITROGEN %	1.24		-----	-----
CHLORINE %	0.16		-----	-----
OXYGEN %	5.80		-----	-----

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV
P <sub>2</sub> O <sub>5</sub>	0.14		Antimony		
SiO <sub>2</sub>	62.25		Arsenic	5.9	
Fe <sub>2</sub> O <sub>3</sub>	5.48		Beryllium	2.4	
Al <sub>2</sub> O <sub>3</sub>	31.15		Cadmium	0.1	
TiO <sub>2</sub>	1.28		Chromium	32	
CaO	0.71		Cobalt	4.7	
MgO	0.68		Fluorine		
SO <sub>3</sub>	0.52		Lead	5.4	
K <sub>2</sub> O	1.85		Lithium		
Na <sub>2</sub> O	0.63		Manganese		
Undetermined			Mercury	0.049	
Base/Acid Ratio	0.10		Nickel		
Maximum Base/Acid Ratio			Selenium	5.1	



**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
CRYSTAL RIVER 4 & 5  
PAGE 1 OF 3

PRODUCER NAME: Oxbow Mining LLC		
STREET ADDRESS: 7901 Southpark Plaza, Suite 202; Littleton, CO 80120		
CONTACT: Alicia Levitt	TELEPHONE NO. 303-795-0413	
MINE(S): Elk Creek	BOM DISTRICT: 17	COUNTY: Gunnison STATE: CO
ORIGIN RAILROAD(S)/DISTRICT: EK CV Big Sandy Other UPRR		R/R TIPPLE DESIGNATION/NUMBER: Somerset, CO
TYPE OF LOADING FACILITY: UNIT TRAIN: <input checked="" type="checkbox"/> 105 cars SINGLE CAR: TRAINLOAD:		
MAXIMUM LOADING CAPACITY: 3 105 car trains in 24 hours TONS HOURS TRACK CAPACITY		
WATER DELIVERY CAPABILITY: YES NO IMPORT COAL: LOAD PORT		
SHIP THROUGH: DOCK LOAD RATE:		
TOTAL PRODUCTION CAPACITY PER MONTH: 700,000 TONS plus		
PRODUCTION PER MONTH—MEETING OUR COAL SPECIFICATIONS: 100% TONS quoted quality		
TYPE OF MINE: 100% DEEP % STRIP % AUGER		
SEAMS: Currently in D Seam		BLEND RATIOS: None
COAL PREPARATION: 100% RAW WASHED COMBINATION		
TYPE OF COAL WASHER, IF WASHED:		
TYPE OF COAL SAMPLING: Automatic Sampler		
TYPE OF LABOR CONTRACT(S): None	DATE FOR RENEGOTIATION:	
TYPE OF COAL WEIGHING: Weigh Batch	SCALE CERTIFIED? <input checked="" type="checkbox"/> YES NO	
PERIOD	TONNAGE	BASE PRICE PER TON FOB MINE
See Attached		
IF THIS COAL IS OFFERED BY A COMPANY OR INDIVIDUAL WHICH IS NOT THE PRODUCER PLEASE INDICATE SO BY MAKING AN "X" IN THIS SPOT.		
PRODUCER'S COMMENTS:		
CREDIT REFERENCES (Minimum two): Will provide if short listed		
INDUSTRY REFERENCES (Minimum four): Will provide if short listed		
SIGNATURE:	TITLE: Sales Rep	DATE: 5/11/04
MAIL THIS FORM AND ANY ADDITIONAL INFORMATION TO: MRS. ROBIN OTT PROGRESS FUELS CORPORATION ONE PROGRESS PLAZA, SUITE 600 ST. PETERSBURG, FLORIDA 33701 OR POST OFFICE BOX 15208 ST. PETERSBURG, FLORIDA 33733 PHONE NO. 727/824-6670 FAX NO. 727/824-6601		

Oxbow Mining LLC

Period: 2005 – 2008

Tonnage: 2005: 5 trains for testing  
2006: 500,000 tons  
2007: 500,000 tons  
2008: 500,000 tons

Price: 2005: [REDACTED] per net ton, FOB loaded railcar, Somerset, CO  
2006: [REDACTED] per net ton, FOB loaded railcar, Somerset, CO  
2007: [REDACTED] per net ton, FOB loaded railcar, Somerset, CO  
2008: [REDACTED] per net ton, FOB loaded railcar, Somerset, CO

1  
2  
3  
4

p.1A





DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS	
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED	SUB-BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %	8.00	9.00 <sup>4</sup>	8.0% MAX.	30.0% MAX.
SURFACE MOISTURE %	n/a	n/a	5.0% MAX.	5.0% MAX.
ASH %	8.5	12 <sup>4</sup>	10.0% MAX. <sup>2</sup>	7.8% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	0.77	1.2	1.2 LB/MAX. <sup>1</sup>	1.2 LB/MAX. <sup>1</sup>
BTU/LB	12,000	11,900 <sup>4</sup>	12,300 MIN.	8,200/LB MIN.
ASH SOFTENING DEGREES FAHRENHEIT H=W (R)	2400	2300 <sup>4</sup>	2,500 MIN.	2,200 MIN.
VOLATILE %	33.5	31 <sup>4</sup>	31.0% MIN. <sup>1</sup>	31.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	53	50 <sup>4</sup>	42 MIN. <sup>3</sup>	65 MIN. <sup>3</sup>
SIZE	2x0	2x0	2" X 0"	2" X 0"
FINES (-1/4" X 0")	40%	40%	45% MAX. <sup>5</sup>	30% MAX. <sup>5</sup>
PYRITIC SULFUR	n/a	n/a	0.2% MAX. <sup>1</sup>	0.2% MAX. <sup>1</sup>
FIXED CARBON %	49%		—	—
HYDROGEN %	4.8%		—	—
NITROGEN %	1.45%		—	—
CHLORINE %	288 ppm		—	—
OXYGEN %	7.45		—	—

<sup>1</sup>Must be met on an individual shipment basis.

<sup>2</sup>Adjustable in direct proportion to Btu.

<sup>3</sup>Adjustable in inverse proportion to Btu.

<sup>4</sup>Economic analyses will be based on these values.

<sup>5</sup>Preferred value, coals not meeting this specification will be considered.

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV.
P <sub>2</sub> O <sub>5</sub>	00.65		Antimony		
SiO <sub>2</sub>	53.19		Arsenic		
Fe <sub>2</sub> O <sub>3</sub>	06.18		Beryllium	See Attached	
Al <sub>2</sub> O <sub>3</sub>	25.62		Cadmium		
TiO <sub>2</sub>	00.89		Chromium		
CaO	04.19		Cobalt		
MgO	01.40		Fluorine		
SO <sub>3</sub>	03.09		Lead		
K <sub>2</sub> O	01.42		Lithium		
Na <sub>2</sub> O	01.03		Manganese		
Undetermined	01.89		Mercury		
Base/Acid Ratio	00.18		Nickel		
Maximum Base/Acid Ratio	00.24		Selenium		

\*NOTE: ADD SHEETS IF MORE THAN ONE SEAM



**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
CRYSTAL RIVER 4 & 5  
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**PROJECTED QUALITY**

DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS	
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED	SUB-BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %		<sup>4</sup>	8.0% MAX.	30.0% MAX.
SURFACE MOISTURE %			5.0% MAX.	5.0% MAX.
ASH %	Same as	current <sup>4</sup>	10.0% MAX. <sup>2</sup>	7.8% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)			1.2 LB/MAX. <sup>1</sup>	1.2 LB/MAX. <sup>1</sup>
BTU/LB	quality	<sup>4</sup>	12,300 MIN.	8,200/LB MIN.
ASH SOFTENING DEGREES FAHRENHEIT H=W (R)		<sup>4</sup>	2,500 MIN.	2,200 MIN.
VOLATILE %		<sup>4</sup>	31.0% MIN. <sup>1</sup>	31.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE		<sup>4</sup>	42 MIN. <sup>3</sup>	65 MIN. <sup>3</sup>
SIZE			2" X 0"	2" X 0"
FINES (-1/4" X 0")			45% MAX. <sup>5</sup>	30% MAX. <sup>5</sup>
PYRITIC SULFUR			0.2% MAX. <sup>1</sup>	0.2% MAX. <sup>1</sup>
FIXED CARBON %			—	—
HYDROGEN %			—	—
NITROGEN %			—	—
CHLORINE %			—	—
OXYGEN %			—	—

<sup>1</sup>Must be met on an individual shipment basis

<sup>2</sup>Adjustable in direct proportion to Btu.

<sup>3</sup>Adjustable in inverse proportion to Btu.

<sup>4</sup>Economic analyses will be based on these values.

<sup>5</sup>Preferred value, coals not meeting this specification will be considered.

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV
P <sub>2</sub> O <sub>5</sub>			Antimony		
SiO <sub>2</sub>			Arsenic		
Fe <sub>2</sub> O <sub>3</sub>			Beryllium		
Al <sub>2</sub> O <sub>3</sub>			Cadmium		
TiO <sub>2</sub>			Chromium		
CaO			Cobalt		
MgO			Fluorine		
SO <sub>3</sub>			Lead		
K <sub>2</sub> O			Lithium		
Na <sub>2</sub> O			Manganese		
Undetermined			Mercury		
Base/Acid Ratio			Nickel		
Maximum Base/Acid Ratio			Selenium		

# COALSALES

Barbara E. Busby  
Vice President – Sales & Marketing

Peabody COALSALES Company

701 Market Street

St. Louis, Missouri 63101-1826

Phone 314.342.7600

May 11, 2004

Mr. A.W. Pitcher  
Vice President, Coal Procurement  
Progress Fuels Corporation  
One Progress Plaza  
200 Central Avenue  
St. Petersburg, FL 33701

Dear Al:

Peabody COALSALES Company is pleased to submit the attached proposal for compliance coal to Progress Fuels Corporation (PFC) for your consideration. This proposal will expire at 5:00 p.m. CDT on June 11, 2004.

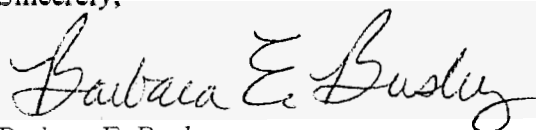
It is incumbent upon you to confirm with us that this Proposal is still outstanding at the time of its consideration and evaluation by you, and prior to any decision by you based on this Proposal.

This Proposal is further subject to the following conditions:

- Prior sale of the coal,
- Withdrawal by COALSALES at any time,
- Availability of the coal,
- Negotiation and execution of a mutually agreeable coal supply agreement,
- Approval of credit terms, and
- Obtaining the approvals of Peabody's senior management to the sale of the coal and to the execution of the negotiated coal supply agreement.

We appreciate the opportunity to submit this proposal and look forward to your response. Should you have any questions or require additional information please contact me.

Sincerely,



Barbara E. Busby  
Vice President – Sales & Marketing

Attachments

May 12, 2004

North Antelope/Rochelle

**Compliance Coal Sales Proposal  
Progress Fuels Corp.**

**To:**

Mr. A.W. Pitcher  
Vice President, Coal Procurement  
**Progress Fuels Corp.**  
One Progress Plaza  
200 Central Avenue  
St. Petersburg, FL 33701

**Seller:**

**Peabody COALSALES Company**  
701 Market Street  
St. Louis, MO. 63101  
Phone: 314-342-7698  
Fax: 314-342-7529

**Plant Destination:** Crystal River Plant

**Term, Quantity and Price  
Per Ton FOB Mine:**

Term	Quantity	Price
1/1/05-12/31/05	300,000 tons	[REDACTED]
1/1/06-12/31/06	300,000 tons	[REDACTED]
1/1/07-12/31/07	300,000 tons	[REDACTED]

1  
2

**Btu**

**Premium/Penalty**

**Provision:** At the end of each month a quality adjustment would be computed based on the difference between the actual weighted average Btu per pound and the Monthly Weighted Average Btu per pound (8.900 Btu/lb.).

**SO2**

**Premium/Penalty**

**Provision:** At the end of the month, a quality adjustment would be computed based on the difference between the actual monthly weighted average pounds of SO2 per million Btu and the Monthly Weighted Average lbs. SO2/mmBtu (0.50 # SO2/mmBtu). The difference will be applied to the average "Air Daily Monthly SO2 Index."

**Mine Information:**

<b>Mine</b>	North Antelope/Rochelle
<b>Location:</b>	65 mi SE of Gillette, WY
<b>Type of Mine:</b>	Surface
<b>Mining Method:</b>	Dragline/Truck & Shovel
<b>Annual Total Shipments:</b>	80,000,000+ tons

**Coal Quality: (Progress Fuels Current & Projected Quality Sheets attached)**

Parameter (as received)	Monthly Wtd. Average	Reject
<b>Btu/lb.</b>	8,900	8700 minimum
<b>Lb. SO<sub>2</sub>/mmBtu</b>	.5	.75 maximum
<b>Ash, %</b>	4.4	---
<b>Moisture, %</b>	26.7	---
<b>Sodium Oxide</b>	1.5	---
<b>Volatiles, %</b>	31.5	---
<b>HGI</b>	59	---

**Rail Origin:**

<b>Loadout Details</b>	North Antelope
<b>Shipping Point</b>	NACCO Junction
<b>Railroad</b>	BNSF/UP
<b>Unit Train Car Rating</b>	160
<b>Loadout Capacity</b>	< 4.0 Hours

**Sampling System:** Three (3) Stage Automatic Sampler

**Weighing System:** Batch Weigh Bin System

**Scale Certification:** Certification Annually

**Expiration Date:** This proposal expires June 11, 2004.

**Shipping Schedule:** Annual volume to be shipped and received in approximately equal monthly quantities.

**Substitution:** Seller reserves the right, but not the obligation, to substitute coal from other origins at the same delivered price per mmBtu.

**Weights, Sampling,  
and Analysis:**

Seller's weights, sampling and analysis to govern for payment and quality administration. Analysis to be performed by a third-party independent laboratory.

**Title and Risk  
of Loss:**

Title to and risk of loss of all coal bought and sold under this agreement will pass to PFC and coal will be considered to be delivered by COALSALES when it is loaded into the railcar at the mine.

**Invoicing and  
Payment:**

COALSALES will issue invoices to PFC for coal deliveries on a semi-monthly basis for coal shipped from the 1<sup>st</sup> through the 15<sup>th</sup> and the 16<sup>th</sup> through the end of each month. COALSALES will issue separate invoices for all adjustments including quality on a monthly basis. Electronic payment will be made by PFC 10 days after invoice is received.

**Laws:**

The price is inclusive of all government taxes, fees, royalties, and other impositions in effect as of May 12, 2004. The price is subject to adjustment after May 12, 2004 for full pass through of any subsequent changes in cost when such changes are caused by a change in existing, or enactment of new government taxes, fees, royalties, or other impositions. Seller will use commercially reasonable efforts to mitigate the impact of any Government Impositions on Buyer.

A *scheduled* modification or termination of an existing law, including the elimination of the existing AML fee, shall not be cause to adjust the base price. In the event of the enactment of a new AML fee, Seller shall not be entitled to collect any new AML fee as a change in law until and unless the new AML fee exceeds the existing AML fee currently being collected as of the contract date.

**Credit Policy:**

Contract subject to mutually acceptable credit language.

**Other Provisions:**

Other terms and conditions such as force majeure, confidentiality, etc. are subject to negotiation.

**Approval:**

Offer is subject to both parties obtaining senior management approval.

PROGRESS FUELS CORPORATION  
P.O. Box 308  
CEREDO, WEST VIRGINIA 25507-0308

May 11, 2004

Mr. A. W. Pitcher  
Vice President – Coal Procurement  
Progress Fuels Corporation  
One Progress Plaza, Suite 600  
St. Petersburg, Florida 33701

Mr. Pitcher:

We at Progress Fuels are pleased to be able to respond to your request for coal. Our proposal will be from Diamond May Coal Company. We wish to submit the following compliance product for your consideration:

Loading Point:	Yellow Creek Tipple – CSX 42420
Moisture:	8.0% Maximum
BTU:	12,500 Minimum
Ash:	12.0% Maximum
Sulfur Dioxide:	1.2# SO <sub>2</sub> /MM BTU Maximum
Tonnage:	3 trains per month commencing in January of 2005 and continuing through December of 2007, with a mutual agreement to reopen the arrangement prior to the end of the year, should additional trains be available, on an as needed/as available basis.
Price FOB Railcar:	<div>██████ per ton for 2005</div> <div>██████ per ton for 2006</div> <div>██████ per ton for 2007</div> <div>1 2 3</div>
Premium/Penalty	BTU only -- based on a pro-rata adjustment
Weights:	Via Railroad Scales (for Buyer's Account)
Analysis:	Via mechanical sample taken at loading and analyzed by a mutually agreeable commercial laboratory.

The tonnage proposed is subject to prior sale and availability (based on current projections). Additionally, this proposal is based on the execution of a mutually agreeable purchase order or contract, including but not limited to considerations of Force Majeure, the inclusion of suspension parameters and any additional monetary premiums or penalties between the parties.

Certain economic parameters are subject to negotiation and modification, when taken in concert with other considerations. This offer will remain open for a period of 30 days, subject to all of the stipulations as detailed in this letter. We at Progress Fuels look forward to being able to discuss and fine-tune this proposal for your specific requirements, at your earliest convenience.

Joseph B. Jefferson

A handwritten signature in black ink that reads "Joseph B. Jefferson" followed by a diagonal slash and the initials "dd".

Director – Coal Sales  
Progress Fuels Corporation

Attachment – Coal Producer Solicitation Form





PROGRESS  
FUELS  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
CRYSTAL RIVER 4 & 5  
PAGE 1 OF 3

CONTACT: Joseph B. Jefferson

TELEPHONE NO. (304) 526-0757

MINE(S): Diamond May Coal Company BOM DISTRICT: Hazard

COUNTY: Knott

STATE: KY

ORIGIN RAILROAD(S)/DISTRICT: EK ☒ CV ☐ Big Sandy ☐  
Other ☐

R/R TIPPLE DESIGNATION/NUMBER: 42420 Pioneer  
Tipple (Yellow Creek)

SEAMS: Amburgey, #4, #5A, #7, #8 Top

BLEND RATIOS:

TYPE OF COAL WASHER, IF WASHED: Daniels Heavy Media

TYPE OF LABOR CONTRACT(S):

DATE FOR RENEGOTIATION:

TYPE OF COAL WEIGHING: Belt Scale

SCALE CERTIFIED?

☐ YES

☒ NO

PERIOD

TONNAGE

BASE PRICE PER TON FOB MINE

3 Years for the period 2005-2007

3 Trains Per Month

2005 -  2006 -  2007 -

IF THIS COAL IS OFFERED BY A COMPANY OR INDIVIDUAL WHICH IS NOT THE PRODUCER PLEASE INDICATE SO BY MAKING AN "X" IN THIS SPOT.

PRODUCER'S COMMENTS:

CREDIT REFERENCES (Minimum two)

Upon Request

INDUSTRY REFERENCES (Minimum four):

Upon Request

*Joseph*



**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
CRYSTAL RIVER 4 & 5  
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**CURRENT QUALITY**

PHONE NO. 727/824-6670  
FAX NO. 727/824-6601

DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS	
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED	SUB-BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %	6.50%	8.00% <sup>4</sup>	8.0% MAX.	30.0% MAX.
SURFACE MOISTURE %		3.00 %	5.0% MAX.	5.0% MAX.
ASH %	12.00%	12.00% <sup>4</sup>	10.0% MAX. <sup>2</sup>	7.8% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	1.20 lb	1.20 lb	1.2 LB/MAX. <sup>1</sup>	1.2 LB/MAX. <sup>1</sup>
BTU/LB	12,500	12,500 <sup>4</sup>	12,300 MIN.	8,200/LB MIN.
ASH SOFTENING DEGREES FAHRENHEIT H=W (R)	2700	2700 <sup>4</sup>	2,500 MIN.	2,200 MIN.
VOLATILE %	35.83%	32.0 % <sup>4</sup>	31.0% MIN. <sup>1</sup>	31.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	43	43 <sup>4</sup>	42 MIN. <sup>3</sup>	65 MIN. <sup>3</sup>
SIZE	2 X 0	2 X 0	2" X 0"	2" X 0"
FINES (-1/4" X 0")	40%	40%	45% MAX. <sup>5</sup>	30% MAX. <sup>5</sup>
PYRITIC SULFUR	.10	.20 %	0.2% MAX. <sup>1</sup>	0.2% MAX. <sup>1</sup>
FIXED CARBON %	49.05%		-----	-----
HYDROGEN %	5.09%		-----	-----
NITROGEN %	1.51%		-----	-----
CHLORINE %	.07%		-----	-----
OXYGEN %	6.52%		-----	-----

<sup>1</sup>Must be met on an individual shipment basis.

<sup>2</sup>Adjustable in direct proportion to Btu.

<sup>3</sup>Adjustable in inverse proportion to Btu.

<sup>4</sup>Economic analyses will be based on these values.

<sup>5</sup>Preferred value, coals not meeting this specification will be considered.

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV.
P <sub>2</sub> O <sub>5</sub>	1.77	Unknown	Antimony		Unknown
SiO <sub>2</sub>	60.93	"	Arsenic	1.4	"
Fe <sub>2</sub> O <sub>3</sub>	3.51	"	Beryllium	1.7	
Al <sub>2</sub> O <sub>3</sub>	27.07	"	Cadmium	0.04	
TiO <sub>2</sub>	2.37	"	Chromium	13	
CaO	1.14	"	Cobalt	6.2	
MgO	0.62	"	Fluorine		"
SO <sub>3</sub>	0.85	"	Lead	7	
K <sub>2</sub> O	1.77	"	Lithium		"
Na <sub>2</sub> O	0.37	"	Manganese		
Undetermined			Mercury	0.03	
Base/Acid Ratio	0.0820	"	Nickel		



**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
CRYSTAL RIVER 4 & 5  
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Maximum Base/Acid Ratio	-	"	Selenium	2.3	"
<b>PROJECTED QUALITY</b>					

\*NOTE: ADD SHEETS IF MORE THAN ONE SEAM

DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS	
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED	BITUMINOUS "AS RECEIVED" GUARANTEED	SUB-BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %	6.50%	8.00% <sup>4</sup>	8.0% MAX.	30.0% MAX.
SURFACE MOISTURE %		3.00 %	5.0% MAX.	5.0% MAX.
ASH %	12.00%	12.00% <sup>4</sup>	10.0% MAX. <sup>2</sup>	7.8% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	1.20 lb	1.20 lb	1.2 LB/MAX. <sup>1</sup>	1.2 LB/MAX. <sup>1</sup>
BTU/LB	12,500	12,500 <sup>4</sup>	12,300 MIN.	8,200/LB MIN.
ASH SOFTENING DEGREES FAHRENHEIT H=W (R)	2800	2700 <sup>4</sup>	2,500 MIN.	2,200 MIN.
VOLATILE %	35.83%	32.0% <sup>4</sup>	31.0% MIN. <sup>1</sup>	31.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	43	43 <sup>4</sup>	42 MIN. <sup>3</sup>	65 MIN. <sup>3</sup>
SIZE	2 X 0	2 X 0	2" X 0"	2" X 0"
FINES (-1/4" X 0")	40%	40%	45% MAX. <sup>5</sup>	30% MAX. <sup>5</sup>
PYRITIC SULFUR	.10	.20 %	0.2% MAX. <sup>1</sup>	0.2% MAX. <sup>1</sup>
FIXED CARBON %	49.05%		-----	-----
HYDROGEN %	5.09%		-----	-----
NITROGEN %	1.51%		-----	-----
CHLORINE %	.07%		-----	-----
OXYGEN %	6.52%		-----	-----

<sup>1</sup>Must be met on an individual shipment basis.

<sup>2</sup>Adjustable in direct proportion to Btu.

<sup>3</sup>Adjustable in inverse proportion to Btu.

<sup>4</sup>Economic analyses will be based on these values.

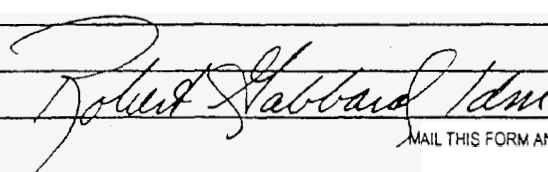
<sup>5</sup>Preferred value, coals not meeting this specification will be considered.

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV.
P <sub>2</sub> O <sub>5</sub>	1.77	Unknown	Antimony		Unknown
SiO <sub>2</sub>	60.93	"	Arsenic	1.4	"
Fe <sub>2</sub> O <sub>3</sub>	3.51	"	Beryllium	1.7	"
Al <sub>2</sub> O <sub>3</sub>	27.07	"	Cadmium	0.04	"
TiO <sub>2</sub>	2.37	"	Chromium	13	"
CaO	1.14	"	Cobalt	6.2	"
MgO	0.62	"	Fluorine		"
SO <sub>3</sub>	0.85	"	Lead	7	"
K <sub>2</sub> O	1.77	"	Lithium		"
Na <sub>2</sub> O	0.37	"	Manganese		"
Undetermined	-	"	Mercury	0.03	



PROGRESS  
FUELS  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
CRYSTAL RIVER 4 & 5  
PAGE 1 OF 3

PRODUCER NAME: Triton Coal Company, LLC		
STREET ADDRESS: 113 S. Gillette Ave., Suite 203; Gillette, WY 82716		
CONTACT: Bob Gabbard	TELEPHONE NO. 859-223-8820	
MINE(S): Buckskin	BOM DISTRICT: WY	COUNTY: Campbell STATE: WY
ORIGIN RAILROAD(S)/DISTRICT: EK CV Big Sandy Other BNSF-PRB		R/R TIPPLE DESIGNATION/NUMBER: Buckskin Mine
TYPE OF LOADING FACILITY: UNIT TRAIN: <input checked="" type="checkbox"/> SINGLE CAR: TRAINLOAD: 2 unit trains		
MAXIMUM LOADING CAPACITY: 16,500 TONS 4 HOURS 136 cars TRACK CAPACITY		
WATER DELIVERY CAPABILITY: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IMPORT COAL: LOAD PORT		
SHIP THROUGH: no preference DOCK LOAD RATE:		
TOTAL PRODUCTION CAPACITY PER MONTH: 1.6mm TONS		
PRODUCTION PER MONTH—MEETING OUR COAL SPECIFICATIONS: 1.6mm TONS		
TYPE OF MINE: % DEEP 100 % STRIP % AUGER		
SEAMS: Anderson, Canyon		BLEND RATIOS: n/a
COAL PREPARATION: <input checked="" type="checkbox"/> RAW <input type="checkbox"/> WASHED <input type="checkbox"/> COMBINATION		
TYPE OF COAL WASHER, IF WASHED:		
TYPE OF COAL SAMPLING: ASTM certified three-stage mechanical sampler		
TYPE OF LABOR CONTRACT(S): None		DATE FOR RENEGOTIATION: n/a
TYPE OF COAL WEIGHING: Batch & weigh-in-motion		SCALE CERTIFIED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
PERIOD	TONNAGE	BASE PRICE PER TON FOB MINE
January 1, 2005–December 31, 2007	1.0mm tons/year	* firm for 3 years
IF THIS COAL IS OFFERED BY A COMPANY OR INDIVIDUAL WHICH IS NOT THE PRODUCER PLEASE INDICATE SO BY MAKING AN "X" IN THIS SPOT		
PRODUCER'S COMMENTS: *Price is based on 8,400 Btu and 0.80 # SO2 guarantees		
CREDIT REFERENCES (Minimum two): Fairmont Supply Company - 307-686-2400 Wyoming Machinery Company - 307-472-1000		
INDUSTRY REFERENCES (Minimum four): Oklahoma Gas & Electric; Western Farmers; Dynegy; PP&L		
SIGNATURE: 	TITLE: Vice President	DATE: 5/11/04
MAIL THIS FORM AND ANY ADDITIONAL INFORMATION TO: MRS. ROBIN OTT PROGRESS FUELS CORPORATION ONE PROGRESS PLAZA, SUITE 600 ST. PETERSBURG, FLORIDA 33701 OR POST OFFICE BOX 15208 ST. PETERSBURG, FLORIDA 33733 PHONE NO. 727/824-6670 FAX NO. 727/824-6601		



DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS	
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED 3 train minimum	BITUMINOUS "AS RECEIVED" GUARANTEED	SUB-BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %	29.95	30.00 <sup>4</sup>	8.0% MAX.	30.0% MAX.
SURFACE MOISTURE %			5.0% MAX.	5.0% MAX.
ASH %	5.15	5.50 <sup>4</sup>	10.0% MAX. <sup>2</sup>	7.8% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	0.83	0.90 <sup>*</sup>	1.2 LB/MAX. <sup>1</sup>	1.2 LB/MAX. <sup>1</sup>
BTU/LB	8,400	8,300 <sup>*</sup> <sup>4</sup>	12,300 MIN.	8,200/LB MIN.
ASH SOFTENING DEGREES FAHRENHEIT H=W (R)	2,226	2,200 <sup>4</sup>	2,500 MIN.	2,200 MIN.
VOLATILE %	30.25	31.00 <sup>4</sup>	31.0% MIN. <sup>1</sup>	31.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	62	65 <sup>4</sup>	42 MIN. <sup>3</sup>	65 MIN. <sup>3</sup>
SIZE	2"x0	2"x0	2" X 0"	2" X 0"
FINES (-1/4" X 0")	20%	25%	45% MAX. <sup>5</sup>	30% MAX. <sup>5</sup>
PYRITIC SULFUR	0.04	0.10	0.2% MAX. <sup>1</sup>	0.2% MAX. <sup>1</sup>
FIXED CARBON %	34.65	n/a	-----	-----
HYDROGEN %	3.24	n/a	-----	-----
NITROGEN %	0.63	n/a	-----	-----
CHLORINE %	0.01	n/a	-----	-----
OXYGEN %	11.67	n/a	-----	-----

<sup>1</sup>Must be met on an individual shipment basis.

<sup>2</sup>Adjustable in direct proportion to Btu.

<sup>3</sup>Adjustable in inverse proportion to Btu.

<sup>\*</sup>Price adjustments based

on 8400 Btu & 0.80# SO<sub>2</sub>

<sup>4</sup>Economic analyses will be based on these values.

<sup>5</sup>Preferred value, coals not meeting this specification will be considered.

DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD. DEV.
P <sub>2</sub> O <sub>5</sub>	0.90	0.32	Antimony	0.20	0.05
SiO <sub>2</sub>	31.27	2.91	Arsenic	2.00	0.40
Fe <sub>2</sub> O <sub>3</sub>	7.08	0.75	Beryllium	0.30	0.10
Al <sub>2</sub> O <sub>3</sub>	13.15	0.90	Cadmium	0.05	0.02
TiO <sub>2</sub>	1.11	0.18	Chromium	4.00	2.00
CaO	25.75	1.53	Cobalt	1.50	1.00
MgO	5.89	0.54	Fluorine	27.60	5.00
SO <sub>3</sub>	10.98	2.27	Lead	2.00	1.00
K <sub>2</sub> O	0.19	0.07	Lithium	3.00	1.60
Na <sub>2</sub> O	1.70	0.25	Manganese	21.00	8.00
Undetermined	0.97		Mercury	0.09	0.02
Base/Acid Ratio	0.89		Nickel	5.00	2.00
Maximum Base/Acid Ratio	1.10		Selenium	1.20	0.40



PROGRESS  
FUELS  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
CRYSTAL RIVER 4 & 5  
PAGE 1 OF 3

PRODUCER NAME: Triton Coal Company, LLC		
STREET ADDRESS: 113 S. Gillette Ave., Suite 203; Gillette, WY 82716		
CONTACT: Bob Gabbard	TELEPHONE NO. 859-223-8820	
MINE(S): North Rochelle	BOM DISTRICT: WY	COUNTY: Campbell STATE: WY
C		
I		
P		
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S no		
I		
F		
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TYPE OF COAL WEIGHING: Batch & weigh-in-motion		SCALE CERTIFIED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
PERIOD	TONNAGE	BASE PRICE PER TON FOB MINE
January 1, 2005-December 31, 2007	1.0mm tons/year	firm for 3 years *
CREDIT REFERENCES (Minimum two): Fairmont Supply Company - 307-686-2400		
Wyoming Machinery Company - 307-472-1000		
INDUSTRY REFERENCES (Minimum four): Oklahoma Gas & Electric; Western Farmers; Dynegy & PP&L		
SIGNATURE: Robert Gabbard / dm		
TITLE: Vice President		DATE: 5/11/04
<p>MRS. ROBIN OTT PROGRESS FUELS CORPORATION ONE PROGRESS PLAZA, SUITE 600 ST. PETERSBURG, FLORIDA 33701</p> <p>OR</p> <p>POST OFFICE BOX 15208 ST. PETERSBURG, FLORIDA 33733</p> <p>PHONE NO. 727/824-6670 FAX NO. 727/824-6601</p>		





**PROGRESS  
FUELS**  
CORPORATION

COAL PRODUCERS' SOLICITATION FORM  
CRYSTAL RIVER 4 & 5  
PAGE 1 OF 3

PRODUCER NAME: <u>Triton Coal Company, LLC</u>		
STREET ADDRESS: <u>113 S. Gillette Ave., Suite 203; Gillette, WY 82716</u>		
CONTACT: <u>Bob Gabbard</u>	TELEPHONE NO. <u>859-223-8820</u>	
MINE(S): <u>North Rochelle</u> BOM DISTRICT: <u>WY</u>	COUNTY: <u>Campbell</u>	STATE: <u>WY</u>
ORIGIN RAILROAD(S)/DISTRICT: EK <input type="checkbox"/> CV <input type="checkbox"/> Big Sandy <input type="checkbox"/> Other <u>PRB UP/BNSF</u>		R/R TIPPLE DESIGNATION/NUMBER: <u>North Rochelle</u>
TYPE OF LOADING FACILITY: UNIT TRAIN: <u>X</u> SINGLE CAR: _____ TRAINLOAD: _____		
MAXIMUM LOADING CAPACITY: <u>18,000</u> TONS <u>4</u> HOURS <u>4</u> unit trains @ <u>150</u> cars TRACK CAPACITY		
WATER DELIVERY CAPABILITY: <u>X</u> YES <input type="checkbox"/> NO		IMPORT COAL: LOAD PORT _____
SHIP THROUGH: <u>no preference</u> DOCK		LOAD RATE: _____
TOTAL PRODUCTION CAPACITY PER MONTH: <u>2mm</u> TONS		
PRODUCTION PER MONTH—MEETING OUR COAL SPECIFICATIONS: <u>2mm</u> TONS		
TYPE OF MINE: _____ % DEEP <u>100</u> % STRIP _____ % AUGER		
SEAMS: <u>Lower Canyon</u>	BLEND RATIOS: <u>n/a</u>	
COAL PREPARATION: <u>100%</u> RAW _____ WASHED _____ COMBINATION		
TYPE OF COAL WASHER, IF WASHED: _____		
TYPE OF COAL SAMPLING: <u>ASTM certified three-stage mechanical sampler</u>		
TYPE OF LABOR CONTRACT(S): <u>None</u>	DATE FOR RENEGOTIATION: <u>n/a</u>	
TYPE OF COAL WEIGHING: <u>Batch &amp; weigh-in-motion</u>	SCALE CERTIFIED? <u>X</u> YES <input type="checkbox"/> NO	
PERIOD	TONNAGE	BASE PRICE PER TON FOB MINE
<u>January 1-December 31, 2005</u>	<u>1.0 mm</u>	<u>* [REDACTED]</u>
IF THIS COAL IS OFFERED BY A COMPANY OR INDIVIDUAL WHICH IS NOT THE PRODUCER PLEASE INDICATE SO BY MAKING AN "X" IN THIS SPOT.		
PRODUCER'S COMMENTS: <u>*Price is based on 8,800 Btu and 0.80# SQ2 guarantees</u>		
CREDIT REFERENCES (Minimum two): <u>Fairmont Supply Company - 307-686-2400</u>		
<u>Wyoming Machinery Company - 307-472-1000</u>		
INDUSTRY REFERENCES (Minimum four): <u>Oklahoma Gas &amp; Electric; Western Farmers; Dynegy; PP&amp;L</u>		
SIGNATURE: <u>Robert Gabbard/dm</u>	TITLE: <u>Vice President</u>	DATE: <u>5/11/04</u>
<p>MAIL THIS FORM AND ANY ADDITIONAL INFORMATION TO:</p> <p>MRS. ROBIN OTT PROGRESS FUELS CORPORATION ONE PROGRESS PLAZA, SUITE 600 ST. PETERSBURG, FLORIDA 33701</p> <p>OR</p> <p>POST OFFICE BOX 15208 ST. PETERSBURG, FLORIDA 33733</p> <p>PHONE NO. 727/824-6670 FAX NO. 727/824-6601</p>		



**PROGRESS  
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COAL PRODUCERS' SOLICITATION FORM  
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**CURRENT QUALITY**

DESCRIPTION	OFFERED COAL SPECIFICATIONS		REQUIRED COAL SPECIFICATIONS	
	"AS RECEIVED" AVERAGE OR TYPICAL	"AS RECEIVED" GUARANTEED 3 train minimum	BITUMINOUS "AS RECEIVED" GUARANTEED	SUB-BITUMINOUS "AS RECEIVED" GUARANTEED
MOISTURE (TOTAL) %	27.57	28.50	8.0% MAX.	30.0% MAX.
SURFACE MOISTURE %			5.0% MAX.	5.0% MAX.
ASH %	4.62	5.20	10.0% MAX. <sup>2</sup>	7.8% MAX. <sup>2</sup>
SULFUR DIOXIDE (LB/MBTU)	0.55	0.65*	1.2 LB/MAX. <sup>1</sup>	1.2 LB/MAX. <sup>1</sup>
BTU/LB	8,768	8,650*	12,300 MIN.	8,200/LB MIN.
ASH SOFTENING DEGREES FAHRENHEIT H=W (R)	2,165	2,100	2,500 MIN.	2,200 MIN.
VOLATILE %	32.90	31.50	31.0% MIN. <sup>1</sup>	31.0% MIN. <sup>1</sup>
GRINDABILITY, HARDGROVE	64	63	42 MIN. <sup>3</sup>	65 MIN. <sup>3</sup>
SIZE	2"x0	2"x0	2" X 0"	2" X 0"
FINES (-1/4" X 0")	42%	45%	45% MAX. <sup>5</sup>	30% MAX. <sup>5</sup>
PYRITIC SULFUR	0.02	n/a	0.2% MAX. <sup>1</sup>	0.2% MAX. <sup>1</sup>
FIXED CARBON %	34.80	n/a	—	—
HYDROGEN %	3.72	n/a	—	—
NITROGEN %	0.73	n/a	—	—
CHLORINE %	0.02	n/a	—	—
OXYGEN %	12.50	n/a	—	—

<sup>1</sup>Must be met on an individual shipment basis. \*Price adjustment based on 8,800 Btu & 0.80# SO<sub>2</sub> <sup>4</sup>Economic analyses will be based on these values.

<sup>2</sup>Adjustable in direct proportion to Btu.

<sup>3</sup>Adjustable in inverse proportion to Btu.

<sup>5</sup>Preferred value, coals not meeting this specification will be considered.

MINERAL ANALYSIS %WEIGHT			TRACE ELEMENTS PPM IN COAL		
DESCRIPTION	AVERAGE	STD. DEV.	DESCRIPTION	AVERAGE	STD DEV.
P <sub>2</sub> O <sub>5</sub>	1.00	0.24	Antimony	0.19	0.11
SiO <sub>2</sub>	32.42	2.43	Arsenic	0.60	0.20
Fe <sub>2</sub> O <sub>3</sub>	5.78	0.49	Beryllium	0.10	0.10
Al <sub>2</sub> O <sub>3</sub>	15.34	0.97	Cadmium	0.05	0.01
TiO <sub>2</sub>	1.39	0.16	Chromium	2.00	1.00
CaO	25.05	1.93	Cobalt	1.70	0.30
MgO	5.59	0.44	Fluorine	83.70	12.20
SO <sub>3</sub>	8.26	1.15	Lead	1.00	0.00
K <sub>2</sub> O	0.32	0.09	Lithium	2.6	0.49
Na <sub>2</sub> O	2.07	0.39	Manganese	8.00	2.00
Undetermined	2.99		Mercury	0.06	0.02
Base/Acid Ratio	0.75		Nickel	3.00	1.00
Maximum Base/Acid Ratio	1.00		Selenium	0.50	0.10

\*NOTE: ADD SHEETS IF MORE THAN ONE SEAM



# COAL QUALITY

COMPANY: Triton Coal Company, LLC

MINE: North Rochelle

	MEAN	STANDARD DEVIATION	NUMBER OF ANALYSIS	OCCURRENCE	
				Maximum	Minimum
PROXIMATE ANALYSIS (% By Weight, As-Received Basis)					
Moisture	27.57	0.37	1620	28.89	26.17
Ash	4.62	0.37	1620	6.82	3.89
Volatile Matter	32.90	0.73	272	35.30	30.90
Fixed Carbon	34.80	0.76	272	36.58	32.81
Sulfur	0.20	0.02	1620	0.33	0.09
Btu/Lb.	8,768	61	1620	8,978	8,404
ULTIMATE ANALYSIS (% By Weight, As-Received Basis)					
Moisture	27.90	0.72	68.00	29.25	26.12
Carbon	52.23	0.94	31.00	53.69	50.40
Hydrogen	3.72	0.26	31.00	4.23	3.42
Nitrogen	0.73	0.12	31.00	1.04	0.55
Chlorine	0.02	0.01	13.00	0.04	0.00
Sulfur	0.20	0.02	40.00	0.26	0.16
Ash	4.37	0.39	40.00	5.40	3.72
Oxygen	12.50	0.99	31.00	13.91	11.01
SULFUR FORMS (% By Weight, As-Received Basis)					
Sulfate					
Organic					
Pyritic					
MINERALS OF ASH (% Weight Of Ash)					
Silica	32.42	2.43	252.00	42.71	27.60
Alumina	15.34	0.97	252.00	19.47	13.05
Sodium Oxide	2.07	0.39	450.00	2.60	1.69
Potassium Oxide	0.32	0.09	252.00	0.72	0.17
Lime	25.05	1.93	252.00	29.33	17.14
Magnesium Oxide	5.59	0.44	252.00	7.00	3.68
Titania	1.39	0.16	252.00	1.81	0.75
Phosphorus Pentoxide	1.00	0.24	37.00	1.55	0.58
Sulfur Trioxide	8.26	1.15	252.00	13.00	5.59
Ferric Oxide	5.78	0.49	252.00	7.18	4.33
Undetermined	2.99	0.77	252.00	4.45	0.33
WATER SOLUBLE ALKALI					
Sodium Oxide	0.15	0.02	158.00	0.20	0.12
Potassium Oxide	NA	NA	NA	NA	NA

# COAL QUALITY - (Continued)

COMPANY: Triton Coal Company, LLC					
MINE: North Rochelle					
	MEAN	STANDARD DEVIATION	NUMBER OF ANALYSIS	OCCURRENCE	
				Maximum	Minimum
<b>MISCELLANEOUS</b>					
Hardgrove Grindability Index	64.2	9.23	33	84	42
Equilibrium Moisture	26.21	0.65	40	27.71	24.93
Slag Viscosity	NA	NA	NA	NA	NA
Apparent Specific Gravity	NA	NA	NA	NA	NA
<b>ASH FUSION TEMPERATURES (degrees F)</b>					
Reducing Atm: Initial Deformation	2,160	48	320	2,301	2,050
Reducing Atm: Softening	2,165	47	320	2,303	2,075
Reducing Atm: Hemispherical	2,175	49	320	2,315	2,082
Reducing Atm: Fluid	2,185	49	320	2,321	2,090
Oxidizing Atm: Initial Deformation	2,205	48	68	2,324	2,140
Oxidizing Atm: Softening	2,215	54	68	2,340	2,170
Oxidizing Atm: Hemispherical	2,226	58	68	2,365	2,177
Oxidizing Atm: Fluid	2,231	64	68	2,380	2,200
<b>TRACE ELEMENTS (PPM in Coal) (*Indicates special interest)</b>					
Antimony	0.19	0.11	17.00	0.39	0.05
Arsenic*	0.60	0.20	17.00	0.90	0.30
Barium	314.00	43.00	17.00	381.00	239.00
Beryllium*	0.10	0.10	17.00	0.30	0.10
Boron	25.00	3.00	17.00	30.00	21.00
Bromine	25.70	7.70	17.00	37.40	9.70
Cadmium*	0.05	0.01	17.00	0.08	0.03
Chlorine	166.00	33.00	17.00	244.00	121.00
Chromium*	2.00	1.00	17.00	3.00	2.00
Cobalt	1.70	0.30	17.00	2.50	1.20
Copper	9.00	1.00	17.00	10.00	8.00
Fluorine*	83.70	12.20	17.00	107.40	67.60
Lead*	1.00	0.00	17.00	1.00	1.00
Manganese	8.00	2.00	17.00	10.00	3.00
Mercury*	0.06	0.02	17.00	0.08	0.02
Nickel	3.00	1.00	17.00	4.00	2.00
Phosphorus	NA	NA	NA	NA	NA
Selenium*	0.50	0.10	17.00	0.70	0.30
Strontium	150.00	14.00	17.00	171.00	120.00
Titanium	NA	NA	NA	NA	NA
Uranium	1.00	0.00	17.00	1.00	<1
Vanadium	11.00	1.00	17.00	13.00	10.00
Zinc	5.00	2.00	17.00	9.00	2.00

# COAL QUALITY

COMPANY: Triton Coal Company, LLC					
MINE: Buckskin					
	MEAN	STANDARD DEVIATION	NUMBER OF ANALYSIS	OCCURRENCE	
				Maximum	Minimum
<b>PROXIMATE ANALYSIS</b> (% By Weight, As-Received Basis)					
Moisture	29.90	1.15		32.00	27.50
Ash	5.25	1.19		7.50	4.40
Volatile Matter	30.25	1.09		32.50	28.10
Fixed Carbon	34.60	1.33		36.20	32.40
Sulfur	0.36	0.09		0.50	0.25
Btu/Lb.	8,400	122		8,500	8,100
<b>ULTIMATE ANALYSIS</b> (% By Weight, As-Received Basis)					
Moisture	29.90	1.15		32.00	27.50
Carbon	48.90	0.67		50.30	47.70
Hydrogen	3.10	0.16		3.40	2.50
Nitrogen	0.60	0.07		0.70	0.45
Chlorine	0.01	0.01		0.03	0.00
Sulfur	0.40	0.09		0.50	0.25
Ash	5.25	1.19		7.50	4.40
Oxygen	11.85	1.43		13.60	10.00
<b>SULFUR FORMS</b> (% By Weight, As-Received Basis)					
Sulfate	0.01	0.01		0.01	0.01
Organic	0.30	0.10		0.50	0.19
Pyritic	0.04	0.05		0.10	0.00
<b>MINERALS OF ASH</b> (% Weight Of Ash)					
Silica	30.50	5.10		40.80	21.20
Alumina	13.50	1.70		18.00	10.00
Sodium Oxide	1.75	0.24		2.10	0.90
Potassium Oxide	0.20	0.09		0.50	0.10
Lime	25.75	3.74		32.60	16.60
Magnesium Oxide	5.80	1.12		8.20	3.80
Titania	1.10	0.32		1.40	0.60
Phosphorus Pentoxide	0.80	0.58		1.50	0.35
Sulfur Trioxide	11.00	3.20		18.60	5.80
Ferric Oxide	6.50	2.18		9.00	4.00
Undetermined	3.10				
<b>WATER SOLUBLE ALKALI</b>					
Sodium Oxide	0.13	0.02		0.18	0.11
Potassium Oxide	n/a	n/a		n/a	n/a

# COAL QUALITY - (Continued)

COMPANY: Triton Coal Company, LLC					
MINE: Buckskin					
	MEAN	STANDARD DEVIATION	NUMBER OF ANALYSIS	OCCURRENCE	
				Maximum	Minimum
<b>MISCELLANEOUS</b>					
Hardgrove Grindability Index	55	6		62	50
Equilibrium Moisture	29.05	0.85		31.00	27.20
Slag Viscosity	n/a	n/a		n/a	n/a
Apparent Specific Gravity	1.27	0.25		1.31	1.10
<b>ASH FUSION TEMPERATURES (degrees F)</b>					
Reducing Atm: Initial Deformation	2,189	107		2,397	2,085
Reducing Atm: Softening	2,206	105		2,415	2,114
Reducing Atm: Hemispherical	2,212	107		2,441	2,122
Reducing Atm: Fluid	2,231	101		2,468	2,146
Oxidizing Atm: Initial Deformation	2,239	86		2,430	2,159
Oxidizing Atm: Softening	2,251	88		2,444	2,165
Oxidizing Atm: Hemispherical	2,258	90		2,453	2,175
Oxidizing Atm: Fluid	2,277	93		2,484	2,197
<b>TRACE ELEMENTS (PPM in Coal) (*Indicates special interest)</b>					
Antimony	0.20	0.05		0.40	0.18
Arsenic*	2.00	0.40		2.60	1.00
Barium	380.00	50.00		480.00	300.00
Beryllium*	0.30	0.10		0.50	0.10
Boron	50.00	4.00		60.00	40.00
Bromine	20.00	2.00		25.00	15.00
Cadmium*	0.05	0.02		0.07	0.02
Chlorine	240.00	105.00		400.00	120.00
Chromium*	4.00	2.00		8.00	2.00
Cobalt	1.50	1.00		5.10	0.80
Copper	9.00	2.00		14.00	4.00
Fluorine*	27.60	5.00		34.90	17.00
Lead*	2.00	1.00		4.00	1.00
Manganese	21.00	8.00		45.00	12.00
Mercury*	0.09	0.02		0.12	0.02
Nickel	5.00	2.00		10.00	2.00
Phosphorus	n/a	n/a		n/a	n/a
Selenium*	1.20	0.40		2.00	0.40
Strontium	270.00	40.00		380.00	200.00
Titanium	n/a	n/a		n/a	n/a
Uranium	0.50	0.01		1.00	0.30
Vanadium	12.00	4.00		20.00	7.00
Zinc	11.00	3.00		20.00	3.00

# CONFIDENTIAL

## SPOT PURCHASE AGREEMENT

"Buyer"

Florida Power Corp. d.b.a.  
Progress Energy Florida  
PO Box 1551, PEB10A  
Raleigh, NC 27602  
Attn: Dale D. Williams  
Phone: 919-546-2083  
Fax: 919-546-6842

"Seller"

American General Oil Corp.  
P.O. Box 510  
Mobile, Ala. 36601  
Attn: Normand McAllister, Jr.  
Phone: 251-626-5861  
Fax: 251-626-6868

Buyer agrees to purchase from Seller approximately [REDACTED] barrels of maximum 1.0 % sulfur #6 fuel oil for delivery to Buyer's Suwannee River Plant. The delivered price for the 1.0 % sulfur fuel oil will be [REDACTED] per barrel including freight. Florida taxes of Seven cents (\$.07) per barrel taxes will be added to each invoice. Total sum of the purchase is estimated to be approximately [REDACTED]

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Payment terms to be net [REDACTED] days from date of delivery, provided invoices and documentation are promptly faxed to the number below.

Delivery of oil will be by Seller's designated, properly licensed and insured petroleum transport company. Delivery is expected to begin after September 10, 2004 and will continue Monday through Friday 7:00 AM-9:00 PM until completed.

The fuel volume will be measured upon truck loading at Seller's terminals. Seller will provide product specifications to Buyer prior to delivery and with each delivery ticket.

Title to and responsibility for the Product, including but not limited to risk of loss, spills, fire or explosion, shall pass from Seller to Buyer when and as the Product passes the first (1st) connection point between Seller's transportation equipment and Buyer's storage facilities at the Delivery Point(s). Seller shall be deemed to be in exclusive control and possession of Product prior to the time of delivery of Product to Buyer. Deliveries of Product by Seller shall be made in conformity with all applicable local, state and federal regulations pertaining to the transportation and unloading of Product prior to passage of title.

At completion of delivery, an invoice documenting each truck delivery will be sent to Oil Trading and Logistics, Attn: Jim Wilson PEB10A, P.O. Box 1551, Raleigh, NC 27602, Phone 919-546-2132 and Fax 919-546-6842.

## ACCEPTANCE OF AGREEMENT

Colonial Oil Co.

Progress Energy Florida

Sign: \_\_\_\_\_

Sign: \_\_\_\_\_

Title: \_\_\_\_\_

Title: Director, Gas & Oil Trading

Date: \_\_\_\_\_

Date: September 10, 2004

[REDACTED]

## SPOT PURCHASE AGREEMENT

### "Buyer"

Florida Power Corp. d.b.a.  
Progress Energy Florida  
PO Box 1551, PEB10A  
Raleigh, NC 27602  
Attn: Dale D. Williams  
Phone: 919-546-2083  
Fax: 919-546-6842

### "Seller"

American General Oil Corp.  
P.O. Box 510  
Mobile, Ala. 36601  
Attn: Normand McAllister, Jr.  
Phone: 251-626-5861  
Fax: 251-626-6868

Buyer agrees to purchase from Seller approximately [REDACTED] barrels of maximum 2.5 % sulfur # 6 fuel oil for delivery to Buyer's Suwannee River Plant. The delivered price for the 2.5 % sulfur fuel oil will be [REDACTED] per barrel including freight. Florida taxes of Seven cents (\$.07) per barrel taxes will be added to each invoice. Total sum of the purchase is estimated to be approximately [REDACTED]

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Payment terms to be [REDACTED] days from date of delivery, provided invoices and documentation are promptly faxed to the number below

Delivery of oil will be by Seller's designated, properly licensed and insured petroleum transport company. Delivery is expected to begin after September 13, 2004 and will continue Monday through Friday 7:00 AM-9:00 PM until completed.

The fuel volume will be measured upon truck loading at Seller's terminals. Seller will provide product specifications to Buyer prior to delivery and with each delivery ticket.

Title to and responsibility for the Product, including but not limited to risk of loss, spills, fire or explosion, shall pass from Seller to Buyer when and as the Product passes the first (1st) connection point between Seller's transportation equipment and Buyer's storage facilities at the Delivery Point(s). Seller shall be deemed to be in exclusive control and possession of Product prior to the time of delivery of Product to Buyer. Deliveries of Product by Seller shall be made in conformity with all applicable local, state and federal regulations pertaining to the transportation and unloading of Product prior to passage of title.

At completion of delivery, an invoice documenting each truck delivery will be sent to Oil Trading and Logistics, Attn: Jim Wilson PEB10A, P.O. Box 1551, Raleigh, NC 27602, Phone 919-546-2132 and Fax 919-546-6842.

## ACCEPTANCE OF AGREEMENT

Colonial Oil Co.

Progress Energy Florida

Sign: \_\_\_\_\_

Sign: \_\_\_\_\_

Title: \_\_\_\_\_

Title: Director, Gas & Oil Trading

Date: \_\_\_\_\_

Date: September 13, 2004





## SPOT PURCHASE AGREEMENT

**"Buyer"**

Florida Power Corporation  
PO Box 1551, PEB10A  
Raleigh, NC. 27602  
Attn: Dale Williams  
Phone: 919-546-2083  
Fax: 919-546-6842

**"Seller"**

Royal Petroleum, Inc.  
6741 S. Military Trail  
Lake Worth, FL 33463  
Attn: Mr. Arnold Seaton  
Phone: 321-723-8424  
Fax: 331-768-2403

Buyer agrees to purchase from Seller approximately [REDACTED] gallons (42 truck loads) of high sulfur(.5%) #2 fuel oil ("Product") for a total cost per gallon determined by The [REDACTED] in effect on date of delivery at Tampa, Florida [REDACTED] per gallon (which includes freight, taxes, and any other applicable charges for delivery) delivered to Buyer's Turner Plant ("Delivery Point"). The total sum of the purchase is approximately [REDACTED]

Payment terms to be net [REDACTED] days from receipt of invoice.

Delivery of oil will be by Seller's designated, properly licensed and insured petroleum transport company via tank truck. Delivery will begin on 7/12/042 and continue Monday through Friday between the hours of 7:00 AM & 4:00 PM.

The fuel volumes will be measured by the difference in the tare and fill weight of the transport vehicles or by meter measured at the Seller's terminal.

Specifications of delivered oil will be provided prior to delivery. Seller intends to deliver high Sulfur # 2 fuel oil but will substitute red dyed low sulfur # 2 if required to meet Buyer's delivery requirements.

Title to and responsibility for the Product, including but not limited to risk of loss, spills, fire or explosion, shall pass from Seller to Buyer when and as the Product passes the first (1st) connection point between Seller's transportation equipment or pipeline and Buyer's storage facilities at the Delivery Point(s). Seller shall be deemed to be in exclusive control and possession of Product prior to the time of delivery of Product to Buyer. Deliveries of Product by Seller shall be made in conformity with all applicable local, state and federal regulations pertaining to the transportation and unloading of Product prior to passage of title.

At completion of delivery, an invoice documenting each truck delivery will be sent to the Florida Power Corp., Attn: Jim Wilson, P.O. Box 1551, Raleigh, NC 27602, Phone 919-546-2132 and Fax 919-546-6842.

### ACCEPTANCE OF AGREEMENT

Royal Petroleum, INC.

FLORIDA POWER CORPORATION

Sign: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Sign: \_\_\_\_\_  
Title: Director, Oil & Gas Trading  
Date: July 9, 2004

[REDACTED] 5





## SPOT PURCHASE AGREEMENT

**"Buyer"**

Florida Power Corporation  
PO Box 1551, PEB10A  
Raleigh, NC. 27602  
Attn: Dale Williams  
Phone: 919-546-2083  
Fax: 919-546-6842

**"Seller"**

Royal Petroleum, Inc.  
6741 S. Military Trail  
Lake Worth, FL 33463  
Attn: Mr. Arnold Seaton  
Phone: 321-723-8424  
Fax: 321-768-2403

Buyer agrees to purchase from Seller approximately [REDACTED] gallons (42 truck loads) of high sulfur (.5%) #2 fuel oil ("Product") for a total cost per gallon determined by The [REDACTED] in effect on date of delivery [REDACTED] per gallon (which includes freight, taxes, and any other applicable charges for delivery) delivered to Buyer's Turner Plant ("Delivery Point"). The total sum of the purchase is approximately [REDACTED]

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Payment terms to be net [REDACTED] days from receipt of invoice.

Delivery of oil will be by Seller's designated, properly licensed and insured petroleum transport company via tank truck. Delivery will begin on 7/19/04 and continue Monday through Friday between the hours of 7:00 AM & 4:00 PM.

The fuel volumes will be measured by the difference in the tare and fill weight of the transport vehicles or by meter measured at the Seller's terminal.

Specifications of delivered oil will be provided prior to delivery. Seller intends to deliver high Sulfur #2 fuel oil but will substitute red dyed low sulfur #2 if required to meet Buyer's delivery requirements.

Title to and responsibility for the Product, including but not limited to risk of loss, spills, fire or explosion, shall pass from Seller to Buyer when and as the Product passes the first (1st) connection point between Seller's transportation equipment or pipeline and Buyer's storage facilities at the Delivery Point(s). Seller shall be deemed to be in exclusive control and possession of Product prior to the time of delivery of Product to Buyer. Deliveries of Product by Seller shall be made in conformity with all applicable local, state and federal regulations pertaining to the transportation and unloading of Product prior to passage of title.

At completion of delivery, an invoice documenting each truck delivery will be sent to the Florida Power Corp., Attn: Jim Wilson, P.O. Box 1551, Raleigh, NC 27602, Phone 919-546-2132 and Fax 919-546-6842.

### ACCEPTANCE OF AGREEMENT

Royal Petroleum, INC.

FLORIDA POWER CORPORATION

Sign: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Sign: \_\_\_\_\_  
Title: Director, Oil & Gas Trading  
Date: July 14, 2004

[REDACTED]





## SPOT PURCHASE AGREEMENT

**"Buyer"**

Florida Power Corporation  
PO Box 1551, PEB10A  
Raleigh, NC. 27602  
Attn: Dale Williams  
Phone: 919-546-2083  
Fax: 919-546-6842

**"Seller"**

Royal Petroleum, Inc.  
6741 S. Military Trail  
Lake Worth, FL 33463  
Attn: Mr. Arnold Seaton  
Phone: 321-723-8424  
Fax: 331-768-2403

This confirms our verbal agreement of 8/13/04, Buyer agrees to purchase from Seller up to approximately [REDACTED] of high sulfur (.5%) # 2 fuel oil ("Product") for a total cost per gallon determined by [REDACTED] in effect on date of delivery at Tampa, Florida [REDACTED] (which includes freight, taxes, and any other applicable charges for delivery) delivered to Buyer's Crystal River Plant ("Delivery Point"). The total sum of the purchase is approximately [REDACTED]. Payment terms to be net [REDACTED] days from receipt of Invoice.

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Delivery of oil will be by Seller's designated, properly licensed and insured petroleum transport company via tank truck. Delivery will be 24 hrs/day on 8/16/04 and 8/17/04.

The fuel volumes will be measured by the difference in the tare and fill weight of the transport vehicles or by meter measured at the Seller's terminal.

Specifications of delivered oil will be provided prior to delivery. Seller intends to deliver high Sulfur # 2 fuel oil but will substitute red dyed low sulfur # 2 if required to meet Buyer's delivery requirements.

Title to and responsibility for the Product, including but not limited to risk of loss, spills, fire or explosion, shall pass from Seller to Buyer when and as the Product passes the first (1st) connection point between Seller's transportation equipment or pipeline and Buyer's storage facilities at the Delivery Point(s). Seller shall be deemed to be in exclusive control and possession of Product prior to the time of delivery of Product to Buyer. Deliveries of Product by Seller shall be made in conformity with all applicable local, state and federal regulations pertaining to the transportation and unloading of Product prior to passage of title.

At completion of delivery, an invoice documenting each truck delivery will be sent to the Florida Power Corp., Attn: Jim Wilson, P.O. Box 1551, Raleigh, NC 27602, Phone 919-546-2132 and Fax 919-546-6842.

### ACCEPTANCE OF AGREEMENT

Royal Petroleum, INC.

FLORIDA POWER CORPORATION

Sign: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Sign: \_\_\_\_\_  
Title: Director, Oil & Gas Trading  
Date: 8/17/04

[REDACTED]

## SPOT PURCHASE AGREEMENT

"Buyer"

Florida Power Corp. dba Progress Energy-Florida  
PO Box 1551, PEB10A  
Raleigh, NC. 27602  
Attn: Dale Williams  
Phone: 919-546-2083  
Fax: 919-546-6842

"Seller"

Sommers Oil Co.  
1000 Sommers Blvd.  
Richmond Hill, Ga 31324  
Attn: Mr. John R. Turner  
Phone: 229-246-6501  
Fax: 229-243-0725

Buyer agrees to purchase from Seller approximately [REDACTED] barrels of high sulfur(.5%) red dyed #2 fuel oil ("Product") for a total cost per gallon of \$ [REDACTED] (which includes freight, taxes, and any other applicable charges for delivery) delivered to Buyer's Suwannee River Plant ("Delivery Point"). The total sum of the purchase is approximately [REDACTED]. Payment terms to be net [REDACTED] from receipt of Invoice.

Delivery of oil will be by Seller's designated, properly licensed and insured petroleum transport company via tank truck. Delivery will begin on 6/7/04 during the hours of 7AM-3PM, Monday through Friday or as designated by Buyer.

The fuel volumes will be measured by the difference in the tare and fill weight of the transport vehicles or by meter measured at the Seller's terminal.

Specifications of delivered oil will be provided prior to delivery. Seller intends to deliver high Sulfur #2 red dyed fuel oil.

Title to and responsibility for the Product, including but not limited to risk of loss, spills, fire or explosion, shall pass from Seller to Buyer when and as the Product passes the first (1st) connection point between Seller's transportation equipment or pipeline and Buyer's storage facilities at the Delivery Point(s). Seller shall be deemed to be in exclusive control and possession of Product prior to the time of delivery of Product to Buyer. Deliveries of Product by Seller shall be made in conformity with all applicable local, state and federal regulations pertaining to the transportation and unloading of Product prior to passage of title.

At completion of delivery, an invoice documenting each truck delivery will be sent to the Progress Energy-Florida, Attn: Jim Wilson, P.O. Box 1551, Raleigh, NC 27602, Phone 919-546-2132 and Fax 919-546-6842.

### ACCEPTANCE OF AGREEMENT

Sommers Oil Co.

Progress Energy -Florida

Sign: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Sign: \_\_\_\_\_  
Title: Director, Oil & Gas Trading  
Date: 6/4/04

[REDACTED]

## SPOT PURCHASE AGREEMENT

**"Buyer"**

Florida Power Corp. dba Progress Energy-Florida  
PO Box 1551, PEB10A  
Raleigh, NC. 27602  
Attn: Dale Williams  
Phone: 919-546-2083  
Fax: 919-546-6842

**"Seller"**

Sommers Oil Co.  
1000 Sommers Blvd.  
Richmond Hill, Ga 31324  
Attn: Mr. John R. Turner  
Phone: 229-246-6501  
Fax: 229-243-0725

Buyer agrees to purchase from Seller approximately [REDACTED] barrels of high sulfur(.5%) red dyed #2 fuel oil ("Product") for a total cost per gallon of [REDACTED] (which includes freight, taxes, and any other applicable charges for delivery) delivered to Buyer's Suwannee River Plant ("Delivery Point"). The total sum of the purchase is approximately [REDACTED]. Payment terms to be net [REDACTED] days from receipt of Invoice.

Delivery of oil will be by Seller's designated, properly licensed and insured petroleum transport company via tank truck. Delivery will be during the hours of 7AM-3PM, Monday through Friday or as designated by Buyer.

The fuel volumes will be measured by the difference in the tare and fill weight of the transport vehicles or by meter measured at the Seller's terminal.

Specifications of delivered oil will be provided prior to delivery. Seller intends to deliver high Sulfur #2 red dyed fuel oil.

Title to and responsibility for the Product, including but not limited to risk of loss, spills, fire or explosion, shall pass from Seller to Buyer when and as the Product passes the first (1st) connection point between Seller's transportation equipment or pipeline and Buyer's storage facilities at the Delivery Point(s). Seller shall be deemed to be in exclusive control and possession of Product prior to the time of delivery of Product to Buyer. Deliveries of Product by Seller shall be made in conformity with all applicable local, state and federal regulations pertaining to the transportation and unloading of Product prior to passage of title.

At completion of delivery, an invoice documenting each truck delivery will be sent to the Progress Energy-Florida, Attn: Jim Wilson, P.O. Box 1551, Raleigh, NC 27602, Phone 919-546-2132 and Fax 919-546-6842.

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### ACCEPTANCE OF AGREEMENT

Sommers Oil Co.

Progress Energy -Florida

Sign: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Sign: \_\_\_\_\_  
Title: Director, Oil & Gas Trading  
Date: 6/28/04

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[REDACTED] 

## SPOT PURCHASE AGREEMENT

"Buyer"

Florida Power Corp. dba Progress Energy-Florida  
PO Box 1551, PEB10A  
Raleigh, NC. 27602  
Attn: Dale Williams  
Phone: 919-546-2083  
Fax: 919-546-6842

Seller"

Sommers Oil Co.  
1000 Sommers Blvd.  
Richmond Hill, Ga 31324  
Attn: Mr. John R. Turner  
Phone: 229-246-6501  
Fax: 229-243-0725

This confirms our verbal agreement of 8/13/04, Buyer agrees to purchase from Seller approximately [REDACTED] truck loads of high sulfur(.5%) red dyed #2 fuel oil ("Product") for a total cost per gallon of [REDACTED] (which includes freight, taxes, and any other applicable charges for delivery) delivered to Buyer's Crystal River Plant ("Delivery Point"). The total sum of the purchase is approximately [REDACTED]. Payment terms to be net [REDACTED] days from receipt of Invoice.

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Delivery of oil will be by Seller's designated, properly licensed and insured petroleum transport company via tank truck. Delivery will be 24 hrs/day from 8/14-8/18/04 or as designated by Buyer.

The fuel volumes will be measured by the difference in the tare and fill weight of the transport vehicles or by meter measured at the Seller's terminal.

Specifications of delivered oil will be provided prior to delivery. Seller intends to deliver high Sulfur #2 red dyed fuel oil.

Title to and responsibility for the Product, including but not limited to risk of loss, spills, fire or explosion, shall pass from Seller to Buyer when and as the Product passes the first (1st) connection point between Seller's transportation equipment or pipeline and Buyer's storage facilities at the Delivery Point(s). Seller shall be deemed to be in exclusive control and possession of Product prior to the time of delivery of Product to Buyer. Deliveries of Product by Seller shall be made in conformity with all applicable local, state and federal regulations pertaining to the transportation and unloading of Product prior to passage of title.

At completion of delivery, an invoice documenting each truck delivery will be sent to the Progress Energy-Florida, Attn: Jim Wilson, P.O. Box 1551, Raleigh, NC 27602, Phone 919-546-2132 and Fax 919-546-6842.

### ACCEPTANCE OF AGREEMENT

Sommers Oil Co.

Progress Energy -Florida

Sign: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Sign: \_\_\_\_\_  
Title: Director, Oil & Gas Trading  
Date: 8/17/04

[REDACTED] 

## SPOT PURCHASE AGREEMENT

"Buyer"

Florida Power Corp. dba Progress Energy-Florida  
PO Box 1551, PEB10A  
Raleigh, NC. 27602  
Attn: Dale Williams  
Phone: 919-546-2083  
Fax: 919-546-6842

Seller"

Sommers Oil Co.  
1000 Sommers Blvd.  
Richmond Hill, Ga 31324  
Attn: Mr. John R. Turner  
Phone: 229-246-6501  
Fax: 229-243-0725

This confirms our verbal agreement of 9/10/04, Buyer agrees to purchase from Seller up to [REDACTED] truck loads of high sulfur(.5%) red dyed #2 fuel oil ("Product") for a total cost per gallon of \$1.3722 (which includes freight, taxes, and any other applicable charges for delivery) delivered to Buyer's Crystal River Plant ("Delivery Point"). The total sum of the purchase is approximately [REDACTED]

Payment terms to be net [REDACTED] days from receipt of invoice.

Delivery of oil will be by Seller's designated, properly licensed and insured petroleum transport company via tank truck. Delivery will be 24 hrs/day starting 9/10/04 through 9/17/04 or as designated by Buyer.

The fuel volumes will be measured by the difference in the tare and fill weight of the transport vehicles or by meter measured at the Seller's terminal.

Specifications of delivered oil will be provided prior to delivery. Seller intends to deliver high Sulfur #2 red dyed fuel oil.

Title to and responsibility for the Product, including but not limited to risk of loss, spills, fire or explosion, shall pass from Seller to Buyer when and as the Product passes the first (1st) connection point between Seller's transportation equipment or pipeline and Buyer's storage facilities at the Delivery Point(s). Seller shall be deemed to be in exclusive control and possession of Product prior to the time of delivery of Product to Buyer. Deliveries of Product by Seller shall be made in conformity with all applicable local, state and federal regulations pertaining to the transportation and unloading of Product prior to passage of title.

At completion of delivery, an invoice documenting each truck delivery will be sent to the Progress Energy-Florida, Attn: Jim Wilson, P.O. Box 1551, Raleigh, NC 27602, Phone 919-546-2132 and Fax 919-546-6842.

### ACCEPTANCE OF AGREEMENT

Sommers Oil Co.

Progress Energy -Florida

Sign: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Sign: \_\_\_\_\_  
Title: Director, Oil & Gas Trading  
Date: 9/13/04

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[REDACTED] 5

## SPOT PURCHASE AGREEMENT

"Buyer"

Florida Power Corp. dba Progress Energy-Florida  
PO Box 1551, PEB10A  
Raleigh, NC. 27602  
Attn: Dale Williams  
Phone: 919-546-2083  
Fax: 919-546-6842

"Seller"

Sommers Oil Co.  
1000 Sommers Blvd.  
Richmond Hill, Ga 31324  
Attn: Mr. John R. Turner  
Phone: 229-246-6501  
Fax: 229-243-0725

This confirms our verbal agreement of 9/28/04, Buyer agrees to purchase from Seller up to [REDACTED] of high sulfur(.5%) red dyed #2 fuel oil ("Product") for a total cost per gallon of [REDACTED] (which includes freight, taxes, and any other applicable charges for delivery) delivered to Buyer's Crystal River Plant ("Delivery Point"). The total sum of the purchase is approximately [REDACTED]

Payment terms to be net [REDACTED] days from receipt of Invoice.

Delivery of oil will be by Seller's designated, properly licensed and insured petroleum transport company via tank truck. Delivery will be 24 hrs/day starting 9/28/04 through 10/1/04 or as designated by Buyer.

The fuel volumes will be measured by the difference in the tare and fill weight of the transport vehicles or by meter measured at the Seller's terminal.

Specifications of delivered oil will be provided prior to delivery. Seller intends to deliver high Sulfur #2 red dyed fuel oil.

Title to and responsibility for the Product, including but not limited to risk of loss, spills, fire or explosion, shall pass from Seller to Buyer when and as the Product passes the first (1st) connection point between Seller's transportation equipment or pipeline and Buyer's storage facilities at the Delivery Point(s). Seller shall be deemed to be in exclusive control and possession of Product prior to the time of delivery of Product to Buyer. Deliveries of Product by Seller shall be made in conformity with all applicable local, state and federal regulations pertaining to the transportation and unloading of Product prior to passage of title.

At completion of delivery, an invoice documenting each truck delivery will be sent to the Progress Energy-Florida, Attn: Jim Wilson, P.O. Box 1551, Raleigh, NC 27602, Phone 919-546-2132 and Fax 919-546-6842.

---

### ACCEPTANCE OF AGREEMENT

Sommers Oil Co.

Progress Energy -Florida

Sign: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Sign: \_\_\_\_\_  
Title: Director, Oil & Gas Trading  
Date: 10/1/04

10/1/04

[REDACTED]

## SPOT PURCHASE AGREEMENT

"Buyer"

Florida Power Corp. d.b.a.  
Progress Energy Florida  
PO Box 1551, PEB10A  
Raleigh, NC 27602  
Attn: Dale D. Williams  
Phone: 919-546-2083  
Fax: 919-546-6842

"Seller"

Birchwood Trading Inc.  
2083 Lamplight Circle  
Woodbury, MN. 55125  
Attn: Jack Stone  
Phone: 651-731-8155  
Fax: 651-731-8159

Buyer agrees to purchase from Seller up to [REDACTED] of maximum 2.5 % sulfur #6 fuel oil for delivery to Buyer's Suwannee River Plant. The delivered price for the #6 fuel oil will be [REDACTED] per barrel including rail freight but not including rail surcharges (estimated to be [REDACTED]) and taxes (\$0.07/bbl). Total sum of the purchase is estimated to be approximately [REDACTED]

Payment terms to be net [REDACTED] from date of delivery, provided invoices and documentation are promptly faxed to the number below.

Delivery of oil will be by Seller's designated, properly licensed and insured rail transport company. Delivery is to be during October, 2004.

The fuel volume will be measured upon car loading at Seller's terminals. Seller will provide product specifications to Buyer prior to delivery and with each delivery ticket. Such specifications will verify that product being delivered is in conformance with Buyer's specifications.

Title to and responsibility for the Product, including but not limited to risk of loss, spills, fire or explosion, shall pass from Seller to Buyer when and as the Product passes the first (1st) connection point between Seller's transportation equipment and Buyer's storage facilities at the Delivery Point(s). Seller shall be deemed to be in exclusive control and possession of Product prior to the time of delivery of Product to Buyer. Deliveries of Product by Seller shall be made in conformity with all applicable local, state and federal regulations pertaining to the transportation and unloading of Product prior to passage of title.

At completion of delivery, an invoice documenting each tank car delivery will be sent to Oil Trading and Logistics, Attn: Jim Wilson PEB10A, P.O. Box 1551, Raleigh, NC 27602, Phone 919-546-2132 and Fax 919-546-6842.

### ACCEPTANCE OF AGREEMENT

Birchwood Trading, Inc.

Progress Energy Florida

Sign: \_\_\_\_\_

Sign: \_\_\_\_\_

Title: \_\_\_\_\_

Title: Director, Gas & Oil Trading

Date: \_\_\_\_\_

Date: September 15, 2004

[REDACTED]



## SPOT PURCHASE AGREEMENT

"Buyer"

Florida Power Corp. d.b.a.  
Progress Energy Florida  
PO Box 1551, PEB10A  
Raleigh, NC 27602  
Attn: Dale D. Williams  
Phone: 919-546-2083  
Fax: 919-546-6842

"Seller"

Birchwood Trading Inc.  
2083 Lamplight Circle  
Woodbury, MN. 55125  
Attn: Jack Stone  
Phone: 651-731-8155  
Fax: 651-731-8159

Buyer agrees to purchase from Seller up to [REDACTED] of maximum 2.5 % sulfur # 6 fuel oil for delivery to Buyer's Suwannee River Plant. The delivered price for the #6 fuel oil will be [REDACTED] per barrel including rail freight but not including rail surcharges (estimated to be [REDACTED] and taxes (\$0.07/bbl) Total sum of the purchase is estimated to be approximately [REDACTED]

Payment terms to be net [REDACTED] days from date of delivery, provided invoices and documentation are promptly faxed to the number below.

Delivery of oil will be by Seller's designated, properly licensed and insured rail transport company. Delivery is to be during October, 2004.

The fuel volume will be measured upon car loading at Seller's terminals. Seller will provide product specifications to Buyer prior to delivery and with each delivery ticket. Such specifications will verify that product being delivered is in conformance with Buyer's specifications.

Title to and responsibility for the Product, including but not limited to risk of loss, spills, fire or explosion, shall pass from Seller to Buyer when and as the Product passes the first (1st) connection point between Seller's transportation equipment and Buyer's storage facilities at the Delivery Point(s). Seller shall be deemed to be in exclusive control and possession of Product prior to the time of delivery of Product to Buyer. Deliveries of Product by Seller shall be made in conformity with all applicable local, state and federal regulations pertaining to the transportation and unloading of Product prior to passage of title.

At completion of delivery, an invoice documenting each tank car delivery will be sent to Oil Trading and Logistics, Attn: Jim Wilson PEB10A, P.O. Box 1551, Raleigh, NC 27602, Phone 919-546-2132 and Fax 919-546-6842.

### ACCEPTANCE OF AGREEMENT

Birchwood Trading, Inc.

Progress Energy Florida

Sign: \_\_\_\_\_

Sign: \_\_\_\_\_

Title: \_\_\_\_\_

Title: Director, Gas & Oil Trading

Date: \_\_\_\_\_

Date: September 15, 2004

[REDACTED]



### SPOT PURCHASE AGREEMENT

"Buyer"

Florida Power Corp. d.b.a.  
Progress Energy Florida  
PO Box 1551, PEB10A  
Raleigh, NC 27602  
Attn: Dale D. Williams  
Phone: 919-546-2083  
Fax: 919-546-6842

"Seller"

Colonial Oil Co.  
1301 Riverplace Blvd., Suite 2646  
Jacksonville, FL 32207  
Attn: Keith Hill  
Phone: 904-396-1388 Ext. 220  
Fax: 904-858-6699

Buyer agrees to purchase from Seller approximately [REDACTED] barrels of maximum 2.5 % sulfur #6 fuel oil for delivery to Buyer's Suwannee River Plant. The delivered price for the 2.5 % sulfur fuel oil will be [REDACTED] per barrel including freight and taxes. Total sum of the purchase is estimated to be approximately [REDACTED]

1  
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Payment terms to be net [REDACTED] days from date of delivery, provided invoices and documentation are promptly faxed to the number below.

Delivery of oil will be by Seller's designated, properly licensed and insured petroleum transport company. Delivery is to begin June 1, 2004 and will continue Monday through Friday 7:00 AM-3:00 PM until completed.

The fuel volume will be measured upon truck loading at Seller's terminals. Seller will provide product specifications to Buyer prior to delivery and with each delivery ticket.

Title to and responsibility for the Product, including but not limited to risk of loss, spills, fire or explosion, shall pass from Seller to Buyer when and as the Product passes the first (1st) connection point between Seller's transportation equipment and Buyer's storage facilities at the Delivery Point(s). Seller shall be deemed to be in exclusive control and possession of Product prior to the time of delivery of Product to Buyer. Deliveries of Product by Seller shall be made in conformity with all applicable local, state and federal regulations pertaining to the transportation and unloading of Product prior to passage of title.

At completion of delivery, an invoice documenting each truck delivery will be sent to Oil Trading and Logistics, Attn: Jim Wilson PEB10A, P.O. Box 1551, Raleigh, NC 27602, Phone 919-546-2132 and Fax 919-546-6842.

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### ACCEPTANCE OF AGREEMENT

Colonial Oil Co.

Progress Energy Florida

Sign: \_\_\_\_\_

Sign: \_\_\_\_\_

Title: \_\_\_\_\_

Title: Director, Gas & Oil Trading

Date: \_\_\_\_\_

Date: May 24, 2004

[REDACTED]

## SPOT PURCHASE AGREEMENT

### "Buyer"

Florida Power Corp. d.b.a.  
Progress Energy Florida  
PO Box 1551, PEB10A  
Raleigh, NC 27602  
Attn: Dale D. Williams  
Phone: 919-546-2083  
Fax: 919-546-6842

### "Seller"

Colonial Oil Co.  
1301 Riverplace Blvd., Suite 2646  
Jacksonville, FL 32207  
Attn: Bob Bossman  
Phone: 904-396-1388 Ext. 222  
Fax: 904-858-6699

Buyer agrees to purchase from Seller approximately [REDACTED] barrels of maximum 1.0 % sulfur #6 fuel oil for delivery to Buyer's Suwannee River Plant. The delivered price for the 1.0 % sulfur fuel oil will be the Platts NY Cargo 1% mean averaged for the month of July [REDACTED] per barrel including freight and taxes. Total sum of the purchase is estimated to be approximately [REDACTED]

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Payment terms to be net [REDACTED] days from date of delivery, provided invoices and documentation are promptly faxed to the number below.

Delivery of oil will be by Seller's designated, properly licensed and insured petroleum transport company. Delivery is expected to begin July 12, 2004 and will continue Monday through Friday 7:00 AM-9:00 PM until completed.

The fuel volume will be measured upon truck loading at Seller's terminals. Seller will provide product specifications to Buyer prior to delivery and with each delivery ticket.

Title to and responsibility for the Product, including but not limited to risk of loss, spills, fire or explosion, shall pass from Seller to Buyer when and as the Product passes the first (1st) connection point between Seller's transportation equipment and Buyer's storage facilities at the Delivery Point(s). Seller shall be deemed to be in exclusive control and possession of Product prior to the time of delivery of Product to Buyer. Deliveries of Product by Seller shall be made in conformity with all applicable local, state and federal regulations pertaining to the transportation and unloading of Product prior to passage of title.

At completion of delivery, an invoice documenting each truck delivery will be sent to Oil Trading and Logistics, Attn: Jim Wilson PEB10A, P.O. Box 1551, Raleigh, NC 27602, Phone 919-546-2132 and Fax 919-546-6842.

## ACCEPTANCE OF AGREEMENT

Colonial Oil Co.

Progress Energy Florida

Sign: \_\_\_\_\_

Sign: \_\_\_\_\_

Title: \_\_\_\_\_

Title: Director, Gas & Oil Trading

Date: \_\_\_\_\_

Date: July 6, 2004

[REDACTED]

### SPOT PURCHASE AGREEMENT

"Buyer"

Florida Power Corp.  
dba Progress Energy Florida  
PO Box 1551, PEB10A  
Raleigh, NC 27602  
Attn: Dale D. Williams  
Phone: 919-546-2083  
Fax: 919-546-6842

"Seller"

Martin Product Sales.  
5900 Memorial Drive, STE 305  
Houston, Texas 77007  
Attn: Barry Balzer  
Phone: 713/350-6819  
Fax: 713/350-6801

Buyer agrees to purchase from Seller approximately [REDACTED] barrels of maximum 2.5% Sulfur # 6 fuel oil for delivery to Buyer's Suwannee River Plant. The delivered price for the 2.5% Sulfur fuel oil will be [REDACTED] per barrel including freight and taxes. Total sum of the purchase is estimated to be approximately [REDACTED]

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Payment terms to be net [REDACTED] days from date of delivery, provided invoices are promptly faxed to the number below.

5

Delivery of oil will be by Seller's designated, properly licensed and insured petroleum transport company. Delivery will begin 5/26/04 Monday -Friday 7 AM -3 PM.

The fuel volume will be measured upon truck loading at Seller's terminals. Specifications of the oil will be provided by Seller prior to delivery and with each delivery ticket.

Title to and responsibility for the Product, including but not limited to risk of loss, spills, fire or explosion, shall pass from Seller to Buyer when and as the Product passes the first (1st) connection point between Seller's transportation equipment or pipeline and Buyer's storage facilities at the Delivery Point(s). Seller shall be deemed to be in exclusive control and possession of Product prior to the time of delivery of Product to Buyer. Deliveries of Product by Seller shall be made in conformity with all applicable local, state and federal regulations pertaining to the transportation and unloading of Product prior to passage of title.

At completion of delivery, an invoice documenting each truck delivery will be sent to Oil Trading and Logistics, Attn: Jim Wilson, P.O. Box 1551, Raleigh, NC 27602, Phone 919-546-2132 and Fax 919-546-6842.

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### ACCEPTANCE OF AGREEMENT

Martin Product Sales.

Progress Energy Florida

Sign: \_\_\_\_\_

Sign: \_\_\_\_\_

Title: \_\_\_\_\_

Title: Director, Gas & Oil Trading

Date: \_\_\_\_\_

Date: May 24, 2004

[REDACTED]

### SPOT PURCHASE AGREEMENT

"Buyer"

Florida Power Corp.  
dba Progress Energy Florida  
PO Box 1551, PEB10A  
Raleigh, NC 27602  
Attn: Dale D. Williams  
Phone: 919-546-2083  
Fax: 919-546-6842

"Seller"

Martin Product Sales.  
5900 Memorial Drive, STE 305  
Houston, Texas 77007  
Attn: Barry Balzer  
Phone: 713/350-6819  
Fax: 713/350-6801

Buyer agrees to purchase from Seller approximately [REDACTED] barrels of maximum 2.5% Sulfur # 6 fuel oil for delivery to Buyer's Suwannee River Plant. The delivered price for the 2.5% Sulfur fuel oil will be [REDACTED] per barrel including freight and taxes. Total sum of the purchase is estimated to be approximately [REDACTED]

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Payment terms to be net [REDACTED] days from date of delivery, provided invoices are promptly faxed to the number below.

5

Delivery of oil will be by Seller's designated, properly licensed and insured petroleum transport company. Delivery will begin after the previous order for 18,000 barrels is complete. Delivery times will be Monday -Friday 7 AM -9 PM.

The fuel volume will be measured upon truck loading at Seller's terminals. Specifications of the oil will be provided by Seller prior to delivery and with each delivery ticket.

Title to and responsibility for the Product, including but not limited to risk of loss, spills, fire or explosion, shall pass from Seller to Buyer when and as the Product passes the first (1st) connection point between Seller's transportation equipment or pipeline and Buyer's storage facilities at the Delivery Point(s). Seller shall be deemed to be in exclusive control and possession of Product prior to the time of delivery of Product to Buyer. Deliveries of Product by Seller shall be made in conformity with all applicable local, state and federal regulations pertaining to the transportation and unloading of Product prior to passage of title.

At completion of delivery, an invoice documenting each truck delivery will be sent to Oil Trading and Logistics, Attn: Jim Wilson, P.O. Box 1551, Raleigh, NC 27602, Phone 919-546-2132 and Fax 919-546-6842.

### ACCEPTANCE OF AGREEMENT

Martin Product Sales.

Progress Energy Florida

Sign: \_\_\_\_\_

Sign: \_\_\_\_\_

Title: \_\_\_\_\_

Title: Director, Gas & Oil Trading

Date: \_\_\_\_\_

Date: May 24, 2004

[REDACTED]



## SPOT PURCHASE AGREEMENT

"Buyer"

Florida Power Corp.  
dba Progress Energy Florida  
PO Box 1551, PEB10A  
Raleigh, NC 27602  
Attn: Dale D. Williams  
Phone: 919-546-2083  
Fax: 919-546-6842

"Seller"

Martin Product Sales.  
5900 Memorial Drive, STE 305  
Houston, Texas 77007  
Attn: Barry Balzer  
Phone: 713/350-6819  
Fax: 713/350-6801

Buyer agrees to purchase from Seller approximately [REDACTED] barrels of maximum 1.0% Sulfur # 6 fuel oil for delivery to Buyer's Suwannee River Plant. The delivered price for the 1.0% Sulfur fuel oil will be [REDACTED] per barrel including freight and taxes. Total sum of the purchase is estimated to be approximately [REDACTED]

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Payment terms to be net [REDACTED] from date of delivery, provided invoices are promptly faxed to the number below.

5

Delivery of oil will be by Seller's designated, properly licensed and insured petroleum transport company. Delivery will begin 7/19/04 Monday -Friday 7 AM -9 PM.

The fuel volume will be measured upon truck loading at Seller's terminals. Specifications of the oil will be provided by Seller prior to delivery and with each delivery ticket.

Title to and responsibility for the Product, including but not limited to risk of loss, spills, fire or explosion, shall pass from Seller to Buyer when and as the Product passes the first (1st) connection point between Seller's transportation equipment or pipeline and Buyer's storage facilities at the Delivery Point(s). Seller shall be deemed to be in exclusive control and possession of Product prior to the time of delivery of Product to Buyer. Deliveries of Product by Seller shall be made in conformity with all applicable local, state and federal regulations pertaining to the transportation and unloading of Product prior to passage of title.

At completion of delivery, an invoice documenting each truck delivery will be sent to Oil Trading and Logistics, Attn: Jim Wilson, P.O. Box 1551, Raleigh, NC 27602, Phone 919-546-2132 and Fax 919-546-6842.

## ACCEPTANCE OF AGREEMENT

Martin Product Sales.

Progress Energy Florida

Sign: \_\_\_\_\_

Sign: \_\_\_\_\_

Title: \_\_\_\_\_

Title: Director, Gas & Oil Trading

Date: \_\_\_\_\_

Date: July 16, 2004

[REDACTED]

### SPOT PURCHASE AGREEMENT

"Buyer"

Florida Power Corp.  
dba Progress Energy Florida  
PO Box 1551, PEB10A  
Raleigh, NC 27602  
Attn: Dale D. Williams  
Phone: 919-546-2083  
Fax: 919-546-6842

"Seller"

Martin Product Sales LLC  
5900 Memorial Drive, Suite 305  
Houston, Texas 77007  
Attn: Barry Balser  
Phone: 713/350-6819  
Fax: 713/350-6801

Buyer agrees to purchase from Seller approximately [REDACTED] barrels of maximum 2.5% Sulfur #6 fuel oil for delivery to Buyer's Suwannee River Plant. The delivered price for the 2.5% Sulfur fuel oil will be [REDACTED] per barrel including freight and taxes [REDACTED]. Total sum of the purchase is estimated to be approximately [REDACTED].

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Payment terms to be net [REDACTED] days from date of delivery, provided invoices are promptly faxed to the number below.

5

Delivery of oil will be by Seller's designated, properly licensed and insured petroleum transport company. Delivery will begin 9/2/04 Monday -Friday 7 AM -9 PM.

The fuel volume will be measured upon truck loading at Seller's terminals. Specifications of the oil will be provided by Seller prior to delivery and with each delivery ticket.

Title to and responsibility for the Product, including but not limited to risk of loss, spills, fire or explosion, shall pass from Seller to Buyer when and as the Product passes the first (1st) connection point between Seller's transportation equipment or pipeline and Buyer's storage facilities at the Delivery Point(s). Seller shall be deemed to be in exclusive control and possession of Product prior to the time of delivery of Product to Buyer. Deliveries of Product by Seller shall be made in conformity with all applicable local, state and federal regulations pertaining to the transportation and unloading of Product prior to passage of title.

At completion of delivery, an invoice documenting each truck delivery will be sent to Oil Trading and Logistics, Attn: Jim Wilson, P.O. Box 1551, Raleigh, NC 27602, Phone 919-546-2132 and Fax 919-546-6842.

---

### ACCEPTANCE OF AGREEMENT

Martin Product Sales LLC.

Progress Energy Florida

Sign: \_\_\_\_\_

Sign: \_\_\_\_\_

Title: \_\_\_\_\_

Title: Director, Gas & Oil Trading

Date: \_\_\_\_\_

Date: September 1, 2004

[REDACTED]

### SPOT PURCHASE AGREEMENT

"Buyer"

Florida Power Corp.  
dba Progress Energy Florida  
PO Box 1551, PEB10A  
Raleigh, NC 27602  
Attn: Dale D. Williams  
Phone: 919-546-2083  
Fax: 919-546-6842

"Seller"

Martin Product Sales LLC  
5900 Memorial Drive, Suite 305  
Houston, Texas 77007  
Attn: Barry Balser  
Phone: 713/350-6819  
Fax: 713/350-6801

Buyer agrees to purchase from Seller approximately [REDACTED] barrels of maximum 1.0% Sulfur # 6 fuel oil for delivery to Buyer's Suwannee River Plant. The delivered price for the 1.0% Sulfur fuel oil will be [REDACTED] per barrel including freight and taxes [REDACTED]. Total sum of the purchase is estimated to be approximately [REDACTED].

Payment terms to be net [REDACTED] days from date of delivery, provided invoices are promptly faxed to the number below.

Delivery of oil will be by Seller's designated, properly licensed and insured petroleum transport company. Delivery will begin after 9/13/04 Monday -Friday 7 AM -9 PM.

The fuel volume will be measured upon truck loading at Seller's terminals. Specifications of the oil will be provided by Seller prior to delivery and with each delivery ticket.

Title to and responsibility for the Product, including but not limited to risk of loss, spills, fire or explosion, shall pass from Seller to Buyer when and as the Product passes the first (1st) connection point between Seller's transportation equipment or pipeline and Buyer's storage facilities at the Delivery Point(s). Seller shall be deemed to be in exclusive control and possession of Product prior to the time of delivery of Product to Buyer. Deliveries of Product by Seller shall be made in conformity with all applicable local, state and federal regulations pertaining to the transportation and unloading of Product prior to passage of title.

At completion of delivery, an invoice documenting each truck delivery will be sent to Oil Trading and Logistics, Attn: Jim Wilson, P.O. Box 1551, Raleigh, NC 27602, Phone 919-546-2132 and Fax 919-546-6842.

### ACCEPTANCE OF AGREEMENT

Martin Product Sales LLC.

Progress Energy Florida

Sign: \_\_\_\_\_

Sign: \_\_\_\_\_

Title: \_\_\_\_\_

Title: Director ,Gas & Oil Trading

Date: \_\_\_\_\_

Date: September 13, 2004

[REDACTED]

## SPOT PURCHASE AGREEMENT

"Buyer"

Florida Power Corp. d.b.a.  
Progress Energy Florida  
PO Box 1551, PEB10A  
Raleigh, NC 27602  
Attn: Dale D. Williams  
Phone: 919-546-2083  
Fax: 919-546-6842

"Seller"

Massey Oil Co.  
272 Powell St.  
Camilla, Ga. 31730  
Attn: Mr. Mark Melius  
Phone: 334-444-4910  
Fax: 334-502-7468

Buyer agrees to purchase from Seller approximately [REDACTED] barrels of maximum 1.0 % sulfur [REDACTED] for delivery to Buyer's Suwannee River Plant. The delivered price for the [REDACTED] per gallon including freight and taxes. Total sum of the purchase is estimated to be approximately [REDACTED]

Payment terms to be net [REDACTED] days from date of delivery, provided invoices and documentation are promptly faxed to the number below.

Delivery of oil will be by Seller's designated, properly licensed and insured petroleum transport company. Delivery is to begin September 3, 2004 and will continue Monday through Friday 7:00 AM-3:00 PM until September 30, 2004. Buyer may elect to suspend or discontinue shipments on one weeks advance notice due to scheduled plant outages.

The fuel volume will be measured upon truck loading at Seller's terminals. Seller will provide product specifications to Buyer prior to delivery and with each delivery ticket. Such specifications will verify that product being delivered is on-spec in conformance with US EPA requirements for processed used oil.

Title to and responsibility for the Product, including but not limited to risk of loss, spills, fire or explosion, shall pass from Seller to Buyer when and as the Product passes the first (1st) connection point between Seller's transportation equipment and Buyer's storage facilities at the Delivery Point(s). Seller shall be deemed to be in exclusive control and possession of Product prior to the time of delivery of Product to Buyer. Deliveries of Product by Seller shall be made in conformity with all applicable local, state and federal regulations pertaining to the transportation and unloading of Product prior to passage of title.

At completion of delivery, an invoice documenting each truck delivery will be sent to Oil Trading and Logistics, Attn: Jim Wilson PEB10A, P.O. Box 1551, Raleigh, NC 27602, Phone 919-546-2132 and Fax 919-546-6842.

## ACCEPTANCE OF AGREEMENT

Massey Oil

Progress Energy Florida

Sign: \_\_\_\_\_

Sign: \_\_\_\_\_

Title: \_\_\_\_\_

Title: Director, Gas & Oil Trading

Date: \_\_\_\_\_

Date: September 2, 2004

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[REDACTED]



## SPOT PURCHASE AGREEMENT

### "Buyer"

Florida Power Corp. d.b.a.  
Progress Energy Florida  
PO Box 1551, PEB10A  
Raleigh, NC 27602  
Attn: Dale D. Williams  
Phone: 919-546-2083  
Fax: 919-546-6842

### "Seller"

TexPar Energy, L.L.C.  
PO Box 587  
Waukesha, WI 53187  
Attn: Jack Kruse  
Phone: 904-261-2080  
Fax: 904-261-6682

Buyer agrees to purchase from Seller approximately [REDACTED] barrels of maximum .5 % sulfur #2 red dyed fuel oil for delivery to Buyer's Suwannee River Plant. The delivered price for the #2 fuel oil will be [REDACTED] per gallon including freight and taxes. Total sum of the purchase is estimated to be approximately [REDACTED]

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Payment terms to be net [REDACTED] days from date of delivery, provided invoices and documentation are promptly faxed to the number below.

5

Delivery of oil will be by Seller's designated, properly licensed and insured petroleum transport company. Delivery is to begin June 7, 2004 and will continue Monday through Friday 7:00 AM-3:00 PM until completed.

The fuel volume will be measured upon truck loading at Seller's terminals. Seller will provide product specifications to Buyer prior to delivery and with each delivery ticket.

Title to and responsibility for the Product, including but not limited to risk of loss, spills, fire or explosion, shall pass from Seller to Buyer when and as the Product passes the first (1st) connection point between Seller's transportation equipment and Buyer's storage facilities at the Delivery Point(s). Seller shall be deemed to be in exclusive control and possession of Product prior to the time of delivery of Product to Buyer. Deliveries of Product by Seller shall be made in conformity with all applicable local, state and federal regulations pertaining to the transportation and unloading of Product prior to passage of title.

At completion of delivery, an invoice documenting each truck delivery will be sent to Oil Trading and Logistics, Attn: Jim Wilson PEB10A, P.O. Box 1551, Raleigh, NC 27602, Phone 919-546-2132 and Fax 919-546-6842.

## ACCEPTANCE OF AGREEMENT

TexPar Energy, L.L.C.

Progress Energy Florida

Sign: \_\_\_\_\_

Sign: \_\_\_\_\_

Title: \_\_\_\_\_

Title: Director, Gas & Oil Trading

Date: \_\_\_\_\_

Date: June 4, 2004

[REDACTED]

## SPOT PURCHASE AGREEMENT

### "Buyer"

Florida Power Corp. d.b.a.  
Progress Energy Florida  
PO Box 1551, PEB10A  
Raleigh, NC 27602  
Attn: Dale D. Williams  
Phone: 919-546-2083  
Fax: 919-546-6842

### "Seller"

TexPar Energy, L.L.C.  
PO Box 587  
Waukesha, WI 53187  
Attn: Jack Kruse  
Phone: 904-261-2080  
Fax: 904-261-6682

Buyer agrees to purchase from Seller approximately [REDACTED] barrels of maximum 1.0 % sulfur [REDACTED] oil for delivery to Buyer's Suwannee River Plant. The delivered price for the [REDACTED] including freight and taxes. Total sum of the purchase is estimated to be approximately [REDACTED]

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Payment terms to be net [REDACTED] days from date of delivery, provided invoices and documentation are promptly faxed to the number below.

Delivery of oil will be by Seller's designated, properly licensed and insured petroleum transport company. Delivery is to begin June 23, 2004 and will continue Monday through Friday 12:00 PM-9:00 PM until June 29, 2004. Seller will make reasonable efforts to make all deliveries after 3:30 PM.

The fuel volume will be measured upon truck loading at Seller's terminals. Seller will provide product specifications to Buyer prior to delivery and with each delivery ticket. Such specifications will verify that product being delivered is on-spec in conformance with US EPA requirements for processed used oil.

Title to and responsibility for the Product, including but not limited to risk of loss, spills, fire or explosion, shall pass from Seller to Buyer when and as the Product passes the first (1st) connection point between Seller's transportation equipment and Buyer's storage facilities at the Delivery Point(s). Seller shall be deemed to be in exclusive control and possession of Product prior to the time of delivery of Product to Buyer. Deliveries of Product by Seller shall be made in conformity with all applicable local, state and federal regulations pertaining to the transportation and unloading of Product prior to passage of title.

At completion of delivery, an invoice documenting each truck delivery will be sent to Oil Trading and Logistics, Attn: Jim Wilson PEB10A, P.O. Box 1551, Raleigh, NC 27602, Phone 919-546-2132 and Fax 919-546-6842.

## ACCEPTANCE OF AGREEMENT

TexPar Energy, L.L.C.

Progress Energy Florida

Sign: \_\_\_\_\_

Sign: \_\_\_\_\_

Title: \_\_\_\_\_

Title: Director, Gas & Oil Trading

Date: \_\_\_\_\_

Date: June 22, 2004

[REDACTED]

## SPOT PURCHASE AGREEMENT

"Buyer"

Florida Power Corp. d.b.a.  
Progress Energy Florida  
PO Box 1551, PEB10A  
Raleigh, NC 27602  
Attn: Dale D. Williams  
Phone: 919-546-2083  
Fax: 919-546-6842

"Seller"

TexPar Energy, L.L.C.  
PO Box 587  
Waukesha, WI 53187  
Attn: Jack Kruse  
Phone: 904-261-2080  
Fax: 904-261-6682

Buyer agrees to purchase from Seller approximately [REDACTED] barrels of maximum 1.0 % sulfur [REDACTED] oil for delivery to Buyer's Suwannee River Plant. The delivered price for the [REDACTED] including freight and taxes. Total sum of the purchase is estimated to be approximately [REDACTED]  
[REDACTED]

Payment terms to be net [REDACTED] days from date of delivery, provided invoices and documentation are promptly faxed to the number below.

Delivery of oil will be by Seller's designated, properly licensed and insured petroleum transport company. Delivery is to begin July 1, 2004 and will continue Monday through Friday 12:00 PM-9:00 PM until September 30, 2004. Buyer may elect to suspend or discontinue shipments on one weeks advance notice due to scheduled plant outages. Seller will make reasonable efforts to make all deliveries after 3:30 PM.

The fuel volume will be measured upon truck loading at Seller's terminals. Seller will provide product specifications to Buyer prior to delivery and with each delivery ticket. Such specifications will verify that product being delivered is on-spec in conformance with US EPA requirements for processed used oil.

Title to and responsibility for the Product, including but not limited to risk of loss, spills, fire or explosion, shall pass from Seller to Buyer when and as the Product passes the first (1st) connection point between Seller's transportation equipment and Buyer's storage facilities at the Delivery Point(s). Seller shall be deemed to be in exclusive control and possession of Product prior to the time of delivery of Product to Buyer. Deliveries of Product by Seller shall be made in conformity with all applicable local, state and federal regulations pertaining to the transportation and unloading of Product prior to passage of title.

At completion of delivery, an invoice documenting each truck delivery will be sent to Oil Trading and Logistics, Attn: Jim Wilson PEB10A, P.O. Box 1551, Raleigh, NC 27602, Phone 919-546-2132 and Fax 919-546-6842.

## ACCEPTANCE OF AGREEMENT

TexPar Energy, L.L.C.

Progress Energy Florida

Sign: \_\_\_\_\_

Sign: \_\_\_\_\_

Title: \_\_\_\_\_

Title: Director, Gas & Oil Trading

Date: \_\_\_\_\_

Date: June 29, 2004

[REDACTED]

## SPOT PURCHASE AGREEMENT

"Buyer"

Florida Power Corp. d.b.a.  
Progress Energy Florida  
PO Box 1551, PEB10A  
Raleigh, NC 27602  
Attn: Dale D. Williams  
Phone: 919-546-2083  
Fax: 919-546-6842

"Seller"

TexPar Energy, L.L.C.  
PO Box 587  
Waukesha, WI 53187  
Attn: Jack Kruse  
Phone: 904-261-2080  
Fax: 904-261-6682

Buyer agrees to purchase from Seller approximately [REDACTED] barrels of maximum 2.5 % sulfur # 6 fuel oil for delivery to Buyer's Suwannee River Plant. The delivered price for the # 6 fuel oil will be [REDACTED] per barrel including rail freight and taxes. Total sum of the purchase is estimated to be approximately [REDACTED] 1  
2  
3

Payment terms to be net [REDACTED] days from date of delivery, provided invoices and documentation are promptly faxed to the number below. 4

Delivery of oil will be by Seller's designated, properly licensed and insured rail transport company. Delivery is to begin after July 8, 2004 and will continue until completed as part of Seller's regular rail tank car deliveries.

The fuel volume will be measured upon car loading at Seller's terminals. Seller will provide product specifications to Buyer prior to delivery and with each delivery ticket. Such specifications will verify that product being delivered is in conformance with Buyer's specifications.

Title to and responsibility for the Product, including but not limited to risk of loss, spills, fire or explosion, shall pass from Seller to Buyer when and as the Product passes the first (1st) connection point between Seller's transportation equipment and Buyer's storage facilities at the Delivery Point(s). Seller shall be deemed to be in exclusive control and possession of Product prior to the time of delivery of Product to Buyer. Deliveries of Product by Seller shall be made in conformity with all applicable local, state and federal regulations pertaining to the transportation and unloading of Product prior to passage of title.

At completion of delivery, an invoice documenting each tank car delivery will be sent to Oil Trading and Logistics, Attn: Jim Wilson PEB10A, P.O. Box 1551, Raleigh, NC 27602, Phone 919-546-2132 and Fax 919-546-6842.

---

## ACCEPTANCE OF AGREEMENT

TexPar Energy, L.L.C.

Progress Energy Florida

Sign: \_\_\_\_\_

Sign: \_\_\_\_\_

Title: \_\_\_\_\_

Title: Director, Gas & Oil Trading

Date: \_\_\_\_\_

Date: July 9, 2004

[REDACTED]

## SPOT PURCHASE AGREEMENT

"Buyer"

Florida Power Corp. d.b.a.  
Progress Energy Florida  
PO Box 1551, PEB10A  
Raleigh, NC 27602  
Attn: Dale D. Williams  
Phone: 919-546-2083  
Fax: 919-546-6842

"Seller"

TexPar Energy, L.L.C.  
PO Box 587  
Waukesha, WI 53187  
Attn: Jack Kruse  
Phone: 904-261-2080  
Fax: 904-261-6682

Buyer agrees to purchase from Seller approximately [REDACTED] barrels of maximum 2.5 % sulfur # 6 fuel oil for delivery to Buyer's Suwannee River Plant. The delivered price for the # 6 fuel oil will be [REDACTED] per barrel including rail freight and taxes. Total sum of the purchase is estimated to be approximately [REDACTED]

1  
2  
3

Payment terms to be net [REDACTED] days from date of delivery, provided invoices and documentation are promptly faxed to the number below.

4

Delivery of oil will be by Seller's designated, properly licensed and insured rail transport company. Delivery is to begin after September 27, 2004 and will continue until completed as part of Seller's regular rail tank car deliveries.

The fuel volume will be measured upon car loading at Seller's terminals. Seller will provide product specifications to Buyer prior to delivery and with each delivery ticket. Such specifications will verify that product being delivered is in conformance with Buyer's specifications.

Title to and responsibility for the Product, including but not limited to risk of loss, spills, fire or explosion, shall pass from Seller to Buyer when and as the Product passes the first (1st) connection point between Seller's transportation equipment and Buyer's storage facilities at the Delivery Point(s). Seller shall be deemed to be in exclusive control and possession of Product prior to the time of delivery of Product to Buyer. Deliveries of Product by Seller shall be made in conformity with all applicable local, state and federal regulations pertaining to the transportation and unloading of Product prior to passage of title.

At completion of delivery, an invoice documenting each tank car delivery will be sent to Oil Trading and Logistics, Attn: Jim Wilson PEB10A, P.O. Box 1551, Raleigh, NC 27602, Phone 919-546-2132 and Fax 919-546-6842.

---

### ACCEPTANCE OF AGREEMENT

TexPar Energy, L.L.C.

Progress Energy Florida

Sign: \_\_\_\_\_

Sign: \_\_\_\_\_

Title: \_\_\_\_\_

Title: Director, Gas & Oil Trading

Date: \_\_\_\_\_

Date: September, 27, 2004

[REDACTED]

## SPOT PURCHASE AGREEMENT

"Buyer"

Florida Power Corp. dba  
Progress Energy Florida  
PO Box 1551, PEB10A  
Raleigh, NC 27602  
Attn: Dale D. Williams  
Phone: 919-546-2083  
Fax: 919-546-6842

"Seller"

TransMontaigne Product Services, Inc.  
804 N. Dock St.  
Palmetto, Fla. 34221  
Attn: Mike Piermatteo  
Phone: 800-282-3495-229  
Fax: 941-723-6610

Buyer agrees to purchase from Seller approximately [REDACTED] barrels of maximum 1.0% Sulfur #6 fuel oil for delivery to Buyer's Suwannee River Plant. The delivered price for the 1.0% Sulfur fuel oil will be [REDACTED] per barrel including freight and taxes. Total sum of the purchase is estimated to be approximately [REDACTED]

Payment terms to be net [REDACTED] days from date of delivery, provided invoices are promptly faxed to the number below.

Delivery of oil will be by Seller's designated, properly licensed and insured petroleum transport company. Delivery will begin after July 20, 2004, Monday through Friday 7AM- 9PM.

The fuel volume will be measured upon truck loading at Seller's terminals. Specifications of the oil will be provided by Seller prior to delivery and with each delivery ticket.

Title to and responsibility for the Product, including but not limited to risk of loss, spills, fire or explosion, shall pass from Seller to Buyer when and as the Product passes the first (1st) connection point between Seller's transportation equipment or pipeline and Buyer's storage facilities at the Delivery Point(s). Seller shall be deemed to be in exclusive control and possession of Product prior to the time of delivery of Product to Buyer. Deliveries of Product by Seller shall be made in conformity with all applicable local, state and federal regulations pertaining to the transportation and unloading of Product prior to passage of title.

At completion of delivery, an invoice documenting each truck delivery will be sent to Oil Trading and Logistics, Attn: Jim Wilson, P.O. Box 1551, Raleigh, NC 27602, Phone 919-546-2132 and Fax 919-546-6842.

### ACCEPTANCE OF AGREEMENT

TransMontaigne Product Services, Inc.

Sign: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Progress Energy Florida

Sign: \_\_\_\_\_

Title: Director, Gas & Oil Trading

Date: July 16, 2004

[REDACTED]



# SPOT PURCHASE AGREEMENT

"Buyer"

Florida Power Corp. dba  
Progress Energy Florida  
PO Box 1551, PEB10A  
Raleigh, NC 27602  
Attn: Dale D. Williams  
Phone: 919-546-2083  
Fax: 919-546-6842

"Seller"

TransMontaigne Product Services, Inc.  
804 N. Dock St.  
Palmetto, Fla. 34221  
Attn: Mike Piermatteo  
Phone: 800-282-3495-229  
Fax: 941-723-6610

Buyer agrees to purchase from Seller approximately [REDACTED] barrels of maximum .05% Sulfur red-dyed # 2 fuel oil for delivery to Buyer's Debarry Plant. The delivered price for the .05% Sulfur # 2 fuel oil will be [REDACTED] per gallon including freight and taxes. Total sum of the purchase is estimated to be approximately [REDACTED]

Payment terms to be net [REDACTED] days from date of delivery, provided invoices are promptly faxed to the number below.

Delivery of oil will be by Seller's designated, properly licensed and insured petroleum transport company. Delivery will begin July 12, 2004, Monday through Friday 6AM- 11PM for the week of July 12, 2004. Buyer reserves the right to change delivery hours upon reasonable notice to seller.

The fuel volume will be measured upon truck loading at Seller's terminals. Specifications of the oil will be provided by Seller prior to delivery and with each delivery ticket.

Title to and responsibility for the Product, including but not limited to risk of loss, spills, fire or explosion, shall pass from Seller to Buyer when and as the Product passes the first (1st) connection point between Seller's transportation equipment or pipeline and Buyer's storage facilities at the Delivery Point(s). Seller shall be deemed to be in exclusive control and possession of Product prior to the time of delivery of Product to Buyer. Deliveries of Product by Seller shall be made in conformity with all applicable local, state and federal regulations pertaining to the transportation and unloading of Product prior to passage of title.

At completion of delivery, an invoice documenting each truck delivery will be sent to Oil Trading and Logistics, Attn: Jim Wilson, P.O. Box 1551, Raleigh, NC 27602, Phone 919-546-2132 and Fax 919-546-6842.

## ACCEPTANCE OF AGREEMENT

TransMontaigne Product Services, Inc.

Sign: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Progress Energy Florida

Sign: \_\_\_\_\_

Title: Director, Gas & Oil Trading

Date: July 9, 2004

[REDACTED]

OCTOBER 26, 2004

## REVISION

TO: PROGRESS ENERGY FLORIDA  
D/B/A FLORIDA POWER CORPORATION

ATTN: DALE WILLIAMS

RE: [REDACTED]

THIS WILL CONFIRM THE AGREEMENT BETWEEN WILLIAMS/MANNING BY TELECON (October 21, 2004) AS FOLLOWS :

BUYER PROGRESS ENERGY FLORIDA, D/B/A FLORIDA POWER CORPORATION  
411 FAYETTEVILLE ST. MALL, 19<sup>TH</sup> FLOOR  
RALEIGH, NC 27601

SELLER: RIO ENERGY INTERNATIONAL, INC.  
5718 WESTHEIMER, SUITE 1806  
HOUSTON, TEXAS 77057

PRODUCT: LOW SULFUR DIESEL

QUANTITY: APPROX. 38,000 BARRELS, PER SHORE TANK UPGAUGE AT DISCHARGE PORT.

QUALITY: AS PER COLONIAL PIPELINE 74 GRADE SPECS FOR LOW SULFUR DIESEL ( UNDYED)  
SELLER WILL ARRANGE FOR PRODUCT TO BE DYED RED UPON DELIVERY.

RIO ENERGY MAKES NO REPRESENTATION OR GUARANTEE ON COMPATIBILITY OF THIS PRODUCT OR THIS PRODUCT BLENDED WITH ANY OTHER PRODUCT(S).

DELIVERY: DEL, [REDACTED] TERMINAL - TAMPA, FLORIDA

DELIVERY PERIOD: OCTOBER 27-29, 2004 (OTHERWISE MUTUALLY AGREEABLE)

PRICE: [REDACTED]

PAYMENT:

TRANSFER TO SELLER'S DESIGNATED ACCOUNT [REDACTED] DAYS AFTER  
RECEIPT OF TELEXED OR TELECOPIED INVOICE AND INDEPENDENT INSPECTOR'S  
REPORT OF QUANTITY AND QUALITY

IF PAYMENT DATE FALLS ON A SATURDAY, SUNDAY OR HOLIDAY, THEN  
PAYMENT WILL BE DUE ON THE FIRST PRECEDING BANKING DAY BEFORE SAID  
SATURDAY, SUNDAY, OR HOLIDAY.

[REDACTED] HAS GRANTED TO [REDACTED] AN ASSIGNMENT OF AND SECURITY  
INTEREST IN ALL OF ITS RIGHTS TO ALL AMOUNTS DUE OR TO BECOME DUE  
UNDER THIS CONTRACT. BUYER HEREBY AGREES TO MAKE ALL SUCH PAYMENTS  
WITHOUT DEDUCTIONS, DISCOUNTS, OR OFFSET BY TELEGRAPHIC TRANSFER TO  
SELLER'S NOMINATED BANK ACCOUNT USING THE FOLLOWING WIRE  
INSTRUCTIONS:

2

3  
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5

6

7



[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

1  
2  
3  
4

SHIPPING DETAILS: SELLER'S NOMINATED BARGE'S. DEMURRAGE, IF INCURRED, AS PER STANDARD CHARTER PARTY RATE. [REDACTED] TERMINAL IS A PUBLIC TERMINAL, THEREFORE BARGES/VESSEL WILL BE TAKEN ON A FIRST COME, FIRST SERVED BASIS. LAYTIME SHALL NOT BEGIN UNTIL BARGES/VESSEL ARE ALL FAST.

5

INSPECTION: BUYER TO APPOINT MUTUALLY INDEPENDENT INSPECTOR AT DISCHARGE PORT (ACCEPTABLE TO BUYER AND SELLER) TO ASCERTAIN QUALITY AND QUANTITY (AT DISCHARGE PORT) IN ACCORDANCE WITH THE STANDARD TEST METHODS GENERALLY ACCEPTED IN THE PETROLEUM INDUSTRY.

CERTIFICATE OF QUALITY AND QUANTITY AS ISSUED OR COUNTERSIGNED BY SUCH INDEPENDENT INSPECTORS TO BE CONCLUSIVE AND BINDING FOR BOTH PARTIES, EXCEPT IN THE CASE OF MANIFEST FRAUD OR ERROR.

ALL INSPECTION COSTS TO BE [REDACTED]

6

RISK AND TITLE: RISK AND TITLE TO PRODUCT SHALL PASS FROM SELLER TO BUYER WHEN SAID PRODUCT PASSES THE PERMANENT FLANGE CONNECTING SELLER'S BARGE TO BUYER'S SHORE TANK.

CONSTRUCTION AND JURISDICTION: THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF TEXAS TO THE EXCLUSION OF ANY OTHER LEGAL SYSTEM AND EXCLUDING ANY CHOICE OF LAW RULE WHICH MAY DIRECT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION. IN PARTICULAR, THE PARTIES EXPRESSLY AGREE THAT APPLICATION OF THE "UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS 1980" IS HEREBY EXCLUDED PURSUANT TO ARTICLE 6 OF THE CONVENTION.

ARBITRATION: ANY CONTROVERSY ARISING OUT OF OR RELATING TO THE CONTRACT SHALL BE SETTLED BY ARBITRATION IN THE CITY OF HOUSTON, HARRIS COUNTY, STATE OF TEXAS IN ACCORDANCE WITH THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION BY THREE ARBITRATORS, ONE OF WHOM SHALL BE APPOINTED BY EACH OF THE PARTIES AND THE THIRD OF WHOM SHALL BE APPOINTED BY THE TWO ARBITRATORS SO SELECTED. JUDGEMENT UPON THE AWARD RENDERED BY THE ARBITRATORS MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF.

FORCE MAJEURE: IF EITHER PARTY IS RENDERED UNABLE BY FORCE MAJEURE TO PERFORM ON OR COMPLY FULLY IN PART WITH ANY OBLIGATION OR CONDITION OF THE CONTRACT, UPON EACH PARTY'S GIVING WRITTEN NOTICE TO THE OTHER PARTY OF SUCH FORCE MAJEURE WITHIN FORTY-EIGHT HOURS AFTER RECEIVING NOTICE THEREOF, SUCH PERFORMANCE OR COMPLIANCE SHALL BE SUSPENDED DURING THE CONTINUANCE OF THE INABILITIES SO CAUSED, AND SUCH PARTY

SHALL BE RELIEVED OF LIABILITY AND SHALL SUFFER NO PREJUDICE FOR FAILURE TO PERFORM THE SAME DURING SUCH PERIOD. IN THE EVENT THAT THE SAID PERIOD OF SUSPENSION OF PERFORMANCE SHALL CONTINUE IN EXCESS OF THIRTY (30) CALENDAR DAYS. THIS CONTRACT MAY, AT THE OPTION OF EITHER PARTY, BE CANCELLED WITHOUT LIABILITY OF EITHER PARTY.

GENERAL:

THIS CONTRACT TO BE COVERED IN INCOTERMS 2000 WITH ALL CURRENT AMENDMENTS, EXCEPT WHERE DIFFERENT FROM TERMS AND CONDITIONS OF THIS CONTRACT. IN THAT EVENT, THE TERMS AND CONDITIONS OF THIS CONTRACT SHALL GOVERN.

OPERATIONAL  
CONTACTS:

RIO ENERGY INTERNATIONAL, INC.  
ATTN: RAUL ABELLO  
TELEPHONE: 713/977-5718  
TELEX NO.: 166-034 RIO HOU  
FAX NO.: 713/975-5423 OR 5424

WE THANK YOU FOR CONCLUDING THIS TRANSACTION

BEST REGARDS,

RIO ENERGY INTERNATIONAL, INC.  
HOUSTON, TEXAS  
TRT NO.: 166-034 RIO HOU

OCTOBER 1, 2004

TO: PROGRESS ENERGY FLORIDA  
D/B/A FLORIDA POWER CORPORATION

ATTN: DALE WILLIAMS

RE: [REDACTED]

THIS WILL CONFIRM THE AGREEMENT BETWEEN WILLIAMS/ [REDACTED] BY TELECON (September 30, 2004)  
AS FOLLOWS :

BUYER PROGRESS ENERGY FLORIDA, D/B/A FLORIDA POWER CORPORATION  
411 FAYETTEVILLE ST. MALL, 19<sup>TH</sup> FLOOR  
RALEIGH, NC 27601

SELLER: RIO ENERGY INTERNATIONAL, INC.  
5718 WESTHEIMER, SUITE 1806  
HOUSTON, TEXAS 77057

PRODUCT: LOW SULFUR DIESEL

QUANTITY: APPROX. 30,000 BARRELS, PER SHORE TANK UPGAUGE AT DISCHARGE PORT.

QUALITY: AS PER COLONIAL PIPELINE 74 GRADE SPECS FOR LOW SULFUR DIESEL ( UNDYED)  
SELLER WILL ARRANGE FOR PRODUCT TO BE DYED RED UPON DELIVERY.

RIO ENERGY MAKES NO REPRESENTATION OR GUARANTEE ON COMPATIBILITY OF THIS PRODUCT OR  
THIS PRODUCT BLENDED WITH ANY OTHER PRODUCT(S).

DELIVERY: DEL. [REDACTED] TERMINAL - TAMPA, FLORIDA

DELIVERY PERIOD: OCTOBER 5-7, 2004 (OTHERWISE MUTUALLY AGREEABLE)

PRICE: [REDACTED]

PAYMENT:

TRANSFER TO SELLER'S DESIGNATED ACCOUNT [REDACTED] DAYS AFTER  
RECEIPT OF TELEXED OR TELECOPIED INVOICE AND INDEPENDENT INSPECTOR'S  
REPORT OF QUANTITY AND QUALITY

IF PAYMENT DATE FALLS ON A SATURDAY, SUNDAY OR HOLIDAY, THEN  
PAYMENT WILL BE DUE ON THE FIRST PRECEDING BANKING DAY BEFORE SAID  
SATURDAY, SUNDAY, OR HOLIDAY.

[REDACTED] HAS GRANTED TO [REDACTED] AN ASSIGNMENT OF AND SECURITY  
INTEREST IN ALL OF ITS RIGHTS TO ALL AMOUNTS DUE OR TO BECOME DUE  
UNDER THIS CONTRACT. BUYER HEREBY AGREES TO MAKE ALL SUCH PAYMENTS  
WITHOUT DEDUCTIONS, DISCOUNTS, OR OFFSET BY TELEGRAPHIC TRANSFER TO  
SELLER'S NOMINATED BANK ACCOUNT USING THE FOLLOWING WIRE  
INSTRUCTIONS:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

1  
2  
3  
4

SHIPPING DETAILS: SELLER'S NOMINATED BARGE'S. DEMURRAGE, IF INCURRED, AS PER STANDARD CHARTER PARTY RATE. CENTRAL OIL TERMINAL IS A PUBLIC TERMINAL, THEREFORE BARGES/VESSEL WILL BE TAKEN ON A FIRST COME, FIRST SERVED BASIS. LAYTIME SHALL NOT BEGIN UNTIL BARGES/VESSEL ARE ALL FAST.

INSPECTION: BUYER TO APPOINT MUTUALLY INDEPENDENT INSPECTOR AT DISCHARGE PORT (ACCEPTABLE TO BUYER AND SELLER) TO ASCERTAIN QUALITY AND QUANTITY (AT DISCHARGE PORT) IN ACCORDANCE WITH THE STANDARD TEST METHODS GENERALLY ACCEPTED IN THE PETROLEUM INDUSTRY.

CERTIFICATE OF QUALITY AND QUANTITY AS ISSUED OR COUNTERSIGNED BY SUCH INDEPENDENT INSPECTORS TO BE CONCLUSIVE AND BINDING FOR BOTH PARTIES, EXCEPT IN THE CASE OF MANIFEST FRAUD OR ERROR.

ALL INSPECTION COSTS TO BE SHARED [REDACTED]

5

RISK AND TITLE: RISK AND TITLE TO PRODUCT SHALL PASS FROM SELLER TO BUYER WHEN SAID PRODUCT PASSES THE PERMANENT FLANGE CONNECTING SELLER'S BARGE TO BUYER'S SHORE TANK.

CONSTRUCTION AND JURISDICTION: THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF TEXAS TO THE EXCLUSION OF ANY OTHER LEGAL SYSTEM AND EXCLUDING ANY CHOICE OF LAW RULE WHICH MAY DIRECT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION. IN PARTICULAR, THE PARTIES EXPRESSLY AGREE THAT APPLICATION OF THE "UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS 1980" IS HEREBY EXCLUDED PURSUANT TO ARTICLE 6 OF THE CONVENTION.

ARBITRATION: ANY CONTROVERSY ARISING OUT OF OR RELATING TO THE CONTRACT SHALL BE SETTLED BY ARBITRATION IN THE CITY OF HOUSTON, HARRIS COUNTY, STATE OF TEXAS IN ACCORDANCE WITH THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION BY THREE ARBITRATORS, ONE OF WHOM SHALL BE APPOINTED BY EACH OF THE PARTIES AND THE THIRD OF WHOM SHALL BE APPOINTED BY THE TWO ARBITRATORS SO SELECTED. JUDGEMENT UPON THE AWARD RENDERED BY THE ARBITRATORS MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF.

FORCE MAJEURE: IF EITHER PARTY IS RENDERED UNABLE BY FORCE MAJEURE TO PERFORM ON OR COMPLY FULLY IN PART WITH ANY OBLIGATION OR CONDITION OF THE CONTRACT, UPON EACH PARTY'S GIVING WRITTEN NOTICE TO THE OTHER PARTY OF SUCH FORCE MAJEURE WITHIN FORTY-EIGHT HOURS AFTER RECEIVING NOTICE THEREOF, SUCH PERFORMANCE OR COMPLIANCE SHALL BE SUSPENDED DURING THE CONTINUANCE OF THE INABILITIES SO CAUSED, AND SUCH PARTY SHALL BE RELIEVED OF LIABILITY AND SHALL SUFFER NO PREJUDICE FOR

FAILURE TO PERFORM THE SAME DURING SUCH PERIOD. IN THE EVENT THAT THE SAID PERIOD OF SUSPENSION OF PERFORMANCE SHALL CONTINUE IN EXCESS OF THIRTY (30) CALENDAR DAYS. THIS CONTRACT MAY, AT THE OPTION OF EITHER PARTY, BE CANCELLED WITHOUT LIABILITY OF EITHER PARTY.

GENERAL:

THIS CONTRACT TO BE COVERED IN INCOTERMS 2000 WITH ALL CURRENT AMENDMENTS, EXCEPT WHERE DIFFERENT FROM TERMS AND CONDITIONS OF THIS CONTRACT. IN THAT EVENT, THE TERMS AND CONDITIONS OF THIS CONTRACT SHALL GOVERN.

OPERATIONAL  
CONTACTS:

RIO ENERGY INTERNATIONAL, INC.  
ATTN: RAUL ABELLO  
TELEPHONE: 713/977-5718  
TELEX NO.: 166-034 RIO HOU  
FAX NO.: 713/975-5423 OR 5424

WE THANK YOU FOR CONCLUDING THIS TRANSACTION.

BEST REGARDS,

RIO ENERGY INTERNATIONAL, INC.  
HOUSTON, TEXAS  
TRT NO.: 166-034 RIO HOU

**Williams, Dale D.**

---

**From:** COmarine@aol.com  
**Sent:** Tuesday, June 29, 2004 10:44 AM  
**To:** Williams, Dale D.  
**Cc:** mike.ginzel@martin-gas.com; scott@martin-gas.com; ruben@martinmlp.com; mikem@martin-gas.com  
**Subject:** Florida Power / Barge [REDACTED] Cargo

Dale,

Just wanted to give you a quick outline of our conversation from this morning.

[REDACTED] will receive, take title to, store and deliver approx. 80,000 bbls. of #2 fuel oil to FPC Bayboro Terminal. We will bill FPC [REDACTED] after each delivery to Bayboro. The [REDACTED] will cover [REDACTED] terminal and barge delivery expenses.

Approximately 10,000 bbls will be received via tanker trucks and 70,000 bbls via [REDACTED]

The product will be stored at [REDACTED]. The terminal's property insurance will cover any losses that may occur while the product is being stored for FPC. [REDACTED] insurance will provide coverage for the product while it is onboard [REDACTED]

FPC will be responsible for all cargo related expenses. The only exception will be [REDACTED]. These fees are included in the [REDACTED] that will be charged to FPC.

The FO#2 must be dyed prior to receiving at the terminal or no later than 24 hours after the discharge has been completed.

Thanks and Best Regards,  
Angela Reece  
Central Oil Company, Inc.

Main Office (813) 248-2105 Ext.#5250  
Cell (813) 817-2409

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6/29/2004



September 14, 2004

Mr. Dale Williams  
Florida Power Corporation  
C/O Progress Energy  
PO Box 1551  
Raleigh, NC 27602-1551

Central Oil Company, Inc. is pleased to offer our freight carrier services to Florida Power's Crystal River Coal Plant facility.

The details of the agreement are outlined as follows:

Start Date:	September 14, 2004	
Ending Date:	Based on FPC requirements and [REDACTED] schedule	1
Product:	HS #2 Diesel	
Pickup Location:	FPC Inventory at [REDACTED] Terminal	2
Delivery Location:	FPC Crystal River Coal Plant	
Freight Rate:	[REDACTED] flat fee. Rate includes [REDACTED] for loading and [REDACTED] for unloading.	3
Demurrage:	[REDACTED] per hour (pro-rated)	4
Payment Terms:	[REDACTED] days from date of delivery	5

We will make every attempt to deliver two loads per day for the next few days.

Thanks and Best Regards,

  
Angela Reece  
Central Oil Company, Inc.



AUGUST 3, 2004

TO: PROGRESS ENERGY FLORIDA  
D/B/A FLORIDA POWER CORPORATION

ATTN: DALE WILLIAMS

RE: [REDACTED]

THIS WILL CONFIRM THE AGREEMENT BETWEEN WILLIAMS/MANNING BY TELECON (July 29, 2004) AS FOLLOWS :

BUYER PROGRESS ENERGY FLORIDA, D/B/A FLORIDA POWER CORPORATION  
411 FAYETTEVILLE ST. MALL, 19<sup>TH</sup> FLOOR  
RALEIGH, NC 27601

SELLER: RIO ENERGY INTERNATIONAL, INC.  
5718 WESTHEIMER, SUITE 1806  
HOUSTON, TEXAS 77057

PRODUCT: NO. 2 HEATING OIL

QUANTITY: APPROX. 22,000 BARRELS, PER SHORE TANK UPGAUGE AT DISCHARGE PORT.

QUALITY: AS PER COLONIAL PIPELINE 86 GRADE SPECS FOR NO. 2 HEATING OIL ( UNDYED)  
SELLER WILL ARRANGE FOR PRODUCT TO BE DYED RED UPON DELIVERY.

RIO ENERGY MAKES NO REPRESENTATION OR GUARANTEE ON COMPATIBILITY OF THIS PRODUCT OR THIS PRODUCT BLENDED WITH ANY OTHER PRODUCT(S).

DELIVERY: DEL, [REDACTED] TERMINAL - TAMPA, FLORIDA

DELIVERY PERIOD: AUGUST 4-5, 2004 (OTHERWISE MUTUALLY AGREEABLE)

PRICE: [REDACTED]

PAYMENT:

TRANSFER TO SELLER'S DESIGNATED ACCOUNT [REDACTED] DAYS AFTER  
RECEIPT OF TELEXED OR TELECOPIED INVOICE AND INDEPENDENT INSPECTOR'S  
REPORT OF QUANTITY AND QUALITY

IF PAYMENT DATE FALLS ON A SATURDAY, SUNDAY OR HOLIDAY, THEN  
PAYMENT WILL BE DUE ON THE FIRST PRECEDING BANKING DAY BEFORE SAID  
SATURDAY, SUNDAY, OR HOLIDAY.

[REDACTED] AN ASSIGNMENT OF AND SECURITY  
INTEREST IN ALL OF ITS RIGHTS TO ALL AMOUNTS DUE OR TO BECOME DUE  
UNDER THIS CONTRACT. BUYER HEREBY AGREES TO MAKE ALL SUCH PAYMENTS  
WITHOUT DEDUCTIONS, DISCOUNTS, OR OFFSET BY TELEGRAPHIC TRANSFER TO  
SELLER'S NOMINATED BANK ACCOUNT USING THE FOLLOWING WIRE  
INSTRUCTIONS:



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SHIPPING DETAILS: SELLER'S NOMINATED BARGE'S. DEMURRAGE , IF INCURRED, AS PER STANDARD CHARTER PARTY RATE.

INSPECTION: BUYER TO APPOINT MUTUALLY INDEPENDENT INSPECTOR AT DISCHARGE PORT (ACCEPTABLE TO BUYER AND SELLER) TO ASCERTAIN QUALITY AND QUANTITY (AT DISCHARGE PORT) IN ACCORDANCE WITH THE STANDARD TEST METHODS GENERALLY ACCEPTED IN THE PETROLEUM INDUSTRY.

CERTIFICATE OF QUALITY AND QUANTITY AS ISSUED OR COUNTERSIGNED BY SUCH INDEPENDENT INSPECTORS TO BE CONCLUSIVE AND BINDING FOR BOTH PARTIES, EXCEPT IN THE CASE OF MANIFEST FRAUD OR ERROR.

ALL INSPECTION COSTS TO BE SHARED 50/50.

RISK AND TITLE: RISK AND TITLE TO PRODUCT SHALL PASS FROM SELLER TO BUYER WHEN SAID PRODUCT PASSES THE PERMANENT FLANGE CONNECTING SELLER'S BARGE TO BUYER'S SHORE TANK.

CONSTRUCTION AND JURISDICTION: THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF TEXAS TO THE EXCLUSION OF ANY OTHER LEGAL SYSTEM AND EXCLUDING ANY CHOICE OF LAW RULE WHICH MAY DIRECT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION. IN PARTICULAR, THE PARTIES EXPRESSLY AGREE THAT APPLICATION OF THE "UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS 1980" IS HEREBY EXCLUDED PURSUANT TO ARTICLE 6 OF THE CONVENTION.

ARBITRATION: ANY CONTROVERSY ARISING OUT OF OR RELATING TO THE CONTRACT SHALL BE SETTLED BY ARBITRATION IN THE CITY OF HOUSTON, HARRIS COUNTY, STATE OF TEXAS IN ACCORDANCE WITH THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION BY THREE ARBITRATORS, ONE OF WHOM SHALL BE APPOINTED BY EACH OF THE PARTIES AND THE THIRD OF WHOM SHALL BE APPOINTED BY THE TWO ARBITRATORS SO SELECTED. JUDGEMENT UPON THE AWARD RENDERED BY THE ARBITRATORS MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF.

FORCE MAJEURE: IF EITHER PARTY IS RENDERED UNABLE BY FORCE MAJEURE TO PERFORM ON OR COMPLY FULLY IN PART WITH ANY OBLIGATION OR CONDITION OF THE CONTRACT, UPON EACH PARTY'S GIVING WRITTEN NOTICE TO THE OTHER PARTY OF SUCH FORCE MAJEURE WITHIN FORTY-EIGHT HOURS AFTER RECEIVING NOTICE THEREOF, SUCH PERFORMANCE OR COMPLIANCE SHALL BE SUSPENDED DURING THE CONTINUANCE OF THE INABILITIES SO CAUSED, AND SUCH PARTY SHALL BE RELIEVED OF LIABILITY AND SHALL SUFFER NO PREJUDICE FOR FAILURE TO PERFORM THE SAME DURING SUCH PERIOD. IN THE EVENT THAT THE

SAID PERIOD OF SUSPENSION OF PERFORMANCE SHALL CONTINUE IN EXCESS OF THIRTY (30) CALENDAR DAYS. THIS CONTRACT MAY, AT THE OPTION OF EITHER PARTY, BE CANCELLED WITHOUT LIABILITY OF EITHER PARTY.

GENERAL:

THIS CONTRACT TO BE COVERED IN INCOTERMS 2000 WITH ALL CURRENT AMENDMENTS, EXCEPT WHERE DIFFERENT FROM TERMS AND CONDITIONS OF THIS CONTRACT. IN THAT EVENT, THE TERMS AND CONDITIONS OF THIS CONTRACT SHALL GOVERN.

OPERATIONAL  
CONTACTS:

RIO ENERGY INTERNATIONAL, INC.  
ATTN: RAUL ABELLO  
TELEPHONE: 713/977-5718  
TELEX NO.: 166-034 RIO HOU  
FAX NO.: 713/975-5423 OR 5424

WE THANK YOU FOR CONCLUDING THIS TRANSACTION.

BEST REGARDS,

RIO ENERGY INTERNATIONAL, INC.  
HOUSTON, TEXAS  
TRT NO.: 166-034 RIO HOU

JULY 1, 2004

TO: PROGRESS ENERGY FLORIDA  
D/B/A FLORIDA POWER CORPORATION

ATTN: DALE WILLIAMS

RE: [REDACTED]

THIS WILL CONFIRM THE AGREEMENT BETWEEN WILLIAMS/MANNING BY TELECON (JUNE 29, 2004) AS FOLLOWS :

BUYER PROGRESS ENERGY FLORIDA, D/B/A FLORIDA POWER CORPORATION  
411 FAYETTEVILLE ST. MALL, 19<sup>TH</sup> FLOOR  
RALEIGH, NC 27601

SELLER: RIO ENERGY INTERNATIONAL, INC.  
5718 WESTHEIMER, SUITE 1806  
HOUSTON, TEXAS 77057

PRODUCT: NO. 2 HEATING OIL

QUANTITY: [REDACTED] BARRELS, PER SHORE TANK UPGAUGE AT DISCHARGE PORT.

QUALITY: AS PER COLONIAL PIPELINE 86 GRADE SPECS FOR NO. 2 HEATING OIL ( DYED)

RIO ENERGY MAKES NO REPRESENTATION OR GUARANTEE ON COMPATIBILITY OF THIS PRODUCT OR THIS PRODUCT BLENDED WITH ANY OTHER PRODUCT(S).

DELIVERY: DEL, A) [REDACTED], FLORIDA 35,000 NBBLS  
DEL, B) [REDACTED] OIL TERMINAL 70,000 NBBLS

DELIVERY PERIOD: JULY 3-6, 2004 (OTHERWISE MUTUALLY AGREEABLE)

PRICE: [REDACTED]

PAYMENT: TRANSFER TO SELLER'S DESIGNATED ACCOUNT FIFTEEN (15) DAYS AFTER  
RECEIPT OF TELEXED OR TELECOPIED INVOICE AND INDEPENDENT INSPECTOR'S  
REPORT OF QUANTITY AND QUALITY

IF PAYMENT DATE FALLS ON A SATURDAY, SUNDAY OR HOLIDAY, THEN  
PAYMENT WILL BE DUE ON THE FIRST PRECEDING BANKING DAY BEFORE SAID  
SATURDAY, SUNDAY, OR HOLIDAY.

[REDACTED] AN ASSIGNMENT OF AND SECURITY  
INTEREST IN ALL OF ITS RIGHTS TO ALL AMOUNTS DUE OR TO BECOME DUE  
UNDER THIS CONTRACT. BUYER HEREBY AGREES TO MAKE ALL SUCH PAYMENTS  
WITHOUT DEDUCTIONS, DISCOUNTS, OR OFFSET BY TELEGRAPHIC TRANSFER TO  
SELLER'S NOMINATED BANK ACCOUNT USING THE FOLLOWING WIRE  
INSTRUCTIONS:

[REDACTED]  
[REDACTED]  
[REDACTED]  
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SHIPPING DETAILS: SELLER'S NOMINATED BARGE'S. DEMURRAGE , IF INCURRED, AS PER STANDARD CHARTER PARTY RATE.

INSPECTION: BUYER TO APPOINT MUTUALLY INDEPENDENT INSPECTOR AT DISCHARGE PORT (ACCEPTABLE TO BUYER AND SELLER) TO ASCERTAIN QUALITY AND QUANTITY (AT DISCHARGE PORT) IN ACCORDANCE WITH THE STANDARD TEST METHODS GENERALLY ACCEPTED IN THE PETROLEUM INDUSTRY.

CERTIFICATE OF QUALITY AND QUANTITY AS ISSUED OR COUNTERSIGNED BY SUCH INDEPENDENT INSPECTORS TO BE CONCLUSIVE AND BINDING FOR BOTH PARTIES, EXCEPT IN THE CASE OF MANIFEST FRAUD OR ERROR.

ALL INSPECTION COSTS TO BE SHARED [REDACTED]

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RISK AND TITLE: RISK AND TITLE TO PRODUCT SHALL PASS FROM SELLER TO BUYER WHEN SAID PRODUCT PASSES THE PERMANENT FLANGE CONNECTING SELLER'S BARGE TO BUYER'S SHORE TANK.

CONSTRUCTION AND JURISDICTION: THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF TEXAS TO THE EXCLUSION OF ANY OTHER LEGAL SYSTEM AND EXCLUDING ANY CHOICE OF LAW RULE WHICH MAY DIRECT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION. IN PARTICULAR, THE PARTIES EXPRESSLY AGREE THAT APPLICATION OF THE "UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS 1980" IS HEREBY EXCLUDED PURSUANT TO ARTICLE 6 OF THE CONVENTION.

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THIRTY (30) CALENDAR DAYS. THIS CONTRACT MAY, AT THE OPTION OF EITHER PARTY, BE CANCELLED WITHOUT LIABILITY OF EITHER PARTY.

GENERAL:

THIS CONTRACT TO BE COVERED IN INCOTERMS 2000 WITH ALL CURRENT AMENDMENTS, EXCEPT WHERE DIFFERENT FROM TERMS AND CONDITIONS OF THIS CONTRACT. IN THAT EVENT, THE TERMS AND CONDITIONS OF THIS CONTRACT SHALL GOVERN.

OPERATIONAL  
CONTACTS:

RIO ENERGY INTERNATIONAL, INC.  
ATTN: RAUL ABELLO  
TELEPHONE: 713/977-5718  
TELEX NO.: 166-034 RIO HOU  
FAX NO.: 713/975-5423 OR 5424

WE THANK YOU FOR CONCLUDING THIS TRANSACTION

BEST REGARDS,

RIO ENERGY INTERNATIONAL, INC.  
HOUSTON, TEXAS  
TRT NO.: 166-034 RIO HOU

AMERADA HESS CORPORATION

732-750-6000  
732-750-6447 (FAX)

1 HESS PLAZA  
WOODBIDGE, NJ 07095-0961

June 25, 2004

Mr. Dale Williams  
Progress Energy  
410 South Wilmington Street  
Raleigh, NC 27602

Re: Agreement for Sale of Dyed Low Sulfur Diesel

Dear Mr. Williams:

This Letter Agreement ("Agreement") sets forth the terms and conditions under which Amerada Hess Corporation ("Seller") will supply Progress Energy ("Buyer") with Dyed Low Sulfur Diesel ("Fuel").

1. Term

The term of this Agreement is from **June 28, 2004 to July 2, 2004**.

2. Quantity

The Contract Quantity shall be **420,000 gallons (10 contracts)**

Once the Contract Quantity plus the tolerance, if applicable, has been reached, additional Fuel will be purchased at [REDACTED] less any applicable discount. If the Contract Quantity, including the tolerance percentage, if applicable, is not taken by the end of the Term, Buyer will be charged a monthly storage fee of [REDACTED] per gallon for any unused gallons until Contract Quantity has been satisfied.

[REDACTED]

3. Delivery Point: Tampa, FL

4. Price

The price to Progress Energy is fixed ("Fixed Price") as follows:

[REDACTED] subject to the additional costs associated with volume adjustments in Paragraph 2 above.

5. Payment Terms

Seller's payment terms are [REDACTED]

6. Tax Clause

Buyer will be responsible for any applicable federal, state or local taxes and fees, including Superfund.

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7. Warranty; Consequential Damages  
SELLER MAKES NO WARRANTY, EXPRESS OR IMPLIED, EXCEPT THAT FUEL SOLD WILL BE OF MERCHANTABLE QUALITY. Seller's liability, if any, is limited to replacement of FUEL supplied by it, and Seller will not be liable for consequential damages arising out of the performance of this Agreement.
8. Title and Risk of Loss  
Title and risk of loss to oil will pass from Seller to Buyer when oil passes from Seller's truck delivery hose at Buyer's receiving point.
9. Credit  
This Agreement is conditioned on Buyer maintaining its creditworthiness during the term of the Agreement. If Seller determines in its good faith judgment that Buyer's credit has been materially impaired, Seller may require additional security ("Credit Assurance") for the payment of sums due under this Contract, including collateral deposits, prepayments, letters of credit or other guaranty of payment or performance acceptable to Seller.

This offer of sale is strictly confidential between Progress Energy and Amerada Hess Corporation. **This offer is valid until 10:00 AM on June 25, 2004. Please indicate if you accept or decline this bid by signing in the appropriate space below, and returning via fax to (866) 829-6466 no later than 10:00 AM today, June 25, 2004.**

We look forward to continuing a mutually beneficial business relationship with your company. If you have any questions, please feel free to contact Tracy Necklen on (732) 750-6699.

Very truly yours,  
*Ron Rhoades*  
Senior Account Manager  
Energy Marketing

ACCEPTED

BY:

*Pamela R. Murphy*  
Signature

*Pamela R. Murphy*  
Print Name

*6/25/04*  
Date

DECLINED

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

NO. 2 FUEL OIL SALES CONTRACT

BETWEEN

FLORIDA POWER CORPORATION  
d/b/a  
PROGRESS ENERGY FLORIDA, INC.

("BUYER")

AND

BP PRODUCTS NORTH AMERICA INC.  
("SELLER")

AS OF

[REDACTED]



This contract (the "Contract") is made and entered into this December 31, 2003 by and between Florida Power Corporation, a Florida corporation doing business as Progress Energy Florida, Inc. (Buyer), 410 South Wilmington Street, Raleigh, North Carolina 27601 and BP Products North America Inc., a Maryland corporation (Seller), 28100 Torch Parkway, Warrenville, Illinois 60555. Buyer and Seller may hereinafter be referred to individually as a "Party" and collectively as the "Parties".

### WITNESSETH

WHEREAS Seller produces No. 2 Fuel Oil (hereinafter the "Product") that it desires to sell and deliver to Buyer;

WHEREAS Buyer is an electric utility company which desires to purchase, and receive Product from Seller;

WHEREAS such quantities of Product must be delivered to Buyer by Transport Truck and/or by pipeline;

WHEREAS Buyer has (or has access to) unloading and storage facilities as necessary to receive deliveries of such Product;

WHEREAS Seller is able to sell and deliver to Buyer Product that meets the quality specifications set forth in this Contract;

WHEREAS Seller and Buyer previously entered into that certain No. 2 Fuel Oil Sales Contract effective between the Parties on January 1, 2003 (the "2003 Contract"); and

WHEREAS Seller and Buyer desire to terminate the 2003 Contract;

NOW THEREFORE, in consideration of the foregoing recitals and the mutual promises, covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Buyer and Seller, and intending to be legally bound hereby, the Parties hereby agree as follows:

### ARTICLE 1

#### DEFINITIONS

For the purpose of this Contract, the following terms shall have the following meanings:

1.1 "Bid Increment Adder" means the amount set forth in Exhibit D applicable to the specified terminal.

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

1.3 "Barrel" means a standard barrel of Product containing forty-two (42) Gallons. Correction of volumes to sixty degrees (60°) Fahrenheit shall be made in accordance with "Table 6B (unabridged) of ASTM/IP/AP Petroleum Measurements Tables, ASTM Designation: D1250-80, IP Designation: 200/52 (81) and AP Standard D2540", as may be supplemented or amended from time to time.

1.4 "Base Price" means the Index Price plus the Bid Increment Adder. For the avoidance of doubt, the Base Price does not include any freight charges and/or any applicable taxes.

1.5 "BTU" or "British Thermal Unit", means the quantity of heat required to raise the temperature of one (1) pound of water one (1) degree Fahrenheit.

1.6 "Business Day" means any day (except Saturdays, Sundays, Holidays) on which the Federal Reserve member banks of New York City, New York are open for business. A Business Day shall run from 8 a.m. to 5 p.m. Eastern Prevailing Time.

1.7 "Buyer's Rules" means any and all of Buyer's policies, procedures and requirements relating to safety, security, environmental matters and/or the transportation and unloading of materials.

1.8 "Delivery Point(s)" means the connection point between Seller's Transport Truck or the pipeline equipment and the applicable unloading and storage facilities at the facility(ies) specified by Buyer at the time such deliveries are scheduled in accordance with ARTICLE 9 hereof.

1.9 "Eastern Prevailing Time" or "EPT" means Eastern Daylight Time or Eastern Standard Time, whichever is applicable for the then current period of time.

1.10 "Force Majeure" means an event or circumstance which prevents one Party (the "Claiming Party") from performing its obligations under this Contract, which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided. Without limitation, Force Majeure shall include: acts of God or the public enemy; insurrection, riots, strikes or similar differences with workmen; fire; storm; flood; explosion; nuclear disaster; order of civil or military authority; compliance with or other action necessary to carry out the intent or purpose of any law or regulation; disturbances, explosions, accident to or breakage of pipelines, machinery or equipment necessary to such Party's performance under this Contract; failure or refusal of truck lines to provide transportation of the Product when such failure or refusal is a result of changes in the specifications for such Product; or freezing of machinery, equipment or facilities.

1.11 "Forecast" shall have the meaning given to such term in ARTICLE 9 hereof.

1.12 "Gallon" means one (1) standard U.S. Gallon at a temperature of sixty degrees (60°) Fahrenheit.

1.13 "Index Price" [REDACTED]

1.14 "Interest Rate" means the prime lending rate for such day as set forth in *The Wall Street Journal* (or any successor publication) under the section titled "Money Rates" plus two percent (2%) per annum; provided however, in no event shall the Interest Rate exceed the maximum rate permitted by applicable law.

1.15 "Letter(s) of Credit" means one or more irrevocable, transferable, standby letter(s) of credit from a major U.S. commercial bank or a U.S. branch office of a major commercial foreign bank, with such bank having a credit rating of at least "A-" from the Standard and Poor's Rating Group (a division of McGraw-

Hill, Inc.) or "A3" from Moody's Investor Services, Inc., and capital surplus of at least \$1,000,000,000.00. Such letter(s) of credit shall be in substance, tenor and format reasonably acceptable to the Party requesting the letter(s) of credit.

1.16 "Live Tank" means any tank that is utilized for the storage of No. 2 Fuel Oil and from which, at the time any Product is being loading into such tank pursuant to this Contract, Buyer is withdrawing product from the tank for use in Buyer's facility.

1.17 "Net Quantities of Volume" means the number of Gallons of Product after taking into account any adjustments for temperature differences.

1.18 "Normal Business Hours" means the period from and including 8:00 a.m. to but excluding 5:00 p.m. EPT during any Business Day.

1.19 "OSHA Requirements" shall have the meaning given to such term in Section 5.2 hereof.

1.20 "Regulations" shall have the meaning given to such term in Article 26 hereof.

1.21 "Representatives" shall have the meaning given to such term in Section 5.2 hereof.

1.22 "Scheduled Requirements" shall have the meaning given to such term in ARTICLE 9 hereof.

1.23 "Selling Price" means the amount, in cents per Gallon (rounded to the nearest one-hundredth cent (\$0.0001), inclusive of all taxes, duties, fees, assessments, charges, the Index Price and the applicable Bid Increment Adder that Buyer will pay to Seller for Product that is delivered and received pursuant to this Contract.

1.24 "Term" shall have the meaning set forth in Section 2.1 hereof.

1.25 "Transport Truck" means a tank transportation truck, approved and certified for the transportation of hazardous material and that is suitable for delivery of the Product to the Delivery Point, whether such truck is owned by Seller, its affiliate or Seller's contractor.

## **ARTICLE 2**

### **TERM; ADDITIONAL TRANSACTIONS; TERMINATION OF 2003 CONTRACT**

2.1 The term of this Contract shall be for the period from and including January 1, 2004 to and including December 31, 2004 (the "Term"). The contract may be extended for an additional one year term by mutual written agreement of the parties.

2.2 Except as otherwise mutually agreed between the Parties in writing at the time a transaction is entered into, during the Term of this Contract the covenants, terms, conditions and requirements set forth herein shall also govern any spot market purchases and/or any subsequent bid proposals hereinafter entered into between the Parties regardless of whether or not such transactions were expressly set forth in this Contract. Notwithstanding the foregoing, the quality specifications, the purchase price and the payment terms for any such spot market purchases or subsequent proposals contemplated in this Section 2.2 will be determined by mutual agreement of the Parties and set forth in a written confirmation.

2.3 The Parties agree that, notwithstanding the provision of Section 2.1 and Section 2.2 of the 2003 Contract, the 2003 Contract shall hereby be terminated effective as of 12:01 a.m. EPT on January 1, 2004, and all deliveries of Product pursuant thereto, if any, that are scheduled to be delivered after such date shall be deemed to be transactions pursuant to this Contract as if such transactions were set forth fully herein.

### **ARTICLE 3**

#### **QUANTITY**

3.1 Buyer agrees to purchase, receive and pay for Product that is scheduled and delivered in accordance with ARTICLE 9 hereof. Seller agrees to sell and deliver Buyer's Scheduled Requirements of Product during the Term hereof to the Delivery Point(s) specified by Buyer for such Scheduled Requirements. Seller expressly acknowledges and agrees that Buyer is under no obligation to purchase from Seller its full requirements of No. 2 Fuel Oil (or any other fuel) for any one or more of Buyer's facilities. Furthermore, notwithstanding any Forecasts given by Buyer in accordance with ARTICLE 9 hereof, Buyer is under no obligation to purchase any minimum quantity of Product from Seller unless and until such quantity becomes Scheduled Requirements in accordance with ARTICLE 9 hereof.

3.2 In the event Seller is unable to schedule and/or deliver any or all of the Scheduled Requirements for any reason, Seller shall immediately notify Buyer of the quantity and duration of its inability to deliver. Buyer shall be relieved of all liability to Seller with respect to the volume of Scheduled Requirements that Seller is unable to deliver.

3.3 In the event that Seller fails to deliver the Scheduled Requirements and such failure is not excused by Force Majeure and/or by Buyer's failure to perform, then Seller shall pay to Buyer the difference, if any, between the Selling Price applicable to such volume hereunder, and the price at which Buyer, acting in a commercially reasonable manner, replaces the volume of Product not delivered by Seller. Absent such replacement, the difference shall be deemed to be zero dollars.

### **ARTICLE 4**

#### **QUALITY**

4.1 Unless otherwise agreed to by Buyer and Seller, the Product delivered by Seller hereunder to Buyer at the Delivery Point(s) shall conform to ASTM-396 and to the specifications set forth in Exhibit A attached hereto and incorporated herein by reference. Conformance or non-conformance to such specifications shall be determined in accordance with the ASTM test method applicable to such specification(s). The maximum and minimum values set forth in Exhibit A include all allowances for repeatability and reproducibility of each respective ASTM test method with respect to the Product sample.

4.2 Buyer may refuse to use and/or to accept delivery of any Product or any separable portion of any shipment of Product that does not meet the specifications set forth in Exhibit A. If, before or during unloading, Buyer has reason to believe, in its sole judgment, that the product being discharged from Seller's Transport Truck or pipeline does not meet the specifications set forth herein, Buyer may order the cessation of the discharging of the product until the quality of the product has been determined by an independent inspector as provided below. Any reasonable delay in unloading the Product for purposes of determining the quality of the Product shall be at no cost to Buyer. Buyer and Seller shall cooperate with one another to resolve any such quality problems in the most expedient manner reasonably practicable and shall use an independent inspector who is mutually selected by the Parties to resolve any dispute as to the quality of the product. The cost of the independent inspector shall be borne by the Party being found in



error as to the nature of the dispute. The results of the independent inspector's analysis shall be conclusive and binding on both Buyer and Seller.

4.3 Buyer retains the right to sample all deliveries of product upon loading and to sample, on a regular or random basis, any Product in Seller's storage facilities regardless of whether or not such Product has been designated for future delivery to Buyer.

4.4 The remedies of Buyer set forth herein are not exclusive and Buyer reserves the right to pursue any other remedies whether at law or in equity.

## ARTICLE 5

### DELIVERY

5.1 Seller agrees to arrange all Transport Truck and pipeline deliveries. All deliveries made by Seller, its agents, affiliates, or contractors shall be made in conformity with all applicable local, state and federal regulations applicable to the transport and unloading of the Product.

5.2 Seller shall, and shall cause its parent, subsidiaries, and/or affiliates, and their respective employees, agents, and/or representatives (collectively the "Representatives") to, in all respects including, without limitation, with respect to any Product transported and unloaded pursuant to this Contract and any material and equipment provided or utilized by Seller, conform to and comply with all applicable federal, state and municipal laws, rules and regulations including, but not exclusive of, any such laws, rules and regulations relating to occupational health and safety, including, but not limited to, the Occupational Safety and Health Act of 190 and the regulations and standards issued thereunder ("OSHA Requirements").

## ARTICLE 6

### SELLING PRICE

6.1 The Selling Price of each Gallon of Product purchased by Buyer hereunder shall be determined by adding the Index Price to the applicable Bid Increment Adder set forth in Exhibit D, attached hereto and incorporated herein by reference, as of the date the Product is lifted, as specified on the bill of lading applicable to such delivery of Product.

6.2 Notwithstanding any provision to the contrary herein, in the event that the Selling Price of Product delivered hereunder becomes subject to maximum or minimum price limitation(s) established by state or federal price control law(s) or regulation(s) (the "Price Controls"), Buyer and Seller agree that they will reform the Selling Price of any affected Product so as to comply with the applicable Price Controls.

6.3 If the postings or indices used for calculating the Index Price cease to be published or are changed such that they are no longer useful in the reasonable opinion of either the Buyer or Seller, then, after no less than thirty (30) days prior written notice by either Party to the other Party, a new basis for calculating the Selling Price shall be negotiated. If no agreement as to substitute postings can be reached within thirty (30) days from the date the notice was received by the non-requesting Party, this Contract shall be deemed to be terminated.

6.4 If Buyer changes its specifications during the term hereof, and such changes are not the result of any new or changed regulations as provided in ARTICLE 27 hereof, Buyer shall notify Seller of such change and Seller and Buyer shall meet as promptly as possible to determine whether or not Seller can provide Buyer with Product that meets the new specifications and the price for such Product. In the event that (i)

p. 6

Seller can deliver Product that meets Buyer's new specifications (the "New Product") and (ii) the Selling Price and any other changes to this Contract that may be required by Seller with respect to such New Product are acceptable to Buyer, then the Parties hereto shall promptly amend this Contract in writing to reflect such changes. In the event Seller cannot or is unwilling to deliver Product that meets Buyer's new specifications, then Buyer shall have the right to terminate this Contract by providing Seller with at least thirty (30) days prior written notice. Such termination shall not release either Party from any obligations to make payments for any amounts that were owed by such Party hereunder (whether or not then due) prior to the effective date of the termination.

## ARTICLE 7

### PAYMENT TERMS

7.1 For deliveries by Transport Truck, Seller shall provide Buyer's representative at the applicable Delivery Point with a Bill of Lading for each delivery of Product hereunder prior to unloading any of the Product at such Delivery Point. Additionally, for those Delivery Points specified in Exhibit B attached hereto and incorporated herein by reference, Seller must also provide Buyer with a faxed invoice for each delivery of Product within 48 hours after such Product is unloaded; provided, however, that in all cases, the Bill of Lading is the governing document for determination of the quantity of fuel delivered by Transport Truck to the Delivery Point. For pipeline deliveries payment shall be based gauging Buyer's tank in accordance with Section 10.2 hereof. [REDACTED]

[REDACTED] Buyer will make payment to Seller in U.S. funds via wire transfer or Automated Clearinghouse ("ACH") Any amounts not paid when due, shall accrue interest at the Interest Rate (as defined below) from the Due Date, to but excluding the date paid; provided that such amount is not the subject of a bona fide dispute as set forth in Sections 7.2 and 7.3 below. "Interest Rate" shall mean the prime lending rate as set forth in The Wall Street Journal under "Money Rates" for such day plus 2%; provided, however, that in no event shall the Interest Rate exceed the maximum rate permitted by applicable law.

7.2 In the event that Buyer disputes any amounts pursuant hereto, Buyer shall, within five (5) days after its receipt of the Bill of Lading to which such dispute relates, provide Seller with written notice of the dispute and reasonably full particulars with respect thereto. Buyer shall nonetheless pay the undisputed portion when due. Such payment shall not operate as a waiver nor shall it prevent Buyer from recouping any overpayments.

7.3 Both Buyer and Seller shall exercise due diligence to promptly resolve any dispute(s) pursuant to any unpaid amounts owed by Buyer to Seller or by Seller to Buyer. The Party determined to owe any disputed amount shall pay such amount to the other Party no later than ten (10) days from the date the dispute is resolved.

## ARTICLE 8

### TITLE AND RISK OF LOSS

8.1 Title to and responsibility for the Product, including but not limited to risk of loss, spills, fire, or explosion, shall pass from Seller to Buyer when and as the Product passes the first connection point between the Transport Truck and/or the pipeline, as applicable, and Buyer's storage facilities at the Delivery Point(s). Seller shall be deemed to be in exclusive control and possession of Product prior to the time of delivery of Product to Buyer and will be responsible for any leaks at the connection flange(s) upon delivery.

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**ARTICLE 9**  
**SCHEDULING & COMMUNICATIONS**

9.1 Buyer agrees to furnish Seller with Buyer's anticipated volume requirements (the "Forecast") no later than the 25<sup>th</sup> of day of the month two (2) calendar months prior to the month of anticipated delivery. Buyer is under no obligation to purchase any amounts set forth in the Forecast unless and until such time when any amounts become Scheduled Requirements pursuant to Section 9.2 below.

9.2 For purposes of initiating deliveries of the Product, Buyer shall notify Seller of Buyer's volume requirements (the "Scheduled Requirements"). Unless otherwise agreed between the Parties, Buyer will provide Seller with notice of its Scheduled Requirements at least 24 hours prior to the intended date of delivery. Seller is obligated to supply all of Buyer's Scheduled Requirements not to exceed 100% of the Forecast provided by Buyer relating to such month pursuant to 9.1 above. In the event Buyer's Scheduled Requirements exceed the Forecast, Seller will use its best efforts to supply the volume amounts in excess of the Forecast.

**ARTICLE 10**  
**MEASUREMENT AND INSPECTION**

10.1 For deliveries by Transport Truck, the quantities of Product received by or loaded into the Transport Truck shall be determined by Seller's state certified truck rack meter readings at Seller's storage facilities.

10.2 For pipeline deliveries, the quantities of fuel oil received by or loaded into the Central Florida Pipeline shall be determined by gauging Buyer's tank before and after delivery. In the event that deliveries must be made into a Live Tank, quantities shall be determined by reconciling the gauge of the Live Tank with metered shipment records provided to both Buyer and Seller by Seller's terminal and Central Florida Pipeline. Seller and Buyer each agree to pay one-half the costs of an independent inspector to gauge Buyer's tank.

10.3 All billings under this Contract shall be based on Net Quantities of Volume Temperature readings will be rounded to the next higher degree Fahrenheit when the first decimal place is five (5) or greater. The temperature reading will be rounded to the lower degree or Fahrenheit when the first decimal place is four (4) or lower.

**ARTICLE 11**  
**INDEMNITY AND NOTIFICATION**

11.1 To the maximum extent permitted by applicable law, Seller shall indemnify and defend Buyer, including any of Buyer's parent, subsidiary and/or affiliate companies, and their respective officers, employees, agents, and any other party with an ownership interest in the premises (collectively "Buyer's Representatives"), from and against all liability, loss, costs, claims, damages, expenses, judgments, and awards, whether or not covered by insurance, arising or claimed to have arisen:

(a) wholly or in part from acts or omissions of, or as a result of work done or omitted from being done, or as a result of negligence by Seller, Seller's subcontractors or assignees and their agents or employees (including without limitation Seller's breach of this Contract), which resulted in:

(1) injury to (including mental or emotional) or death of any person ; or

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- (2) damage to or destruction of any property, real or personal including but not exclusive of environmental damage and including without limitation property of Buyer's Representatives and Buyer's other sellers,;
- (b) out of injuries sustained and/or occupational diseases contracted by Seller's employees or the employees of any of Seller's subcontractors, or assignees, if any, of such a nature and arising under such circumstances as to create liability by Buyer (or its parent, subsidiary or affiliate companies) or Seller under the Workers' Compensation Act, and all amendments thereto, of the state having jurisdiction, including all claims and causes of action of any character against Buyer and its parent, subsidiary and affiliate companies by any employee of Seller, its subcontractors or assignees, or the employer of such employees, or any person or concern claiming by, under or through them resulting from or in any manner growing out of such injuries or occupational diseases;
- (c) arising out of or in any way related to Seller's failure to comply with any Buyer's Rules; provided that a copy of such rule has been provided to Seller; and
- (d) from demands, actions or disputes asserted by any subcontractors, employees or suppliers of Seller.

Indemnification shall include all costs including attorney's fees reasonably incurred in pursuing indemnity claims under or enforcement of this Contract.

11.2 All Transport Trucks and pipelines provided or utilized by Seller shall be clean and free of contamination. In the event the Transport Truck or the pipeline, as applicable, have been contaminated and Seller did not properly decontaminate such Transport Truck or pipeline prior to shipping any Product to Buyer and such shipment of Product is contaminated, Seller shall bear all costs and expenses resulting therefrom.

11.3 In the event that any Product delivered by Seller to Buyer is dirty or contaminated and such dirty or contaminated Product results in damage to Seller's equipment, Seller shall bear all costs or expenses, or reimburse Buyer if Buyer has paid such costs or expenses resulting therefrom, including, without limitation, any costs to repair or replace the damaged equipment.

## **ARTICLE 12**

### **INSURANCE**

12.1 Seller shall provide and maintain in full force and effect at no additional cost to Buyer for the duration of the Contract the following minimum amounts of insurance:

- (a) Commercial general liability insurance or comprehensive general liability insurance with a minimum limit of \$10,000,000 per occurrence for bodily injury and damage to property including contractual liability, premises/operations, products/completed operations, independent sellers, broad form property damage, personal injury coverage and environmental liability for all gradual and/or sudden



occurrences whether of accidental or any other nature, and a minimum aggregate amount of \$20,000,000 or commercial/comprehensive general liability insurance plus additional excess umbrella liability insurance to meet these limits.

- (b) Comprehensive automobile liability insurance with a minimum combined single limit of \$1,000,000 per accident for bodily injury and damage to property, or covering bodily injuries or death in a sum not less than \$500,000 per person and \$1,000,000 per accident and covering damages to property in a sum of at least \$250,000 per accident or comprehensive automobile liability insurance plus additional excess umbrella liability insurance to meet these limits. This insurance shall apply to any auto, regardless of whether or not such auto is owned by Seller.
- (c) Workers' compensation insurance as specified by any applicable state law; when workers' compensation is required, Seller shall also provide employer's liability insurance in the minimum amount of \$1,000,000 each accident and \$1,000,000 per employee for bodily injury by disease with a disease policy aggregate of \$2,000,000, or employer's liability insurance plus additional excess umbrella liability insurance to meet these limits.

12.2 All such coverage shall be primary. Seller agrees that it shall add Buyer, its officers, employees, agents, and all of Buyer's parent, subsidiary, and affiliate companies to Seller's liability insurance policies as additional insureds. Seller shall require its insurance carrier or agent to certify that this requirement has been satisfied on all Insurance Certificates issued under this Contract.

12.3 Before any Product is delivered and before any invoices are paid for Product delivered under this Contract, Seller shall provide written proof of compliance with the above insurance requirements by delivering to the address set forth in ARTICLE 16 a copy of certificate of insurance completed by Seller's insurance carrier or agent certifying that minimum insurance coverages as required above are in effect and that the coverage will not be canceled or changed until thirty (30) days after written notice is given to Buyer. Seller shall maintain, update, and renew the Certificate of Insurance for the duration of the Contract. In the event an acceptable Certificate of Insurance becomes outdated, Buyer may elect to withhold payment of invoices, and/or suspend deliveries of Product hereunder until Buyer receives an acceptable and properly dated Certificate of Insurance.

12.4 Seller is self-insured and will maintain in full force and effect the amounts and types of insurance coverage as outlined at [REDACTED]

### ARTICLE 13 POLLUTION/PRODUCT SPILL

13.1 Contemporaneously with the execution of this Contract, Buyer shall deliver to Seller the applicable spill prevention control and countermeasures and/or response plans (the "Plans") for each of Buyer's facilities to which Product will be delivered pursuant to this Contract. Seller shall provide appropriate training to its employees including without limitation any contractors or agents ("Seller's Representatives") regarding spill prevention control and appropriate countermeasures. In the event of a spill, Seller's Representatives shall coordinate their efforts and actions with the Spill Response Coordinator(s) specified by Buyer for the affected site such that all such activities are in compliance with the Plans.

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13.2 Buyer designates the following Spill Response Coordinator(s) for the for the following facilities:

Plant/Delivery Location	Spill Response Coordinators	Telephone
Anclote	Richard Hauf	(727) 409-1514
Avon Park	Dave Meyer	(727) 826-4187
Crystal River	Ron Johnson	(352) 422-8909
Debary	Dave Meyer	(727) 826-4187
Hines	Dave Meyer	(727) 826-4187
Intercession City	Dave Meyer	(727) 826-4187
Rio Pinar	Dave Meyer	(727) 826-4187
Suwannee	Dave Meyer	(727) 826-4187
Turner	Dave Meyer	(727) 826-4187

13.3 In the event that Seller or any of Seller's Representatives spills or discharges Product at or in close proximity to any Buyer facility but prior to the point at which title to the Product passes to Buyer, Seller shall undertake the following:

- (1) immediately notify the Spill Response Coordinator for such facility,
- (2) contain and collect the discharged Product and take other applicable measures to mitigate the pollution damage from the incident,
- (3) assist Buyer in implementing the Plans and
- (4) at Buyer's request, provide information about the incident to regulatory agencies.

13.4 If a Product spill or discharge was caused, directly or indirectly, in whole or in part by the actions or inactions of either Party or any of such Party's agents, employees, representatives or contractors (the "Liable Party"), the Liable Party shall reimburse the other Party for all fines and spill response expenses, if any, incurred by such other Party. If the Parties are required by any government agency to respond to a Product spill or discharge for which neither Party is responsible, the Parties shall equally share the response and related costs, provided that the spilled or discharged Product is the subject matter hereof. All cost sharing or allocations required hereunder shall be net of expense after insurance or other recovery, if any.

#### ARTICLE 14 FORCE MAJEURE

14.1 In the event either Party hereto is rendered unable by Force Majeure to carry out, in whole or in part, its obligations under this Contract, such Party shall provide notice and reasonably full particulars of such Force Majeure event to the other Party as soon as reasonably practicable after the occurrence of the event. Such notice may be given verbally but shall be confirmed in writing as soon as practicable thereafter. For so long as the event of Force Majeure is continuing, the obligations of the Party affected by the Force Majeure (except for the obligations to make payment hereunder) shall be suspended to the extent made necessary by the Force Majeure. The Party claiming Force Majeure shall exercise commercially reasonable efforts to remedy the Force Majeure as soon as practicable and shall keep the other Party advised as to the continuance of the Force Majeure event.

14.2 It is understood and agreed that the settlement of strikes or lockouts shall be entirely within the discretion of the Party experiencing the difficulty, and that the above requirements that any Force Majeure

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shall be remedied with due diligence shall not require the settlement of strikes or lockouts by acceding to the demand of the opposing party when such course is inadvisable in the discretion of the Party having the difficulty.

14.3 Notwithstanding anything to the contrary in this ARTICLE 14, Seller shall not declare an event of Force Majeure with respect to its supply sources unless Seller has first discontinued all sales to its other customers within the affected geographic area (except for those customers where such supply is necessary to protect the public health, safety, or welfare). If an event of Force Majeure occurs such that Seller must discontinue or prorate its sales and delivery of Product to Buyer, Seller shall offer to Buyer a substitute product if Seller has available to it such substitute product for sale and delivery to Buyer. Such offer by Seller shall include all particulars of the proposed sale and delivery of such substitute product including, but not limited to, price, quantity, quality, delivery schedule and carrier identification. Buyer will advise Seller of its decision to accept or reject Seller's offer as promptly as possible.

#### **ARTICLE 15** **TAXES, DUTY AND FEES**

15.1 If any new or changed taxes, fees, duties, governmental surcharges, or charges of a similar nature ("Governmental Charges") are imposed subsequent to the date of this Contract and such changes are not reflected in the Selling Price, then Seller may adjust the Selling Price to reflect such changes. Seller shall provide Buyer with full particulars and proof that is reasonably satisfactory to Buyer of said Governmental Charges. In no case shall Buyer be liable for any Governmental Charges relating to Seller's income, franchise or similar items.

#### **ARTICLE 16** **NOTICES**

16.1 Except as otherwise provided herein, any notice, request, demand, or statement provided for in this Contract, shall be in writing and delivered in person, by facsimile, electronic mail, expedited delivery service or by U. S. mail, to the Parties hereto at the addresses set forth below or as otherwise specified in writing by one Party to the other:

To Seller:                   **For Notices and Contractual matters:**  
BP Products North America Inc.  
Attn: Betsy Leibson, Strategic Account Sales  
28100 Torch Parkway, 415C  
Warrenville, IL 60555  
Phone: (630) 836-5054  
Facsimile: (630) 836-6090

For Invoices:  
At the above address  
Attn: Pat Pusko, 415D  
Phone: (630) 836-5243  
Facsimile: (630) 836-5350

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To Buyer: For Notices and Contractual matters:  
Florida Power Corporation  
Attn: Contract Administration – Oil Contracts  
P.O. Box 1551, PEB 19A5  
410 S. Wilmington Street, PEB 19A5  
Raleigh, NC 27602  
Phone: (919) 546-4280  
Facsimile: (919) 546-2649

To Buyer: For Invoices:  
At the above address, PEB 10A:  
Attn: Dale Williams (primary)  
Melanie Adams (secondary)  
Phone: (919) 546-2083 (primary)  
(919) 546-2075 (secondary)  
Fax: (919) 546-6842

#### **ARTICLE 17**

##### **FINANCIAL INFORMATION**

Upon the request of either Party (the "Requesting Party") each Party agrees to provide to the Requesting Party its financial information as may be reasonably required by the Requesting Party to determine the ability of the Party being reviewed to fulfill its payment and/or delivery obligations under this Contract. If such information is, in the Requesting Party's sole opinion, insufficient to adequately assure such Party of the other Party's performance hereunder, the Party being reviewed may be required to post performance assurance in the form of cash, a Letter of Credit or other security reasonably acceptable to the Requesting Party.

#### **ARTICLE 18**

##### **LAW GOVERNING**

Including any cross-claims and counterclaims asserted in any action, this Contract and any transactions pursuant hereto shall be governed by and construed in accordance with the laws of the State of Florida without regard to principles of conflicts of law

#### **ARTICLE 19**

##### **ARTICLE HEADINGS**

The article headings herein are for the purpose of convenience and reference only and shall not be taken to qualify, explain or affect any provisions hereof.

#### **ARTICLE 20**

##### **ASSIGNMENT**

This Contract shall not be assigned or transferred by either Party hereto without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed and any purported assignment without such consent shall be void. The succeeding entity shall agree in writing to be bound by the terms and conditions of this Contract.

**ARTICLE 21**  
**WARRANTIES**

21.1 Seller warrants that the Product will not be produced or delivered in violation of any applicable federal, state or other governmental law, or in violation of any applicable rule, regulation or order promulgated by any government agency having jurisdiction.

21.2 Seller warrants (a) that it has good and marketable title to the Product sold by it hereunder to the Buyer; (b) that Seller has the right to sell the same; and (c) that such Product shall be delivered by Seller to Buyer free from all liens, encumbrances and adverse claims including, but not limited to, liens to secure payment of Governmental Charges due on the Product prior to its delivery to Buyer.

21.3 Seller hereby warrants that the Product shall meet all specifications that have been expressly made a part of this Contract.

**ARTICLE 22**  
**FAVORED NATIONS**

[REDACTED]

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**ARTICLE 23**  
**WAIVER**

No waiver by either Party of any breach or default of any of the covenants or conditions herein contained to be performed by the other Party shall be construed as a waiver of any succeeding breach of the same or any other covenant or condition of this Contract whether of like, same or different nature. Any such waiver shall be in a writing executed by the Party against whom enforcement is sought.

**ARTICLE 24**  
**CLEAN AIR AND WATER**

Seller shall provide to Buyer without additional charge any information in Seller's possession which falls within the scope of an information request issued to Buyer pursuant to the Clean Air Act (42 USC Chapter 85), the Clean Water Act (33 USC Chapter 26) or other Regulations, and shall otherwise cooperate with Buyer in responding to such information request to the extent the request involves Seller's activities under this Contract. Seller shall comply with environmental Regulations applicable to this Contract.

**ARTICLE 25**  
**CONFLICTS OF INTEREST**

No director, employee, or agent of either Party shall give to or receive from the other Party any compensation, fee, rebate, gift, or entertainment of significant cost or value in connection with this Contract.

**ARTICLE 26**  
**CONFIDENTIALITY**

26.1 Except as otherwise provided below, neither Party shall disclose, either directly or indirectly, the terms of this Contract or any information or data related hereto to a third party without the written consent of the other Party (other than a Party's and its affiliates' employees, lenders, counsel, agents, accountants or prospective permitted purchasers), except in order to comply with any applicable law, order, regulation or exchange rule; provided, each Party shall notify the other Party of any proceeding of which it is aware which may result in disclosure if such notice does not violate the law, order, regulation or rule requiring the disclosure and shall use reasonable efforts to prevent or limit the disclosure.

26.2 The Parties hereto acknowledge that independent legal counsel, the Florida Public Service Commission and accounting representatives of either Party hereto may, from time to time, be provided with a copy of this Contract and the Parties agree that such disclosure does not require consent by the other Party, provided that such legal counsel or accounting representatives are advised of the terms and conditions of this ARTICLE 26. Buyer may also provide a copy of this Contract without the consent of Seller to third parties who purchase electric power from Buyer, provided that the terms of this Contract are material to determining the obligations of such third parties under their electric power purchase contracts and that such third parties affirm in writing their agreement to keep the terms and conditions of this Contract confidential.

**ARTICLE 27**  
**NEW OR CHANGED REGULATIONS**

It is understood by both Seller and Buyer that this Contract and all transactions pursuant hereto are being entered into pursuant to the laws, rules, regulations, ordinances, decrees, agreements, concessions, and arrangements ("Regulations") with or of federal, state, or local government(s) or governmental agencies in effect as of the date of this Contract. It is further recognized that, from time to time, certain Regulations governing the product that Buyer is permitted or required to use in its facilities or that Seller is permitted to sell may be changed such that the use of product that differs from the Product described and specified herein may be substituted therefore and that such substitution may or may not be at the option of the Parties. If such Regulations are changed or if new Regulations become effective, whether by law, decree or by response to the insistence or request of any governmental authority or person purporting to act therefore, and the effect of such new or changed Regulations is not covered by another provision of this Contract and/or has an adverse effect upon either Party, Seller or Buyer shall have the option, in their respective sole judgment, to request renegotiation of the terms of this Contract that are impacted by the new or changed Regulations. If Buyer is required to purchase product having different specifications from those agreed to herein or if Seller is prohibited from selling product meeting the specifications hereunder in order to meet such new or changed Regulations, the affected Party shall promptly notify the other Party, in writing, of such required change in the Product specifications. Such notice shall contain reasonably full particulars relating to the new or changed Regulations. If Seller has sufficient supply of product that conforms to the new or changed Regulations in quantities sufficient to meet Buyer's new or changed requirements, the Parties will promptly enter into good faith negotiations to agree on new terms for such Product. If no agreement can be reached within thirty (30) days after such notice is given or if Seller cannot supply the new or changed requirements, Buyer or Seller will have the right to buy or sell Product, as the case may be, elsewhere and all obligations of Buyer and Seller, shall be dismissed except for any obligations to make payments for any amounts owed (whether or not then due) by either Party prior to the effective date of the termination. Upon Buyer's written notice to Seller of such change, whether or not

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such change is at Buyer's option, Buyer's obligation(s) hereunder to purchase such volumes of Product remaining under this Contract shall be subject to Buyer's permit to use such Product or to the availability of a substitute Product at a mutually agreeable Selling Price.

## ARTICLE 28

### AUDIT

28.1 Seller agrees to maintain books, records, invoices, documents, and other evidences pertaining to its costs related to this Contract, including but not exclusive of any documents pertaining to any relevant Transport Truck and Pipeline or other transporter ("Records"), to the extent and in such detail as will properly reflect all costs and expenses of whatever nature for which reimbursement may be claimed hereunder. Upon request of Buyer, Seller shall make available to Buyer any and all said Records along with any related receipts, correspondence, vouchers, or memoranda pertaining to this Contract for inspection, audit or reproductions by any authorized representative of Buyer. Seller shall preserve all Records for a period of three (3) years after final payment hereto during which period Buyer shall complete any audit that may be desired. Should discrepancies or questions arise, the Records shall be preserved until agreement is reached.

28.2 Notwithstanding the foregoing or any provision to the contrary, in the event that Buyer or Seller determines (through review of its records or otherwise) that Buyer has overpaid to Seller any amounts hereunder or that Seller has not received any amounts owing by Buyer hereunder, the Party making such determination (the "Determining Party") shall notify the other Party of such no later than 365 calendar days from the date Buyer received the Product to which such amount relates (the "Delayed Notification Date"). In the event that the Determining Party fails to notify the other Party of such determination by the Delayed Notification Date, then regardless of the date on which the Determining Party actually makes such determination, said Party shall be deemed to have waived any rights it may have had to collect such amounts from the other Party, and the non-determining Party shall be deemed to be released from any obligation it may have had to pay such amounts.

28.3 In the event that either Party (the "Audited Party") is subject to a federal, state and/or local governmental or regulatory audit or review, then upon the written request of the Audited Party, the Audited Party shall be entitled to the same review and examination rights set forth in the 28.1 above. Such right set forth herein shall not be governed by the three (3) year limitation in 28.1, but shall be limited to any statute of limitations for such governmental or regulatory audit, or any waivers thereof. Such right shall not extend any time frame for the adjustment of any payments or invoices beyond the three (3) year period set forth in 28.1 above.

## ARTICLE 29

### AMENDMENT

This Contract, including any attachments and Exhibits attached hereto and incorporated herein by reference, constitutes the entire understanding between the Parties with respect to the subject matter hereof, and, except for changes in the notices information set forth in ARTICLE 16 hereof, or as otherwise provided herein, shall not be modified, changed, supplemented or amended except by a written instrument signed by the properly authorized representatives of the Parties. Buyer shall have the right, at Buyer's sole discretion, to remove any of the facilities set forth in Exhibit B so that such removed facility is no longer a Delivery Point as defined in this Contract (and set forth in Exhibit B), provided that Buyer shall furnish Seller with a corrected Exhibit B and such modification shall be effective on the date of Seller's receipt of such; and further provided that neither Party shall be entitled to modify Exhibit B in order to add any

Delivery Point(s) without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed.

**ARTICLE 30**  
**MISCELLANEOUS**

30.1 Each Party consents to the creation of a tape or electronic recording of all telephone conversations between the parties to this Contract, and that any such recordings will be retained in confidence, secured from improper access, and may be submitted in evidence in any proceeding or action relating to this Contract. Each Party waives any further notice of such monitoring or recording, and agrees to notify its officers and employees of such monitoring or recording and to obtain any necessary consent of such officers and employees. Each Party waives any objections to the introduction of the recorded conversations into evidence to prove a contract whether based on the Statute of Frauds, the parol evidence rule, the best evidence rule or any similar evidentiary rules. Each Party waives any objection or defense to its authority or the authority of its employee provided that such employee can be identified on the relevant employing Party's recording.

30.2 The Parties agree that this Contract and all transactions entered into pursuant hereto each constitute a "forward contract" and that such Party is a "forward contract merchant" within the meaning of the U.S. Bankruptcy Code and any other applicable insolvency laws.

30.3 Except as otherwise provided for herein, the provisions of the Uniform Commercial Code ("UCC") of the state whose laws shall govern this Contract shall be deemed to apply to all transactions.

30.4 This Contract shall be considered for all purposes as prepared through the joint efforts of both Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission, or other event of negotiation, drafting or execution hereof.

30.5 Any original executed Contract or other related document may be photocopied and stored on computer tapes and disks ("Imaged Document"). If an Imaged Document is introduced as evidence in any judicial, arbitration, mediation or administrative proceedings, it shall be considered as admissible evidence; provided that there is no evidence that such Imaged Document has been manipulated or otherwise altered in any way. Neither Party shall object to the admissibility of the Imaged Document on the basis that such were not originated or maintained in documentary form under either the hearsay rule, the best evidence rule, or other rule of evidence.

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IN WITNESS WHEREOF, the Parties hereto have made and executed this Contract in duplicate originals, each of which shall constitute and be an original Contract, signed by their duly authorized officers or individuals, as of the day and the year first above written.

Florida Power Corporation d/b/a  
Progress Energy Florida, Inc.  
(Buyer)

Witness:

Patricia R. Murphy

By:

Robert F. Caldwell *pdf Dan Jim*

Name: Robert F. Caldwell  
(Please Print)

Title: Vice President

Date: February 11, 2004

BP Products North America Inc.  
(Seller)

Witness:

[Signature]

By:

[Signature]

Name: James S. Fawley

Title: Marketing Manager

Date: January 23, 2004

# EXHIBIT A

METHOD		ASTM TEST
Flash Point Minimum	140° F or legal	D-93
Pour Point Maximum	20° F	D-97
Water & Sediment % Volume Maximum	0.05%	D-96/D1796
Carbon Residue on 10% Bottoms Max.	0.35%	D-189/D-4530
Distillation Points 90% Min. Max.	540° F 650° F	D-86
Viscosity @ 100° F Min. CS Max.	1.9 3.6	D-445
Ash Weight % Maximum	0.01	D-482
Gravity Minimum API	30	D-287/D-1298
Sulfur Weight % Maximum <sup>2</sup>	0.5	D-1552/
BTU/Gallon Minimum <sup>3</sup>	137,000	D-240
DuPont Stability Maximum	7 maximum	N/A
Oxidation Stability mg/100 ml Max.	2.5	D-2274

Intercession City has a max. percent by weight Sulfur of two-tenths of one percent (0.2%).

Debary has an annual weighted average max. percent by weight Sulfur of three-tenths of one percent (0.3%).

Hines and University of Florida has a max. percent by weight Sulfur of five-hundredths of one percent (0.05%). Hines requires Jet Fuel and University of Florida requires Low Sulfur Diesel.

BTU/Gallon minimum is based on Higher Heating Value (HHV).

Lower Heating Values (LHV) ASTM Test Method D-240 and nitrogen ASTM Test Method D-4629 shall be reported for Debary and Intercession City deliveries. There is no minimum or maximum guarantee for these two (2) sites.

## EXHIBIT B

### PLANT LOCATIONS/DELIVERY POINTS

<b>NCLOTE POWER PLANT</b> 729 Bailey's Bluff Road Holiday, FL 34691	#2 Fuel Oil, 0.5% max. sulfur is received by truck. The plant is located near Tarpon Springs, Florida. Requires pump on trucks.
<b>VON PARK PLANT</b> 415 S. Islands Avenue von Park, FL 33825	#2 Fuel Oil 0.5% max. sulfur is received by truck. Requires pump on trucks.
<b>RYSTAL RIVER COAL PLANTS</b> owerline Road rystal River, FL 34428	#2 Fuel Oil, 0.5% max. sulfur is received by truck. Located approximately 5 miles north of Crystal River, Florida, off US 19.
<b>EBARY PLANT</b> 76 West Highbanks Road ebary, FL 32713	#2 Fuel Oil is received by truck. Plant must maintain 0.3% max. sulfur tank reading. Receives 50/50 mix of 0.5% and 0.05% oil. Located east of Debary, Florida, off Highbanks Road.
<b>GGINS PLANT</b> st Shore Drive dsmar, FL 34677	#2 Fuel Oil, 0.5% max. sulfur is received by truck Located on <b>Booth Point</b> at Oldsmar, Florida (Tampa Bay). Requires pump on trucks.
<b>NES ENERGY COMPLEX</b> 00 County Road 555 rtow, FL 33830	Kerosine is received by truck. Located 8.1 miles from FL 60 West.
<b>TERCESSION CITY PLANT</b> 5 Osceola-Polk Line Road ercession City, FL 33848	This plant receives #2 Fuel Oil. Plant must maintain a 0.2% max. sulfur tank reading. Receives 2/3 0.05% and 1/3 0.5% oil. Deliveries are received via the Central Florida Pipeline (normal delivery size is 15,000 BBLS) and by truck Intercession City Plant is located near Kissimmee, Florida.
<b>OPINAR PLANT</b> So. Econlockhatchee Trail ndo, FL	#2 Fuel Oil, 0.5% max. sulfur is received by truck. Located on the corner of Lake Underhill and Econlockhatchee Trail (nearest town is Union Park). Requires pump on trucks.

UWANNEE PLANT oute 8, Box 286 ive Oak, FL 32060	#2 Fuel Oil, 0.5% max. sulfur is received by truck Located at Ellaville, Florida off US 90, near Live Oak.
GEORGE T. TURNER PLANT 01 Debary Avenue eltona, FL 32725	#2 Fuel Oil, 0.5% max. sulfur is received by truck. The plant is less than one mile from highway I-4.
UNIVERSITY OF FLORIDA COGENERATION PLANT FLORIDA POWER CORPORATION uilding 82 lowery Road ainesville, FL 32611	Receives #2 Fuel Oil, 0.05% max. sulfur and kerosine by truck. Located in Gainesville, Florida on the University of Florida campus Bldg. 82.

## EXHIBIT C

### RULES OF SAFETY AND CONDUCT AT BUYER'S DELIVERY POINTS

The following procedures shall be adhered to while at the Delivery Point(s).

1. Smoking, open lights on Buyer's property and exterior hot work are prohibited while at the Delivery Point(s).
2. Buildings and the tank farms are off limits for all but employees of Buyer.
3. Local calls for transportation and local or credit card calls, of short duration, for Transport Truck and Pipelines' business may be made with permission of Buyer's representative prior to making any calls.
4. Buyer does not supply gaskets for transfer connections.

EXHIBIT D

PRICING &  
BID INCREMENT ADDER TO INDEX PRICE

	A	B	C	D	E	
Rack Options Products	Annual Volume	Terminal	CITY	Proposed New Adders	Demurrage	
LS# 2 / Dyed	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	1
LS# 2 / Dyed	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	2
HS# 2 / Dyed	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	3
LS# 2 / Dyed	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	4
HS# 2 / Dyed	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	5
HS# 2 / Dyed	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	6
Pipeline Options Products	Annual Volume	Terminal	CITY		Demurrage	
LS# 2 / Dyed	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	1
HS# 2 / Dyed	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	1

## EXHIBIT E

## FREIGHT

Location	Address	City	Zip	Terminal	PTO	Freight
Crystal River # 4	Powerline Road	Crystal River	34428	Tampa		
Crystal River # 1&2	Powerline Road	Crystal River	34429	Tampa		
Crystal River #5	Powerline Road	Crystal River	34430	Tampa		
Anclote Plant, Holiday, Fl	1729 Bailey's Bluff Rd.	Holiday	34691	Tampa	X	
Debary, Fl	176 West Highbanks Rd.	Debary	32713	Jacksonville		
Intercession City, Fl	6525 Osceola-Polk Line Rd.	Intercession City	33848	Tampa		
Intercession City, Fl	6526 Osceola-Polk Line Rd.	Intercession City	33849	Orlando		
Turner Plant, Deltona, Fl	201 Debary Rd.	Debary	32725	Jacksonville		
Suwannee Plant, Live Oak, Fl	Route 8, Box 286	Live Oak	32060	Jacksonville		
Higgins Plant, Oldsmar, Fl	East Shire Drive	Oldsmar	34677	Tampa	X	
Avon Park, Fl	14158 S. Islands Avenue	Avon Park	33825	Tampa	X	
Gainesville, Fl	Mowry Rd. Building 82	Gainesville	32611	Jacksonville		
Rio Pinar Plant, Orlando, Fl	103 S. Econlockhatchee Trail	Orlando	32806	Tampa	X	
Rio Pinar Plant, Orlando, Fl	103 S. Econlockhatchee Trail	Orlando	32806	Orlando	X	
Debary, Fl	176 West Highbanks Rd.	Debary	32713	Tampa		
Suwannee Plant, Live Oak, Fl	Route 8, Box 286	Live Oak	32060	Bainbridge		
Turner Plant, Deltona, Fl	201 Debary Rd.	Debary	32725	Tampa		
Hines Plant, Bartow, Fl	7700 County Road 555 S.	Bartow	33830	Tampa	X	
Turner Plant, Deltona, Fl	201 Debary Rd.	Debary	32725	Orlando		
Debary, Fl	176 West Highbanks Rd.	Debary	32713	Orlando		
Intercession City, Fl (pipeline)	6525 Osceola-Polk Line Rd.	Intercession City	33848	Pipeline		



<del>██████</del>	BP	Lesison	1
<del>██████</del>	Transmontaigne	Perna, Hess	2
<del>██████</del>	Central	Reece	3
<del>██████</del>	Coland	Bosman, Hill	4
<del>██████</del>	Royal	Andrzejewski Crown Petro @ aol.com	5
<del>██████</del>	Texaco	Jule Kruse	6
<del>██████</del>	Somers	Gomer Turner	7
<del>██████</del>	Rio Energy	John Murray, McClanahan	8
<del>██████</del>	Quantum Energy Resources	sjordan@pdq.net	9
<del>██████</del>	<del>Hess</del>	Jferullo@delcooil.com	
<del>██████</del>	Delco Oil Inc.	Church Balfie 1-386-734-6654	10
<del>██████</del>	A. Hess	rrhoades@hess.com	11



**ATTACHMENT 1**  
**ANNUAL SYSTEM REQUIREMENTS**  
**Florida Power Corporation**

**I. COMPANY INFORMATION**

Seller's Name Central Oil Company, Inc.

Seller's Address 1001 McClosky Blvd., Tampa, Florida 33605

Seller's Representative Angela Reece Phone # (813) 248-2105

Location(s): Tampa, Florida

**II. MISCELLANEOUS INFORMATION**

Utilities supplied over the last three years:

UTILITY	GALLONS	PERIOD
_____	_____	
_____	_____	

**III. Proposal**

See Attachments 2A and 2B

p. 1

**ATTACHMENT 2A (2 Pages)**  
**No. 2 OIL PRICING AND QUALITY**

**No. 2 OIL PRICING**

Proposal to supply Fuel Oil #2 , 0.5% maximum sulfur to FPC Bartow and Bayboro Terminals beginning January 1, 2004 through December 31, 2004. We would like to offer these two barge delivery locations as a package deal. We would need to be awarded the contract for both locations to make it cost effective.

Delivery Locations:            Bartow Plant, Weedon Island, St. Petersburg , FL  
                                         Bayboro Plant, Port of St. Petersburg, FL

Mode of Transportation:    Double Hull Barge

Quality:                        Based on FPC Procurement Specifications for Fuel Oil #2

Quantity:                      Approximately 10,000 – 11,000 barrels based on discharge location

Delivery Laytime:            [REDACTED] free time. Discharge Rate: [REDACTED] 1

Demurrage:                   [REDACTED] per hour 2

Payment Terms:             [REDACTED] from date of delivery 3

*p. 1*

Calculation of Product Price:

Base Price

The selling Base Price shall be based on [REDACTED]

[REDACTED] The Selling Base Price of Product for current week deliveries shall be the [REDACTED]

[REDACTED] In the event no posting is published, the simple mean average of the posting for that week will be used to determine the price. Saturdays will be considered the previous week and Sundays will be considered the following week.

Adder

The Adder will be the amount added to the Selling Base Price which will cover the freight costs and Seller's handling costs. The adder for each location would be as follows:

Bartow Terminal [REDACTED]

Bayboro Terminal [REDACTED]

Selling Price

The Selling Price would be Base Price, Adder and Florida Pollutant's Tax added together. The current rate for Florida Pollutant's Tax is \$.02071 per gallon and is subject to change.

2A Attachment Offer (2 Pages)

Offered by: Angela Reece Central Oil Company, Inc., Tampa, Florida

Angela Reece

ATTACHMENT 2B (2 Pages)

No. 2 OIL PRICING

Proposal to supply Fuel Oil #2, 0.5% maximum sulfur to FPC various locations via tanker truck delivery beginning January 1, 2004 through December 31, 2004.

Mode of Transportation: Tanker Trucks

Quality: Based on FPC Procurement Specifications for Fuel Oil #2

Quantity: Approximately 7,500 gross gallons

Delivery Laytime: [REDACTED] for each Tanker Truck Load

Demurrage: [REDACTED]

Payment Terms: [REDACTED] days from date of delivery

Calculation of Product Price:

Base Price

The selling Base Price shall be based on [REDACTED]  
[REDACTED] The Selling Base Price of Product for current week deliveries shall be the [REDACTED]  
[REDACTED] In the event no posting is  
[REDACTED] will be used to determine the price.  
Saturdays will be considered the previous week and Sundays will be considered the following week.

Adder

The adder will be the amount added to the Selling Base Price which will cover the freight costs and Seller's handling costs. The adder for each location would be as follows:

Anclote Power Plant [REDACTED]

Avon Park Plant [REDACTED]

Crystal River Coal Plants	[REDACTED]		1
Higgins Plant	[REDACTED]		2
Intercession City Plant	[REDACTED]	(0.5% sulfur only)	3
Rio Pinar Plant	[REDACTED]		4
Suwannee Plant	[REDACTED]		5
George T. Turner Plant	[REDACTED]		6
University of Florida Cogeneration Plant	[REDACTED]		7

#### Selling Price

The Selling Price would be Base Price, Adder and Florida Pollutant's Tax added together. The current rate for Florida Pollutant's Tax is \$.02071 per gallon and is subject to change.

#### **2B Attachment Offer (2 Pages)**

Offered by: Angela Reece Central Oil Company, Inc., Tampa, Florida

Angela Reece

**ATTACHMENT 3  
ANNUAL SYSTEM REQUIREMENTS  
PROPOSAL LETTER**

Date

Dear Mr. Williams:

The undersigned, having read and examined the Request for Proposal ("RFP") and the RFP Guidelines for No. 2 Oil Supply Requirements for Florida Power Corporation Annual System Requirements proposes to furnish No. 2 oil and transportation of this products provide the services set forth in this RFP.

The undersigned hereby declares that the attached list states any and all variations from and exceptions to the requirements of the RFP and that, unless otherwise stated, it is the intent of this bid that this offering will be in strict accordance with the requirements of the RFP and its related documentation, including the provisions of any resulting contract.

Undersigned has completed, signed and is forwarding herewith Attachments [REDACTED] through [REDACTED] which are incorporated herein and made a part of this bid.

This bid and all attachments thereto shall be valid until October 31, 2003 [REDACTED] (at least October 31, 2001) and is not conditioned upon "subject to prior sale."

The Undersigned hereby declares that the persons or firms interested in the bid as principal or principals are named herein, and that no other persons or firms other than herein mentioned have any interest in this Proposal or in the contract to be entered into; that this bid is made without consultation with any other person, company, or parties likewise submitting a bid; and that the

bid(s) are in all respects for and in good faith, without collusion or fraud. Undersigned also acknowledges that there are no claims for reimbursement of any costs or expenses incurred as a result of or in connection with the preparation of this bid, regardless of whether or not a resulting contract is awarded to Undersigned, and that this bid constitutes an offer as herein provided and is not binding upon Buyer until and unless a resulting contract is fully executed by both parties.

The undersigned also declares that the Bidder(s) is willing and able to enter into negotiations with FPC for a No. 2 oil supply contract.

Dated at Noon this 11<sup>th</sup> day of September, 2003.

Attachments 1-3

Bidder

Central Oil Company, Inc.

By

Angela Reece  
Angela Reece

Title

V.P. Marine & Utility Sales

Business Address of Bidder

1001 McClosky Blvd.

Tampa, Florida 33605

Address of Principal Office

1001 McCloskey Blvd.

Tampa, Florida 33605

Name and Address of Bidder's  
Parent Company (If Applicable)

Martin Resources

4200 B Stone Road

Kilgore, Texas 75662

P.7

Williams, Dale D.

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From: Enright, Richard D [enrighr@bp.com]  
Sent: Tuesday, September 30, 2003 2:56 PM  
To: dale.williams@pgnmail.com  
Cc: Betsy Leibson (E-mail)  
Subject: FW: FPC #2 Fuel Oil Annual System Requirements Bid Response.



Pricing for 2004 Bid.xls



2004 Bid  
Response.doc



FP Freight Rates Bid  
2004.xls

Dale,

BP  
I have made the appropriate changes for our rebid on the attachments. In order for [REDACTED] to regain the existing contract to supply all current Florida Power locations, I have lowered the original freight rates by [REDACTED] (except CFL pipeline tariff) and reduced all Platt's product adders by 15 points per gallon. Let me know if you have any questions.

-----Original Message-----

From: Leibson, Betsy  
Sent: Wednesday, September 17, 2003 2:56 PM  
To: 'Williams, Dale D.'  
Subject: FPC #2 Fuel Oil Annual System Requirements Bid Response.

p.1



ATTACHMENT 1  
ANNUAL SYSTEM RERQUIREMENTS  
Florida Power Corporation

I. COMPANY INFORMATION

Seller's Name: BP Products North America, Inc.

Seller's Address: 28100 Torch Parkway, 415 C, Warrenville, IL 60055

Seller's Representative: Betsy Leibson, Phone: 630-836-5054

Location(s):

II. MISCELLANEOUS INFORMATION

Utilities supplied over the last three years:

UTILITY	GALLONS	PERIOD
Carolina Power and Light	9,529,047	2002
Florida Power	54,064,167	2002

III. Proposal:

[REDACTED]

[REDACTED]

Through a clear understanding build on our prior experience, [REDACTED] can bring resources to Florida Power to work on special projects. to enable Florida Power to obtain delivery of product when desired at the lowest possible cost in a timely fashion(Current project - unattended deliveries at Debary).

1  
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1,2

ATTACHMENT 2A  
No. 2 OIL PRICING AND QUALITY

**Quality**

Our product quality will be the same as it has been for the past several years, it has not changed. However, upon a through review of your specifications by our technical department, I discovered that there are several areas where [REDACTED], nor anyone else that we are aware of, in good faith, would be able to guarantee to meet your specifications 100% of the time. Those areas are:

Carbon Residue on 10% Bottoms Max is .35% not .25

Viscosity @ 100F Min CS is 1.9, not 2.0

Dupont Stability maximum: 7 maximum, not 6

Additionally, we, nor anyone else that we are aware of, is able to guarantee maximum levels of:

Vanadium  
Sodium + Potassium  
Calcium  
Lead

All other specifications we will meet and guarantee.

P. 3  
~~1~~

**ATTACHMENT 3  
ANNUAL SYSTM RE REQUIREMENTS  
PROPOSAL LETTER**

Date: September 17, 2003

Dear Mr. Williams:

The undersigned, having read and examined the Request for Proposal ("RFP") and the RFP Guidelines for No. 2 Oil Supply Requirements for Florida Power Corporation Annual System Requirements proposes to furnish No. 2 oil and transportation of this product and provide the services set forth in this RFP.

The undersigned hereby declares that the submitted list states any and all variations from and exceptions to the requirements of the RFP and that, unless otherwise stated, it is the intent of this bid that this offering will be in strict accordance with the requirements of the RFP and its related documentation, including the provisions of any resulting contract.

Undersigned has completed, signed and is forwarding/has forwarded Attachments 1,2,3 **(please list all attachments included in your bid package)** which are incorporated and made a part of this bid.

This bid includes all taxes and fees, which might be lawfully assessed against the Bidder of the No. 2 oil on the date of this Proposal.

This bid and all attachments thereto shall be valid until October 31, 2003 (at least October 31, 2003) and is not conditioned upon "subject to prior sale."

The Undersigned hereby declares that the persons or firms interested in the bid as principal or principals are named herein, and that no other persons or firms other than herein mentioned have any interest in this Proposal or in the contract to be entered into; that this bid is made without consultation with any other person, company, or parties likewise submitting a bid; and that the bid(s) are in all respects for and in good faith, without collusion or fraud. Undersigned also acknowledges that there are no claims for reimbursement of any costs or expenses incurred as a result of or in connection with the preparation of this bid, regardless of whether or not a resulting contract is awarded to Undersigned, and that this bid constitutes an offer as herein provided and is not binding

P. 4  
~~10~~

upon Buyer until and unless a resulting contract is fully executed by both parties.

P.5  
~~###~~

The undersigned also declares that the Bidder(s) is willing and able to enter into negotiations with FPC for a No. 2 oil supply contract.

Dated at 1 .pm cst this 17th day of September, 2003.

America Inc. Bidder: BP Products North

By Betsy Leibson

Title: Strategic Account Sales

Business Address of Bidder BP Products North America Inc.  
28100 Torch Parkway, 415 C  
Warrenville, IL 60555

Address of Principal Office Same

Name and Address of Bidder's Parent Company (If Applicable) Same



p. 5



Exhibit A Revised  
BP Platt's USGC Pipeline Average Daily Posting  
Quantity and Pricing Schedule

Buyer:	Florida Power
Contact:	Dale Williams

Seller:
Contact:
Phone:
Fax:

Effective Date:	Jan 1 2004
Time Period:	1 Year
Total Volume (gals):	55,000,000
Per month / Total	

(All volumes are assumed to be delivered RATABLE over the life of the contract unless otherwise specified and agreed by both parties)

Rack Options Products	Annual Volume	Terminal	CITY	Prior Year Adders			Proposed New Adders	Fixed Freight Rate
				2001	2002	2003		
LS# 2 / Dyed								
LS# 2 / Dyed								
HS# 2 / Dyed								
LS# 2 / Dyed								
HS# 2 / Dyed								
HS# 2 / Dyed								
Pipeline Options Products	Annual Volume	Terminal	CITY	Current Bid Increment Adders	Proposed New Bid Increment Adders			Fixed Freight Rate
LS# 2 / Dyed								
HS# 2 / Dyed								

P. 4

BP Oil
Betsy Leibson
1-866-273-4732 Ext. 5054
630-836-6090

Demurrage	
	1
	2
	3
	4
	5
	6
Demurrage	
	7
	8

~~102~~



2002 Florida Power Freight Rates CPG

B C P. 9

SAP ship to #	Location	Address	City	Zip Code	Terminal	PTO Required	Current Contract	Actual (9/03)	Percent Change
							2003	DAO	
							DSL - T & D P rate	As of 9/8/03	
	Crystal River # 4	Powerline Road	Crystal River	34428	Tampa				0.00
	Crystal River # 1&2	Powerline Road	Crystal River	34429	Tampa				0.00
	Crystal River #5	Powerline Road	Crystal River	34430	Tampa				0.00
	Anclote Plant, Holiday, Fl	1729 Bailey's Bluff Rd.	Holiday	34691	Tampa	X			0.00
	Debary, Fl	176 West Highbanks Rd.	Debary	32713	Jacksonville				0.00
	Intercession City, Fl	6525 Osceola-Polk Line Rd.	Intercession City	33848	Tampa				0.00
	Intercession City, Fl	6526 Osceola-Polk Line Rd.	Intercession City	33849	Orlando				0.00
	Turner Plant, Deltona, Fl	201 Debary Rd.	Debary	32725	Jacksonville				0.00
	Suwannee Plant, Live Oak, Fl	Route 8, Box 286	Live Oak	32060	Jacksonville				0.00
	Higgins Plant, Oldsmar, Fl	East Shire Drive	Oldsmar	34677	Tampa	X			0.00
	Avon Park, Fl	14158 S. Islands Avenue	Avon Park	33825	Tampa	X			0.00
	Gainesville, Fl	Mowry Rd. Building 82	Gainesville	32611	Jacksonville				0.00
	Rio Pinar Plant, Orlando, Fl	103 S. Econlockhatchee Trail	Orlando	32806	Tampa	X			0.00
	Rio Pinar Plant, Orlando, Fl	103 S. Econlockhatchee Trail	Orlando	32806	Orlando	X			0.00
	Debary, Fl	176 West Highbanks Rd.	Debary	32713	Tampa				0.00
	Suwannee Plant, Live Oak, Fl	Route 8, Box 286	Live Oak	32060	Bainbridge				0.09
	Turner Plant, Deltona, Fl	201 Debary Rd.	Debary	32725	Tampa				0.00
	Hines Plant, Bartow, Fl	7700 County Road 555 S.	Bartow	33830	Tampa	X			0.00
	Turner Plant, Deltona, Fl	201 Debary Rd.	Debary	32725	Orlando				0.00
	Debary, Fl	176 West Highbanks Rd.	Debary	32713	Orlando				0.00
	Intercession City, Fl (pipeline)	6525 Osceola-Polk Line Rd.	Intercession City	33848	Pipeline				0.10

482633258 = 8000000000

09/30/2003



Williams, Dale D.

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From: Leibson, Betsy [leibsone@bp.com]  
Sent: Wednesday, September 17, 2003 3:56 PM  
To: Williams, Dale D.  
Subject: FPC #2 Fuel Oil Annual System Requirements Bid Response.



Pricing for 2004 Bid.xls



2004 Bid  
Response.doc



FP Freight Rates Bid  
2004.xls

P. 1



Exhibit A Revised  
BP Platt's USGC Pipeline Average Daily Posting  
Quantity and Pricing Schedule

Buyer:	Florida Power
Contact:	Dale Williams

Seller:
Contact:
Phone:
Fax:

Effective Date:	Jan 1, 2004
Time Period:	1 Year
Total Volume (gals):	

(All volumes are assumed to be delivered RATABLE over the life of the contract unless otherwise specified and agreed by both parties)

Rack Options Products	Annual Volume	Terminal	CITY	Prior Year Adders			Proposed New Adders	Fixed Freight Rate
				2001	2002	2003		
LS# 2 / Dyed								
LS# 2 / Dyed								
HS# 2 / Dyed								
LS# 2 / Dyed								
HS# 2 / Dyed								
HS# 2 / Dyed								
Pipeline Options Products	Annual Volume	Terminal	CITY	Current Bid Increment Adders	Proposed New Bid Increment Adders			Fixed Freight Rate
LS# 2 / Dyed								
HS# 2 / Dyed								

P. 3

BP Oil
Betsy Leibson
1-866-273-4732 Ext. 5054
630-836-6090


Demurrage
Demurrage

1-866-273-4732  
630-836-6090

R2

**ATTACHMENT 1  
ANNUAL SYSTEM REQUIREMENTS  
Florida Power Corporation**

**I. COMPANY INFORMATION**

Seller's Name: BP Products North America, Inc.

Seller's Address: 28100 Torch Parkway, 415 C, Warrenville, IL 60055

Seller's Representative: Betsy Leibson, Phone: 630-836-5054

Location(s):

**II. MISCELLANEOUS INFORMATION**

Utilities supplied over the last three years:

UTILITY	GALLONS	PERIOD
Carolina Power and Light	9,529,047	2002
Florida Power	54,064,167	2002

**III. Proposal:**

[REDACTED]

[REDACTED]

Through a clear understanding build on our prior experience, [REDACTED] can bring resources to Florida Power to work on special projects. to enable Florida Power to obtain delivery of product when desired at the lowest possible cost in a timely fashion(Current project - unattended deliveries at Debary).

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P J

**ATTACHMENT 2A**  
**No. 2 OIL PRICING AND QUALITY**

**Quality**

Our product quality will be the same as it has been for the past several years, it has not changed. However, upon a through review of your specifications by our technical department, I discovered that there are several areas where [REDACTED], nor anyone else that we are aware of, in good faith, would be able to guarantee to meet your specifications 100% of the time. Those areas are:

Carbon Residue on 10% Bottoms Max is .35% not .25

Viscosity @ 100F Min CS is 1.9, not 2.0

Dupont Stability maximum: 7 maximum, not 6

Additionally, we, nor anyone else that we are aware of, is able to guarantee maximum levels of:

Vanadium  
Sodium + Potassium  
Calcium  
Lead

All other specifications we will meet and guarantee.

**ATTACHMENT 3  
ANNUAL SYSTME REQUIREMENTS  
PROPOSAL LETTER**

Date: September 17, 2003

Dear Mr. Williams:

The undersigned, having read and examined the Request for Proposal ("RFP") and the RFP Guidelines for No. 2 Oil Supply Requirements for Florida Power Corporation Annual System Requirements proposes to furnish No. 2 oil and transportation of this product and provide the services set forth in this RFP.

The undersigned hereby declares that the submitted list states any and all variations from and exceptions to the requirements of the RFP and that, unless otherwise stated, it is the intent of this bid that this offering will be in strict accordance with the requirements of the RFP and its related documentation, including the provisions of any resulting contract.

Undersigned has completed, signed and is forwarding/has forwarded Attachments 1,2,3 **(please list all attachments included in your bid package)** which are incorporated and made a part of this bid.

This bid includes all taxes and fees, which might be lawfully assessed against the Bidder of the No. 2 oil on the date of this Proposal.

This bid and all attachments thereto shall be valid until October 31, 2003 (at least October 31, 2003) and is not conditioned upon "subject to prior sale."

The Undersigned hereby declares that the persons or firms interested in the bid as principal or principals are named herein, and that no other persons or firms other than herein mentioned have any interest in this Proposal or in the contract to be entered into; that this bid is made without consultation with any other person, company, or parties likewise submitting a bid; and that the bid(s) are in all respects for and in good faith, without collusion or fraud. Undersigned also acknowledges that there are no claims for reimbursement of any costs or expenses incurred as a result of or in connection with the preparation of this bid, regardless of whether or not a resulting contract is awarded to Undersigned, and that this bid constitutes an offer as herein provided and is not binding

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upon Buyer until and unless a resulting contract is fully executed by both parties.

The undersigned also declares that the Bidder(s) is willing and able to enter into negotiations with FPC for a No. 2 oil supply contract.

Dated at 1 .pm cst this 17th day of September, 2003.

America Inc. Bidder: BP Products North

By Betsy Leibson

Title: Strategic Account Sales

Business Address of Bidder BP Products North America Inc.  
28100 Torch Parkway, 415 C  
Warrenville, IL 60555

Address of Principal Office Same

Name and Address of Bidder's  
Parent Company (If Applicable) Same

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September 17, 2003

Dear Prospective Bidder:

**REQUEST FOR PROPOSAL FOR NO. 2 OIL SUPPLY  
ANNUAL SYSTEM REQUIREMENTS**

**Bid Deadline: September 17, 2003  
5:00 pm EDT**

Florida Power Corporation dba Progress Energy Florida (FPC) hereby solicits the following Request for Proposals (RFP) for the purchase of No. 2 oil.. Bidder may propose No. 2 oil in the specified quality and quantity with deliveries scheduled to begin January 1, 2004. Bidder may also include multiple proposals or proposals for a portion of FPC's requirements if desired.

All proposals will generally be evaluated in accordance with the following items:

- A. **Proposals are due no later than 5:00 p.m. Eastern Time, September 17, 2003.** Bidders must complete the appropriate attachments in order for their offer to be considered by FPC. **Proposals must be returned to the following e-mail address: dale.williams@pgnmail.com. Please put the following in the subject line of your bid response "FPC #2 fuel oil Annual System Requirements Bid Response."** Bid packages e-mailed to any other e-mail address will be not be considered. **If you do not have access to e-mail, please mail your response via U.S. mail to the following address: Progress Energy, Attn: Dale Williams PEB10, 410 South Wilmington Street, P.O. Box 1551, Raleigh, NC, 27602. Please mark any mailed responses "FPC#2 fuel oil Annual System Requirements Bid Response."** Proposals must remain open until October 31, 2003 to permit comprehensive evaluation and may not be withdrawn for any reason during this period. **Late proposals will not be considered.** FPC's acceptance may be communicated by phone, followed by a written acceptance subject to management approval and negotiation of a mutually acceptable contract.
- B. Price fixing method to be included in bid.
- C. Approximate quantity and delivery locations to be specified.
- D. Proposals will be evaluated on the basis of, including, but not limited to, delivered evaluated cost, payment terms, operating costs and handling impacts(if any), Bidder's capability and flexibility in meeting FPC's delivery requirements and meeting other preferences and requirements, logistical arrangements, etc.

The attachments to this letter contain guidelines and information, which Bidders must incorporate in their response as appropriate to their capabilities. Bidders must fully complete Attachment 1,2A-2L, and 3 as applicable in order to be considered by FPC.

FPC reserves the right to waive informal technicalities or irregularities, to reject any and all proposals for any reason, and/or to accept or reject any proposal or proposals that in FPC's sole judgment are in the best interest of FPC. No report of the bids will be made by FPC.

If you choose not to submit a proposal and would like to remain on the Bidder's list for term proposals, please complete the attached Attachment 4 and return it on or before the bid due date.

Sincerely,

Dale Williams  
Regulated Commercial Operations  
Florida Power Corporation

Attachments

**Florida Power Corporation  
REQUEST FOR PROPOSAL  
NO. 2 OIL SUPPLY REQUIREMENTS GUIDELINES**

Scope of Request for Proposal:

- FPC is soliciting bid proposals for No. 2 fuel oil and the transportation of this product for use at its facilities throughout Florida.

Term:

- The minimum term of this bid shall be from January 1, 2004- December 31, 2004.

Bid Submission:

- All bid proposals shall be received no later than 5:00 p.m. (EST) September 17, 2003. Bids received after the deadline will not be accepted.

- If e-mailed, bid responses should be sent to the following address:  
[dale.williams@pgnmail.com](mailto:dale.williams@pgnmail.com)

Please put the following in the subject line of your e-mailed bid response:  
"FPC #2 fuel oil Annual System Requirements Bid Response"

- If mailed via U.S. Postal Service, bid responses should be addressed as follows:  
Progress Energy  
411 Fayetteville Street  
P.O. Box 1551 (PEB 10)  
Attn: Dale Williams  
Raleigh, North Carolina 27602

- Each Bidder must submit via USPS mail at least one copy of Attachments 1, 2A-2L and 3 as applicable (please do not mail the entire bid package along with the attachments!) with an authorized signature, full business address and other relevant information. No bids will be awarded without at least one mailed copy with original signatures of Attachments 1, 2A-2L, and 3 as applicable. These attachments must be submitted via USPS mail regardless of the method of bid submission utilized (e-mail or U.S. Postal Service). This mailed copy of the bid proposal acknowledges that the information contained in the bid submitted by you and your company is correct, factual, and is fully authorized by the appropriate person(s). **In addition, it is retained for internal auditing purpose.** Bid proposals should be signed in the official name of the corporation, followed by an authorized signature. The names of all persons signing should also be typed or printed below the signature. If Bidder does not own or control the No. 2 oil offered, Bidder must attach a letter from the oil supplier, signed by a duly authorized officer, stating that the Bidder has the exclusive right to offer this oil.

- FPC will retain in confidence all bids and other information received pursuant to this RFP to the extent allowed by law. FPC reserves the right to disclose such information, bids or draft contracts to consultants it may retain to assist in the RFP evaluation and contract effort, or when so requested by a court or governmental agency.
- Bidder shall be responsible for the completeness and accuracy of all the information contained or used in preparation of the bid, and for supplying all necessary supporting information.
- Bids should be complete, clear, and specific. To allow sufficient evaluation time, each bid, and any quoted prices, should be valid through October 31, 2003, and may not be conditioned upon "subject to prior sale." Bids selected for further evaluation should remain valid through the final negotiation process.
- The following attachments include provisions for bids to be completed with information regarding specifications, and other pertinent contractual, administrative and operational data. A cover letter is also included which, when signed by the Bidder and forwarded to FPC along with the below listed attachments, will constitute Bidder's proposal. It is, therefore, important that Bidder sign the letter and the attachments as hereafter provided.  
**PLEASE SUBMIT THE FOLLOWING; AS APPLICABLE:**

- **Attachment 1 - NO. 2 OIL SELLER'S INFORMATION** - Complete and return via e-mail along with one authorized copy via USPS mail.
- **Attachment 2A-2L - NO. 2 OIL PRICING AND QUALITY** - Complete and return via e-mail along with one authorized copy via USPS mail.
- **Attachment 3 - LETTER ENCLOSING PROPOSAL** – Complete and return via e-mail along with one authorized and signed original via USPS mail.
- **Attachment 4 - NO BID LETTER** - If there is no bid, please complete, sign and return the NO BID LETTER ONLY via e-mail along with one signed original via USPS mail.

p. 6

Quality:

All supplies are for power generation and unless otherwise specified should be dyed red for off road use. Most locations require 0.5% Sulfur maximum. Deviations from this are noted in the attached specifications.

Pricing:

➤ Prices should be bid as follows:

- 1) FPC price at the shipping point in cents per net gallon with the shipping point (terminal or terminals) specified and index(s) to be used;
- 2) Transportation charges in cents per net gallon from shipping point to the applicable location.

Transportation:

➤ The Seller of the fuel oil must arrange transportation for No. 2 oil deliveries. Delivery of No. 2 oil will be by barge, pipeline or truck depending on delivery location.

Payment:

➤ Bidder should specify the terms for payment for No. 2 oil and transportation charges incurred delivering No. 2 fuel oil. FPC's normal payment terms are 15 days from receipt of invoice and supporting documentation. FPC may elect to pay for deliveries based on Bill of Lading for truck delivery locations. Discounts for prompt payment will be considered and evaluated. Payment for both fuel oil and transportation will be based on net gallons @ 60 degrees Fahrenheit.

Evaluation and Award:

- All bids meeting the requirement of this RFP will be reviewed and evaluated by FPC. FPC reserves the right to utilize outside consulting assistance in its evaluation.
- All bids will be evaluated based on the proposal submitted and the lowest evaluated delivered cost per gallon to the various FPC sites detailed in this RFP.
- FPC reserves the right to waive technicalities or irregularities; to reject any or all bids; and/or to accept any bid which in FPC's sole judgment is in its best interest.
- FPC reserves the right to modify or withdraw this RFP, to reject any or all bids, and to terminate any subsequent discussions at any time prior to contract award. FPC also reserves the right to accept one or more bids for a portion of or all of the quantities of No. 2 oil it may require as a result of this RFP.

**ATTACHMENT 1  
ANNUAL SYSTEM REQUIREMENTS  
Florida Power Corporation**

**I. COMPANY INFORMATION**

Seller's Name Colonial Oil Industries, Inc.

Seller's Address 1301 Riverplace Blvd. Suite 2646 Jacksonville, FL 32207

Seller's Representative Robert A. Bosman Phone # 904-396-1388

Location(s): Jacksonville, FL

**II. MISCELLANEOUS INFORMATION**

Utilities supplied over the last three years:

UTILITY	GALLONS	PERIOD
<u>Progress Energy</u>	[REDACTED]	10/02-8/03
<u>Gainesville Regional Utility</u>	[REDACTED]	10/02-8/03

1  
2

**III. Proposal**

Location: Suwannee Plant

Estimated Quantity: [REDACTED]

3

Term: January 1, 2004 – December 31, 2004

Payment terms: [REDACTED] from receipt of invoice

4

Quality: per "Florida Power Corporation Procurement Specifications - #2 Fuel Oil", with the exception of DuPont Stability Maximum of 7.

p. 6



Bid validity: through October 31,2003

ATTACHMENT 2A  
No. 2 OIL PRICING AND QUALITY

No. 2 OIL PRICING

[REDACTED]	1
[REDACTED]	2
[REDACTED]	3

**FLORIDA POWER CORPORATION PROCUREMENT SPECIFICATIONS**

**#2 FUEL OIL<sup>1</sup>**

METHOD		ASTM TEST
Flash Point Minimum	140° F or legal	D-93
Pour Point Maximum	20° F	D-97
Water & Sediment % Volume Maximum	0.05%	D-96/D1796
Carbon Residue on 10% Bottoms Max.	0.25%	D-189/D-4530
Distillation Points 90% Min. Max.	540° F 650° F	D-66
Viscosity @ 100° F Min. CS Max.	2.0 3.6	D-445
Ash Weight % Maximum	0.01	D-482
Gravity Minimum API	30	D-287/D-1298
Sulfur Weight % Maximum <sup>2</sup>	0.5	D-1552/
Vanadium Maximum PPM	1.5	D-3605
Sodium + Potassium PPM Maximum	2	D-3605
Calcium PPM Maximum	4	D-3605
Lead PPM Maximum	1	D-3605
BTU/Gallon Minimum <sup>3</sup>	137,000	D-240
DuPont Stability Maximum	5 maximum	N/A
Oxidation Stability mg/100 ml Max.	2.5	D-2274

1

Intercession City has a max. percent by weight Sulfur of two-tenths of one percent (0.2%).  
 Debary has an annual weighted average max. percent by weight Sulfur of three-tenths of one percent (0.3%).  
 Hines and University of Florida has a max. percent by weight Sulfur of five-hundredths of one percent (0.05%). Hines requires Jet Fuel and University of Florida requires Low Sulfur Diesel.

2

BTU/Gallon minimum is based on Higher Heating Value (HHV).  
 Lower Heating Values (LHV) ASTM Test Method D-240 and nitrogen ASTM Test Method D-4629 shall be reported for Debary and Intercession City deliveries. There is no minimum or maximum guarantee for these two (2) sites.

04

**Attachment 2B**  
**PLANT LOCATIONS/DELIVERY POINTS**

<b>ANCLOTE POWER PLANT</b> 1729 Bailey's Bluff Road Holiday, FL 34691	#2 Fuel Oil, 0.5% max. sulfur is received by truck(with pump). The plant is located near Tarpon Springs, Florida. Normal delivery size is 7,500 gallons.  20,843 bbls in 2000, 7,452 bbls in 2001 & 7,091 bbls in 2002															
<b>AVON PARK PLANT</b> 1415 S. Islands Avenue Avon Park, FL 33825	#2 Fuel Oil 0.5% max. sulfur is received by truck(with pump). Normal delivery size is 7,500 gallons. 25,195 bbls in 2000, 13,522 bbls in 2001 & 17,993 bbls in 2002															
<b>P. L. BARTOW PLANT</b> Weedon Island Drive St. Petersburg, FL 33702	Located in northeast St. Petersburg, Florida. The plant receives 0.5% max. sulfur #2 Fuel Oil, and #6 Fuel Oil by barge. Currently #6 oil is received into the South berth and #6 and #2 oil into the North berth. <table><tr><td></td><td><u>North</u></td><td><u>South</u></td></tr><tr><td>Max. vessel length</td><td>675'</td><td>675'</td></tr><tr><td>Max. vessel beam</td><td>50'</td><td>90'</td></tr><tr><td>Bow to manifold</td><td></td><td></td></tr><tr><td>max. distance</td><td>200'</td><td>325'</td></tr></table> Delivery size usually ranges from 50,000 to 120,000 bbls for #6 oil and approx. 10,000 bbls for #2. Consult Tampa Bay Pilots for vessel restrictions. Current Draft limitation is about 30'6". 35,382 bbls in 2000, 64,331 bbls in 2001 & 89,867 bbls in 2002		<u>North</u>	<u>South</u>	Max. vessel length	675'	675'	Max. vessel beam	50'	90'	Bow to manifold			max. distance	200'	325'
	<u>North</u>	<u>South</u>														
Max. vessel length	675'	675'														
Max. vessel beam	50'	90'														
Bow to manifold																
max. distance	200'	325'														
<b>BAYBORO PLANT</b> 1300 Third Street South St. Petersburg, FL 33701	Located near the Port of St. Petersburg. #2 Fuel Oil, 0.5% max. sulfur is received by barge. Delivery size is usually between 9,000 to 10,500 bbls. Draft limitation is 9 feet. Max vessel length is 208 feet. Max. vessel beam is 50 feet. Max. bow to manifold length is 72 feet. Max. manifold height is 12 feet. 292,543 bbls in 2000, 285,763 bbls in 2001 & 181,414 bbls in 2002															
<b>CRYSTAL RIVER COAL PLANTS</b>	Located approximately 5 miles north of Crystal River, Florida, off US 19; #2 Fuel Oil, 0.5% max. sulfur is received by truck. Normal delivery size is 7,500 gallons. 145,640 bbls in 2000, 111,606 bbls in 2001 & 98,477 bbls in 2002															
<b>DEBARY PLANT</b> 176 West Highbanks Road Debary, FL 32713	Located east of Debary, Florida, off Highbanks Road. #2 Fuel Oil is received by truck. Plant must maintain 0.3% max. sulfur tank reading. Usually delivery size is 7,500 gallons.  641,082 bbls in 2000, 402,695 bbls in 2001 & 464,415 bbls in 2002															

East Shore Drive Oldsmar, FL 34677	0.5% max. sulfur is received by truck. Normal delivery size is 7,500 gallons. Converted to #2 oil in 2003 no current history
INTERCESSION CITY PLANT 6525 Osceola-Polk Line Road Intercession City, FL 33848	Intercession City Plant is located near Kissimmee, Florida. This plant receives both 0.05 and 0.5% sulfur #2 Fuel Oil. Plant must maintain a 0.2% max. sulfur tank reading. Deliveries are received via the Centra Florida Pipeline (normal delivery size is 15-45,000 BBLS) and by truck (normal delivery size is 7,500 gallons).  432,172 bbls in 2000, 370,638 bbls in 2001 & 453,128 bbls in 2002
RIO PINAR PLANT 103 So. Econlockhatchee Trail Orlando, FL	Located on the corner of Lake Underhill and Econlockhatchee Trail (nearest town is Union Park). #2 Fuel Oil, 0.5% max. sulfur is received by truck (with pump). Normal delivery is 7,500 gallons. 8,812 bbls in 2000, 7,116 bbls in 2001 & 9,897 bbls in 2002
SUWANNEE PLANT Route 8, Box 286 Live Oak, FL 32060	Located at Ellaville, Florida off US 90, near Live Oak. #2 Fuel Oil, 0.5% max. sulfur and #6 Fuel Oil are received. All #2 Fuel Oil is received by truck with a usual delivery size of 7,500 gallons. 78,373 bbls in 2000, 83,864 bbls in 2001 & 90,113 bbls in 2002
GEORGE T. TURNER PLANT 201 Debarry Avenue Deltona, FL 32725	The plant is less than one mile from highway I-4. #2 Fuel Oil, 0.5% max sulfur is received by truck. Normal delivery size is 7,500 gallons. 133,015 bbls in 2000, 78,179 bbls in 2001 & 129,538 bbls in 2002
UNIVERSITY OF FLORIDA COGENERATION PLANT FLORIDA POWER CORPORATION Building 82 Mowery Road Gainesville, FL 32611	Located in Gainesville, Florida on the University of Florida campus Bldg 82. Receives #2 Fuel Oil, 0.05% max. sulfur and kerosene by truck. Normal delivery is 7,500 gallons.  No history available, normally runs on n.gas.
HINES ENERGY COMPLEX 7700 County Road 555 Bartow, FL 33830	Located near Bartow and Fort Meade. Receives Jet Fuel, .05% max. sulfur undyed by truck. Normal delivery is 7,500 gallons.  No history available, normally runs on n. gas.

**ATTACHMENT 3  
ANNUAL SYSTEM REQUIREMENTS  
PROPOSAL LETTER**

September 17,2003

Dear Mr. Williams:

The undersigned, having read and examined the Request for Proposal ("RFP") and the RFP Guidelines for No. 2 Oil Supply Requirements for Florida Power Corporation Annual System Requirements proposes to furnish No. 2 oil and transportation of this products provide the services set forth in this RFP.

The undersigned hereby declares that the attached list states any and all variations from and exceptions to the requirements of the RFP and that, unless otherwise stated, it is the intent of this bid that this offering will be in strict accordance with the requirements of the RFP and its related documentation, including the provisions of any resulting contract.

Undersigned has completed, signed and is forwarding herewith Attachments 1 through 3 which are incorporated herein and made a part of this bid.

This bid and all attachments thereto shall be valid until October 31,2003 (at least October 31, 2001) and is not conditioned upon "subject to prior sale."

The Undersigned hereby declares that the persons or firms interested in the bid as principal or principals are named herein, and that no other persons or firms other than herein mentioned have any interest in this Proposal or in the contract to be entered into; that this bid is made without consultation with any other person, company, or parties likewise submitting a bid; and that the bid(s) are in all respects for and in good faith, without collusion or fraud. Undersigned also acknowledges that there are no claims for reimbursement of any costs or expenses incurred as a result of or in connection with the preparation of this bid, regardless of whether or not a resulting contract is awarded to Undersigned, and that this bid constitutes an offer as herein provided and is not binding upon Buyer until and unless a resulting contract is fully executed by both parties.

The undersigned also declares that the Bidder(s) is willing and able to enter into negotiations with FPC for a No. 2 oil supply contract.

Dated at Jacksonville,FL this 17<sup>th</sup> day of September, 2003.

Attachments

Bidder \_\_\_\_\_

By \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Robert A. Bosman

Title Marketing Representative \_\_\_\_\_

Business Address of Bidder  
Colonial Oil Industries, Inc.  
1301 Riverplace Blvd. Suite 2646  
Jacksonville, FL 32207 \_\_\_\_\_

Address of Principal Office  
Colonial Oil Industries, Inc.  
101 North Lathrop Avenue  
Savannah, GA 31402 \_\_\_\_\_

Name and Address of Bidder's  
Parent Company (If Applicable)  
Colonial Group, Inc.  
101 North Lathrop Avenue \_\_\_\_\_  
Savannah, GA 31402 \_\_\_\_\_

ATTACHMENT 4

UNABLE TO SUBMIT A BID  
FOR NO. 2 OIL SUPPLY  
ANNUAL SYSTEM REQUIREMENTS

If your firm cannot submit a bid at this time, please provide the information requested below and return to:

Progress Energy Florida  
11 Fayetteville Street  
P.O. Box 1551, PEB 10  
Attn: Dale Williams  
Raleigh, NC 27602

Dear Mr. Williams:

We have received the Request for Proposal for supply of No. 2 oil to FPC, with a deadline for receipt of bid of September 17, 2003.

We wish to remain active on your Bidder's List.

We are unable to submit a bid at this time due to the following reason(s):

Company Name

Contact Name

Contact Title

Address

City, State, Zip Code

Telephone Number

NOTE: If submitting a "NO BID," DO NOT RETURN THE BID PACKAGE. Return this form only.

2.14





September 17, 2003

Progress Energy  
411 Fayetteville Street  
P.O. Box 1551 (PEB10)  
Attn.: Dale Williams  
Raleigh, North Carolina

Subject: FPC # 2 fuel oil Annual System Requirements Bid Response

Dear Mr. Williams:

TransMontaigne Product Services Inc. (TPSI), having read and examined the Request for Proposal ("RFP") and the RFP Guidelines for No. 2 Oil Supply Requirements for Florida Power Corporation's (FPC) Annual System Requirements, proposes to furnish No. 2 oil and transportation services as set forth in this RFP.

The undersigned hereby declares that the attachments state any and all variations from and exceptions to the requirements of the RFP and that, unless otherwise stated, it is the intent of this bid that this offering will be in strict accordance with the requirements of the RFP and its related documentation, including the provisions of any resulting contract.

TPSI has completed, signed and is forwarding herewith Attachments 1, 2A, 2B and this cover letter as attachment 3, which are incorporated herein and made a part of this bid.

This bid and all attachments thereto shall be valid until October 31, 2003 and is not conditioned upon "subject to prior sale".

TPSI hereby declares that the persons or firms interested in the bid as principal or principals are named herein, and that no other persons or firms other than herein mentioned have any interest in this Proposal or in the contract to be entered into; that this bid is made without consultation with any other person, company or parties likewise submitting a bid; and that the bid is in all respects for and in good faith, without collusion or fraud. TPSI also acknowledges that there are no claims for reimbursement of any costs or expenses incurred as a result of or in connection with the preparation of this bid, regardless of whether or not a resulting contract is awarded and that this bid constitutes an offer as herein provided and is not binding upon Buyer until and unless a resulting contract is fully executed by both parties.

TPSI also declares that it is willing and able to enter into negotiations with FPC for a No. 2 oil supply contract.

TransMontaigne Product Services Inc.

By \_\_\_\_\_

Drew McIntosh, Vice President

Address of Principal Office:

PO Box 5660

Denver, CO 80217-5600

Name and Address of Bidders' Parent Company:

TransMontaigne

1670 Broadway, Suite 3100

Denver, CO 80202

8.1



**ATTACHMENT 2A**  
**No. 2 OIL PRICING AND QUALITY**

TransMontaigne Product Services Inc. (TPSI) proposes to sell and deliver to Florida Power Corporations (FPC) plant locations as referenced in attachment 2B and specifically listed below under the following terms and conditions:

Term : Delivery period shall be from January 1, 2004 through December 31, 2004.

Product: As referenced in attachment 2B and herein below.

Payment: [REDACTED] from receipt of invoice, wire transfer.

Pricing: The locations being proposed to supply are listed below. All prices will escalate upward or downward with the corresponding average posting, on date of delivery, as referenced in the [REDACTED] publication for the referenced grade of product plus an adder which includes barge, pipeline or truck transportation to the referenced plants.

<u>Plant Location</u>	<u>OPIS City Daily Rack Average Price</u>	<u>Product</u>	<u>Adder/\$gallon</u>
Avon Park	TAMPA	#2 DF On-Hwy Lo-Sulfur	\$ [REDACTED]
P.L. Bartow	TAMPA	#2 DF On-Hwy Lo-Sulfur	\$ [REDACTED]
Bayboro <i>Barge</i>	TAMPA	#2 DF On-Hwy Lo-Sulfur	\$ [REDACTED]
Crystal River	TAMPA	#2 DF On-Hwy Lo-Sulfur	\$ [REDACTED]
Debary	TAFT / ORLANDO	#2 DF On-Hwy Lo-Sulfur	\$ [REDACTED]
Higgins	TAMPA	#2 DF On-Hwy Lo-Sulfur	\$ [REDACTED]
Intercession City <i>Pipeline</i>	TAMPA	#2 DF On-Hwy Lo-Sulfur	\$ [REDACTED]
Rio Pinar	TAFT / ORLANDO	#2 DF On-Hwy Lo-Sulfur	\$ [REDACTED]
Suwannee	BAINBRIDGE, GA	#2 DF On-Hwy Lo-Sulfur	\$ [REDACTED]
George Turner	TAFT / ORLANDO	#2 DF On-Hwy Lo-Sulfur	\$ [REDACTED]
University of Florida			
Fines	NO BID	NO BID	

The Florida Pollution Taxes and any applicable Federal, State and Local taxes will be billed separately. A pump off charge of \$ [REDACTED] per transport truck load will be charged when applicable.

For example, the delivered price to the Anclothe plant will escalate with the [REDACTED] on date of delivery for Low Sulfur No. 2 diesel fuel plus an adder of \$.0229 per gallon plus any applicable taxes.

[REDACTED] proposal is predicated upon our assumption that we will be supplying all plant locations except Hines in order to take advantage of the economies of scale.

If FPC desires to "piecemeal" award these locations then [REDACTED] will gladly discuss the individual plants and the economic impact to the desired locations.

*Measurement of Quantity:* The quantity of product delivered to each Plant shall be corrected in each instance to volume at 60 degrees F in accordance with Table No. 6B of ASTM-IP Petroleum Measurements Tables, ASTM Designation D-1250, TPSI will provide FPC a delivery ticket per tank truck shipment with the net gallon recorded on the delivery ticket. The quantity of product delivered by barge shall be determined by downgauge of shore tank at load port and also corrected to 60 degrees Fahrenheit in accordance with ASTM Table 6B. Any barge booming is to be coordinated by FPC and for the account of FPC. Quantity measurements by pipeline to Intercession will require further discussion and resolution between both parties.

*Analysis:* A complete typical analysis of the product will be provided to FPC upon request.

*Quality:* [REDACTED] warrants that the product will meet the quality specifications outlined in the Florida Power Corporation Procurement Specifications, #2 Fuel Oil which is attached in the RFP.

*Delivery/Ordering Procedures:* [REDACTED] requires that FPC provide a monthly delivery forecast by the fifteenth of each month for the following months requirements, referencing each location. FPC guarantees to take 75% of the monthly forecast and [REDACTED] guarantees to deliver 125% of the monthly forecast. In addition to the monthly forecast, all orders or nominations require at least 72 hours notice prior to the requested delivery date.

*Invoice:* FPC to advise on invoicing address.



# ATTACHMENT 1 ANNUAL SYSTEM REQUIREMENTS

## I. COMPANY INFORMATION

Seller's Name.....TransMontaigne Product Services Inc.

Mike Piermatteo (941)722-7727

## II. MISCELLANEOUS INFORMATION

Utilities supplied over the last three years:

<u>UTILITY</u>	<u>GALLONS</u>	<u>PERIOD</u>
Florida Power & Light		2003
Tampa Electric		2003
City of Lakeland		2003
Orlando Utilities		2003
Keys Energy Services		2003
Florida Power Corp.		2003

## III. Proposal

See attachment 2A.

P.C

ATTACHMENT 1  
ANNUAL SYSTEM REQUIREMENTS  
Florida Power Corporation

1      COMPANY INFORMATION

Seller's Name      Royal Petroleum, Inc.

Seller's Representative   Arnold E. Seaton   Phone # 321 723-8424

Ft. Lauderdale, FL  
Lake Worth, FL  
Melbourne, FL

11      MISCELLANEOUS INFORMATION

Utilities supplied over the last three years:

UTILITY	PERIOD	
[REDACTED]	1/1/2002 - 8/31/2003	
[REDACTED]	1/1/2002 - 8/31/2003	2
[REDACTED]	1/1/2002 - 8/31/2003	3
[REDACTED]	1/1/2002 - 8/31/2003	4
[REDACTED]	1/1/2002 - 8/31/2003	5

[REDACTED] is pleased to submit our proposal for various Florida Power Corp. d/b/a Progress Energy Florida ((FPC) plants.

For purposes of this bid, [REDACTED] has made arrangements with [REDACTED] to provide [REDACTED] # 2 Fuel Oil at both Tampa and Taft, FL, [REDACTED] A letter from [REDACTED] is attached.

7  
8  
9  
10  
11



Pricing for this bid will fluctuate daily with [REDACTED]  
[REDACTED]. This posting  
is published daily in the [REDACTED] publication and  
is available by subscription. A 2003 daily history of this posting from both

Transportation will be furnished by both common (public) carrier and private  
carrier. We would be happy to furnish a list of these transporters and the  
drivers names for plant security purposes.

[REDACTED]

**TAXES:** Pollution taxes, currently 0.02072 per gallon, are in addition  
to prices quoted.

to conform to Colonial Pipeline Company Grade 75  
Specification for Fungible Fuel Oil - 40 Cetane - see  
attached copy.

**OTHER:** In the unlikely event the [REDACTED] is out  
of service during a required delivery schedule product  
will be made available at [REDACTED] with an appropriate  
adjustment for the additional transportation.

1  
2  
3

1. For reference purposes only: [REDACTED]  
Tampa was [REDACTED] per gallon  
Orlando was [REDACTED] per gallon

7  
8  
9  
10  
11

8.3

through

\_\_\_\_\_ QP

**Melbourne, FL 32901**





































































































[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]



























1

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]











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