Amended and Restated Limited Liability Company Agreement

of

Western Kentucky Coal Resources, LLC

The equity interests represented by units pursuant to this Agreement have not been registered under the United States Securities Act of 1933, as amended (the "1933 Act"), or under any other applicable securities laws. Such units may not be sold, transferred, assigned, pledged or otherwise disposed of at any time without effective registration under the 1933 Act and such laws or exemption therefrom, and compliance with the other restrictions on transferability set forth herein.

TABLE OF CONTENTS

Amended and Restated Limited Liability Company Agreement

This Amended and Restated Limited Liability Company Agreement (this "Agreement") of Western Kentucky Coal Resources, LLC (the "Company"), effective as of February 20, 2018 (the "Effective Date"), is adopted and entered into by and among the Company, the Members (as defined herein) deemed to be parties hereto, Armstrong Energy, Inc., a Delaware corporation ("Armstrong"), and such other Persons (as defined herein) who shall become Members in accordance with the provisions contained herein.

Recitals

A. WHEREAS, the Company was formed as a Delaware limited liability company on February 2, 2018 by the filing of a Certificate of Formation (as in effect from time to time, the "Certificate of Formation") with the Secretary of State of the State of Delaware;

B. WHEREAS, the initial Limited Liability Company Agreement of the Company dated as of February 2, 2018 (the "Initial LLC Agreement") was entered into with Armstrong, as the initial member of the Company;

C. WHEREAS, in connection with the closing of the transactions contemplated by the Transaction Agreement (as defined herein) and the Plan, on the Effective Date, Armstrong distributed to the Noteholders (as defined in the Transaction Agreement) 100% of the Class B Common Units and Preferred Units with an aggregate Liquidation Value (as defined herein) of $10,000,000 and immediately thereafter the Company issued to Operator Class A Common Units in exchange for Operator's performance of its payment obligations under the Transaction Agreement;

D. WHEREAS, pursuant to the Plan, as of the Effective Date, each Noteholder is to become a member of the Company and is automatically deemed to have accepted the terms of this Agreement (in its capacity as a Member of the Company) and to be a party hereto as a Member without any further action and as if, and with the same effect as if, such Noteholder had delivered a duly executed counterpart signature page to this Agreement; and

E. WHEREAS, Armstrong, as the withdrawing member, the Members (as defined herein) party hereto and the Company desire to amend and restate the Initial LLC Agreement by entering into this Agreement, which supersedes and replaces the Initial LLC Agreement in its entirety and provides for the management of the Company and such other matters as are more fully set forth in this Agreement.

Agreements

NOW, THEREFORE, in consideration of the mutual agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE I
Definitions

1.01 Certain Definitions. For purposes of this Agreement, the following terms shall have the meanings set forth below:

"Act" has the meaning given to it in Section 2.01.

"Adjusted Capital Account Deficit" means, with respect to any Member, the deficit balance, if any, in such Member's Capital Account as of the end of the relevant Fiscal Year, after giving effect to the following adjustments:

(i) Credit to such Capital Account any amounts which such Member is obligated to restore pursuant to any provision of this Agreement or is deemed to be obligated to restore pursuant to the penultimate sentences of Treas. Reg. §§ 1.704-2(g)(1) and 1.704-2(i)(5); and

(ii) Debit to such Capital Account the items described in Treas. Reg. §§ 1.704-1(b)(2)(ii)(d)(4), through 1.704-1(b)(2)(ii)(d)(6).

The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Treas. Reg. § 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

"Adjustment Year" means any "adjustment year" of the Company as defined in Code Section 6225, as amended by the Revised Partnership Audit Procedures.

"Affiliate" of a Person means any other Person Controlling, Controlled by or under common Control with such Person and any partner of such Person if such Person is a partnership. Notwithstanding the foregoing, an Affiliate of the Company means each of the Company's direct or indirect Subsidiaries, whether or not in existence on the date hereof.

"Agreement" has the meaning given to it in the preamble.

"Annual Business Plan" means a business plan for the Company Group for a fiscal year of the Company, which shall include detailed financial projections, a Mine Plan for each mine, a Marketing Plan, and a Capital Budget; *provided*, *however*, that, for purposes of Section 15.14, the "Annual Business Plan" and any amendment thereto shall not include any of the matters set forth in clauses (ii), (iv), (viii), (xi), (xii), (xiv), (xv), (xvi), (xvii), (xviii) or (xix) of Section 7.01(c).

"Approved Business Plan" means an Annual Business Plan and any amendments thereto approved in accordance with the terms of this Agreement.

"Approved Working Capital Facility" means one or more working capital facilities and revolving capital facilities (including swing line subfacilities), which may be secured in whole or part by assets of the Company Group, as approved in the Approved Business Plan and in an aggregate principal amount not to exceed Five Million Dollars ($5,000,000.00).

"Armstrong" has the meaning given to it in the recitals hereto.

"Available Profits" means, at any time of determination in respect of a proposed distribution in respect of Class A Common Units, without duplication of any Available Profits taken into account with respect to any prior distribution in respect of Class A Common Units hereunder, the amount of cumulative net profits of the Company allocated to the Class A Holders in respect of the Class A Common Units, taking into account (a) all cumulative realized gains and losses (for the avoidance of doubt, without taking into account unrealized gains and losses), but only to the extent attributable to increases and decreases in the fair market value of any Company asset after the issuance of the Class A Common Units on the date hereof, and (b) other cumulative income, gain, loss and expense of the Company for the period after the issuance of the Class A Common Units.

"BBA Rules" means Subchapter C of Chapter 63 of the Code (Sections 6221 et seq.), as enacted by the Bipartisan Budget Act of 2015, as amended from time to time, and any Regulations and other guidance promulgated thereunder, and any similar state or local legislation, regulations or guidance.

"Beneficial Owner" means any Person beneficially owning an interest in Units through a Nominee, which interest is credited to the account of the Nominee as the registered holder and Member through the book-entry system maintained by DTC, the Company or its transfer agent.

"Board of Managers" has the meaning given to it in Section 7.01(a).

"Business Opportunity" has the meaning given to it in Section 14.01.

"Capital Account" has the meaning given to it in Section 4.04.

"Capital Budget" means a detailed budget for capital expenditures projected to be made by the Company Group during a fiscal year of the Company.

"Capital Contribution" means a contribution to the capital of the Company, including the purchase price paid to the Company for any Unit and any other contribution made to the Company with respect to any Unit. For these purposes, consistent with the first sentence of Section 4.04(a), the amount of the capital contribution immediately after the issuance of the Common Units and Preferred Units is set forth on Exhibit B, and such amounts shall be treated as "Capital Contributions" for purposes of this Agreement.

"Capital Transaction" means any transaction undertaken by the Company or by an entity in which the Company owns an interest, which, were it to generate proceeds, would produce Net Cash From Refinancings or Net Cash From Sales.

"Certificate of Formation" has the meaning given to it in the recitals.

"Class A Common Unit" means a Unit designated as a Class A Common Unit in the Company, having the rights and obligations specified in this Agreement.

"Class A Holder" means any holder of Class A Common Units, in such holder's capacity as such.

"Class A Manager" has the meaning given to it in Section 7.01(b).

"Class B Common Unit" means a Unit designated as a Class B Common Unit in the Company, having the rights and obligations specified in this Agreement.

"Class B Drag-Along Sale" has the meaning given to it in Section 13.01(a).

"Class B Holder" means any holder of Class B Common Units, in such holder's capacity as such.

"Class B Manager" has the meaning given to it in Section 7.01(b).

"Code" means the Internal Revenue Code of 1986, as amended.

"Common Holder" means any holder of Common Units, in such holder's capacity as such.

"Common Percentage Interest" means, as of any date of determination with respect to any Common Holder, a percentage interest (expressed as a percentage), calculated by dividing (a) the total number of Common Units held by such Common Holder as of such date by (b) the total number of Common Units outstanding as of such date.

"Common Unit" means Class A Common Units and Class B Common Units.

"Company" has the meaning given to it in the preamble.

"Company Group" means the Company and its Subsidiaries.

"Company Minimum Gain" has the meaning given to the term "partnership minimum gain" in Treasury Regulations Section 1.704-2(b)(2) and shall be determined in accordance with Treasury Regulations Section 1.704-2(d).

"Company Tax Liability" shall have the meaning set forth in Section 9.09(d)(i).

"Competitor" means any person or entity, other than the Unit Holders or their respective Affiliates and the Company Group, primarily engaged in, or is an Affiliate of a person or entity primarily engaged in, the business of purchasing, managing, developing or operating coal properties or marketing, selling or purchasing coal.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise.

"Depreciation" means, for each Fiscal Year, an amount equal to the federal income tax depreciation, amortization, or other cost recovery deduction allowable with respect to an asset for such Fiscal Year, except that if the Gross Asset Value of an asset differs from its

adjusted basis for federal income tax purposes at the beginning of such Fiscal Year, Depreciation shall be an amount which bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization, or other cost recovery deduction for such Fiscal Year bears to such beginning adjust tax basis; *provided*, *however*, that if the adjusted basis for federal income tax purposes of an asset at the beginning of such Fiscal Year is zero, Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the Board of Managers.

"Distribution" means any distribution by the Company to any Unit Holder, including distributions payable in cash, property or securities and including by means of distribution, redemption, repurchase or liquidation, except that none of the following shall be a Distribution: (a) any recapitalization or exchange of securities of the Company in which the consideration received with respect to Units is allocated pro rata among the Unit Holders in proportion to the number of Units held by each Unit Holder at the time, (b) any distribution of securities pro rata to the Unit Holders in proportion to the number of Units held by each Unit Holder at the time or (c) any subdivision (by Unit split or otherwise) or any combination (by reverse Unit split or otherwise) of any outstanding Units. The amount of a Member's Capital Contributions in respect of a class or classes of Units shall be reduced (but not below zero) by Distributions pursuant to Sections 5.01(a) or 5.02 (excluding Tax Distributions pursuant to Section 5.05) to such Member in respect of such class or classes.

"Drag-Along Notice" has the meaning given to it in Section 13.01(b).

"Drag-Along Right" has the meaning given to it in Section 13.01(a).

"Dragged Member" has the meaning given to it in Section 13.01(a).

"Dragging Member" has the meaning given to it in Section 13.01(a).

"Event of Withdrawal" means an event that causes a Person to cease to be a Member and to be dissociated from the Company as provided in the Act.

"Excess Portion" has the meaning given to it in Section 13.04(b).

"Excess ROFO Participant" has the meaning given to it in Section 13.04(b).

"Executive" means a person who is or was at any time on or after the date hereof an employee of the Company or any of its Subsidiaries.

"Family Group" shall mean, with respect to any Person, (a) such Person's spouse, former spouse, domestic partner, descendants (whether natural or adopted), parents, siblings and their respective descendants and any spouse or domestic partner of the foregoing Persons (collectively, "relatives"), and (b) any holding company, trust or other estate-planning vehicle owned by or for the benefit of such Person or any Person described in the foregoing clause (a).

"GAAP" means accounting principles generally accepted in the United States from time to time including, where appropriate, auditing standards generally accepted in the United States, including, without limitation, the pronouncements and interpretations of

appropriate accountancy administrative bodies, applied on a consistent basis both as to classification of items and amounts.

"Gains or Losses from Capital Transactions" means the (i) gains or losses realized by the Company as a result of a Capital Transaction, including upon any sale, exchange, condemnation or other disposition of capital assets of the Company or any entity in which the Company shall own an interest (which assets shall include Code Section 1231 assets and all real and personal property) or as a result of or upon the damage to or destruction of such capital assets, such gain or loss to be computed in accordance with clause (d) of the definition of "Net Income and Net Loss" and (ii) gains or losses referred to in clause (c) of the definition of "Net Income and Net Loss."

"Gross Asset Value" means, with respect to any asset, the asset's adjusted basis for federal income tax purposes, except as follows:

(i) The initial Gross Asset Value of any asset contributed by a Member to the Company shall be the gross fair market value of such asset, as determined by the Board of Managers;

(ii) The Gross Asset Values of all Company assets may be adjusted to equal their respective gross fair market values, as determined by the Board of Managers, as of the following times: (a) the acquisition of an additional interest in the Company (other than upon the initial formation of the Company) by any new or existing Member in exchange for more than a de minimis Capital Contribution or in exchange for past or future services to the Company; (b) the distribution by the Company to a Member of more than a de minimis amount of cash or property as consideration for an interest in the Company; and (c) the liquidation of the Company within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g); *provided, however*, that the adjustments pursuant to clauses (a) and (b) above shall be made only if the Board of Managers reasonably determines that such adjustments are necessary or appropriate to reflect the relative economic interests of the Members in the Company;

(iii) The Gross Assets Value of any Company asset distributed to any Member shall be adjusted to equal the gross fair market value of such asset on the date of the distribution as determined by the distributee and the Board of Managers; and

(iv) The Gross Asset Values of Company assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m) and subsection (f) of the definition of "Net Income" and "Net Loss"; *provided, however*, that Gross Asset Values shall not be adjusted pursuant to this subsection (iv) to the extent the Board of Managers determines that an adjustment pursuant to subsection (ii) is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this subsection (iv). If the Gross Asset Value of an asset has been determined or adjusted pursuant to subsection (i), subsection (ii), or subsection (iv), such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to

such asset for purposes of computing Net Income, Gains or Losses from Capital Transactions, or Net Loss.

"Indemnitee" has the meaning given to it in Section 8.02(a).

"Independent Third Party" means any Person who, immediately prior to the contemplated transaction, does not directly or indirectly beneficially own any of the outstanding Units, is not an Affiliate of any such owner and is not a member of the Family Group of any such owner.

"Initial LLC Agreement" has the meaning given to it in the recitals hereto.

"IPO" means the underwritten initial public offering of the Units (or its successor's or a related entity's equity securities) pursuant to an effective registration statement filed with the SEC on Form S-1 (or any successor form adopted by the SEC) after which the Units (or its successor's or a related entity's equity securities) are listed and admitted for trading on the New York Stock Exchange or the NASDAQ Stock Market.

"Liquidation Value" means an amount per Preferred Unit as of any date of determination equal to $10.00.

"Majority of Class Units" means, with respect to any class of Common Units, any individual Member or group of Members holding an aggregate of more than 50% of such class of Common Units held by (a) all Members holding such class of Common Units or (b) in the event that one or more Members is excluded from a vote on a given matter, all Members holding such class of Common Units other than the excluded Member(s).

"Majority of Common Units" means any individual Member or group of Members holding an aggregate of more than 50% of the Common Units held by (a) all Members holding Common Units or (b) in the event that one or Members is excluded from a vote on a given matter, all Members holding Common Units other than the excluded Member(s).

"Management Services Agreement" means that certain Management Services Agreement, dated as of February 20, 2018, by and between the Company (or one or more of its Subsidiaries) and Operator (or one or more of its Affiliates).

"Manager" has the meaning given to it in Section 7.01(b).

"Marketing Plan" means a detailed plan for marketing the coal produced during the following fiscal year of the Company, which includes (a) committed sales, by customer and (b) uncommitted sales, by product.

"Member" means a Unit Holder that has been admitted to the Company as a member in accordance with the provisions hereof.

"Member Loans" has the meaning given to it in Section 4.02.

"Member Nonrecourse Debt" means any Company liability to the extent the liability is nonrecourse for purposes of Treas. Reg. § 1.1001-2, and a Member (or related person within the meaning of Treas. Reg. § 1.752-4(b)) bears the economic risk of loss under the principles of Treas. Reg. § 1.752-2 because, for example, the Member or related person is the creditor or guarantor.

"Member Nonrecourse Debt Minimum Gain" means an amount, with respect to each Member Nonrecourse Debt, equal to the Company Minimum Gain that would result if such Member Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with the principles of Treas. Reg. § 1.704-2(i)(3).

"Member Nonrecourse Deductions" means the items of loss, deduction and expenditure attributable to Member Nonrecourse Debt under in Treas. Reg. §§ 1.704-2(i)(1) and 1.704-2(i)(2).

"Mine Plan" means a detailed plan for mining the coal to be produced by a specified mine during each of the three following fiscal years of the Company.

"Net Cash Flow" means the cash of the Company available for distribution (other than Net Cash From Refinancings and Net Cash From Sales), taking into account the amount of all other expenses and all reserves set aside by the Board of Managers as it shall reasonably determine is necessary or desirable to provide for actual or contingent liabilities, working capital requirements of the Company, and for any other purpose necessary or incidental to the proper management and function of the business of the Company, and decreased by the amount of any repayment of the principal portion of any debt of the Company and capital improvements.

"Net Cash From Refinancings" means (i) the cash realized by the Company from the financing or refinancing of all or any portion of Company assets (other than inventory sold in the ordinary course), less the retirement of any related secured loans, the payment of all expenses relating to the transaction and the establishment of such reasonable reserves as the Board of Managers shall deem prudent or necessary and (ii) the cash realized by the Company from any entity in which the Company owns an interest, from such entity financing or refinancing all or any portion of such entity's assets (other than inventory sold in the ordinary course), less the retirement of any related secured loans by the Company and the payment of all expenses of the Company relating to such transaction.

"Net Cash From Sales" means (i) the cash realized by the Company from the sale, exchange, condemnation, casualty or other disposition of all or any portion of Company assets (other than inventory sold in the ordinary course), less the retirement of any related secured loans, the payment of all expenses relating to the transaction and the establishment of such reasonable reserves as the Board of Managers shall deem prudent or necessary and (ii) the cash realized by the Company from any entity in which the Company owns an interest, from the sale, exchange, condemnation, casualty or other disposition of all or any portion of such entity's assets (other than inventory sold in the ordinary course), less the retirement of any related secured loans by the Company and the payment of all expenses of the Company relating to such transaction.

"Net Income" and "Net Loss" mean, for each fiscal year or other period, an amount equal to the Company's taxable income or loss for such year or period (excluding Gains or Losses from Capital Transactions), determined in accordance with Section 703(a) of the Code (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Section 703(a)(1) of the Code shall be included in consolidated taxable income or loss), with the following adjustments:

(a) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Net Income and Net Losses pursuant to this definition (excluding Gains or Losses from Capital Transactions) shall be added to such taxable income or loss;

(b) Any expenditures of the Company described in Section 705(a)(2)(B) of the Code or treated as Section 705(a)(2)(B) of the Code expenditures pursuant to Treasury Regulations Section1.704-1(b)(2)(iv)(i) shall be subtracted from such consolidated taxable income or loss;

(c) In the event the Gross Asset Value of any Company asset is adjusted pursuant to subsection (ii) or (iv) of the definition of Gross Asset Value, the amount of such adjustment shall be taken into account as gain or loss from the disposition of such asset and, to the extent such gain constitutes Gains or Losses from Capital Transactions, shall be excluded for purposes of computing Net Income and Net Loss;

(d) Gain or loss resulting from the disposition of Company property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Gross Asset Value of the property disposed of, notwithstanding that the adjusted tax basis of such property differs from it Gross Asset Value and any such gain or loss shall be excluded for purposes of computing Net Income and Net Loss;

(e) In lieu of depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such Fiscal Year or other period, computed in accordance with the definition of Depreciation;

(f) To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Code § 734(b) or Code § 743(b) is required pursuant to Treas. Reg. § 1.704-1(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as a result of a distribution other than in liquidation of a Member's interest in the Company, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases basis of the asset) or loss (if the adjustment decreases such basis) from the disposition of such asset and, to the extent any such gain or loss constitutes Gains or Losses from Capital Transactions, shall be excluded for purposes of computing Net Income and Net Loss: and

(g) Notwithstanding any other provision of this definition of Net Income and Net Loss, any items which are specially allocated pursuant to Section 6.03 shall not be taken into account in computing Net Income or Net Loss. The amounts of the items of Company income,

gain, loss or deduction available to be specially allocated pursuant to Section 6.03 shall be determined by applying rules analogous to those set forth in subsections (i) through (vii) above.

"Nominee" means a broker, dealer, commercial bank, trust company or other nominee holding Units for the benefit of a Beneficial Owner.

"Nonrecourse Deductions" means allocations of losses, deductions, or Code § 705(a)(2)(B) expenditures attributed to Company nonrecourse deductions, i.e., deductions for which no Member (or related person within the meaning of Treas. Reg. § 1.752-4(b)) bears the economic risk of loss. It is intended that this definition shall be interpreted consistently with Treas. Reg. § 1.704-2(b)(1).

"Nonrecourse Liability" means any Company liability to the extent that no Member or related person bears the economic risk of loss for such liability under the principles of Treas. Reg. § 1.752-2.

"Operator" means Murray Kentucky Energy, Inc.

"Operator" has the meaning given to it in the recitals hereto.

"Operator Class B Purchase Offer" means an offer by Operator or one of its Affiliates to purchase all, but not less than all, of the Class B Common Units and Preferred Units held by the Class B Holders.

"Partnership Representative" shall have the meaning set forth in Section 9.09(a).

"Pass-Thru Member" shall have the meaning set forth in Section 9.09(d)(ii).

"Permitted Indebtedness" means the Approved Working Capital Facility, capital leases, installment sale contracts or purchase money indebtedness for equipment or items acquired for the operation of the business of the Company Group pursuant to the Approved Business Plan, performance or surety bonds or deposits assuring performance of reclamation liabilities, coal sale contracts or other contracts or agreements of any member of the Company Group and obligations under letters of credit backstopping such surety bonds or deposits, together with replacements or refinancings of any of the foregoing that would itself be "Permitted Indebtedness".

"Permitted Transferee" has the meaning given to it in Section 10.01(c).

"Person" means any natural person, partnership, limited liability company, corporation, cooperative, association, trust or other entity.

"Plan" means the *Debtors' Joint Chapter 11 Plan* [Docket No. 46] (as amended and supplemented from time to time) filed by Armstrong and certain of its affiliates in the jointly administered proceedings styled *In re: Armstrong Energy, Inc., et al.* under chapter 11 of title 11 of the United States Code, 11 U.S.C. § 101 et seq. with the United States Bankruptcy Court for the Eastern District of Missouri, which Plan was confirmed on February 2, 2018.

"Preferred Holder" means any holder of Preferred Units, in such holder's capacity as such.

"Preferred Percentage Interest" means, as of any date of determination with respect to any Preferred Holder, a percentage interest (expressed as a percentage), calculated by dividing (a) the total number of Preferred Units held by such Preferred Holder as of such date by (b) the total number of Preferred Units outstanding as of such date.

"Preferred Unit" means a Unit designated as a Preferred Unit in the Company, having the rights and obligations specified in this Agreement.

"Profits Interest" means an interest in the future profits of the Company satisfying the requirements for a partnership profits interest transferred in connection with the performance of services, as set forth in Internal Revenue Service Revenue Procedures 93-27 and 2001-43, or any future Internal Revenue Service guidance or other authority that supplements or supersedes the foregoing Revenue Procedures.

"Regulations" means the income tax regulations, including any temporary regulations, from time to time promulgated under the Code, as the same may be amended from time to time.

"Regulatory Allocations" shall have the meaning set forth in Section 6.03(g) hereof.

"Reviewed Year" means any "reviewed year" of the Company as defined in Code § 6225, as amended by the Revised Partnership Audit Procedures.

"Reviewed Year Member" means each Person who was a Member during any Reviewed Year whether or not such Person is a Member during the Adjustment Year.

"Revised Partnership Audit Procedures" means Code Sections 6221 through 6241, as amended by the Bipartisan Budget Act of 2015, as such sections may be subsequently amended, and including any Treasury Regulations or other administrative guidance promulgated thereunder.

"ROFO Exercise Notice" has the meaning given to it in Section 13.04(b).

"ROFO Interests" has the meaning given to it in Section 13.04(a).

"ROFO Notice" has the meaning given to it in Section 13.04(a).

"ROFO Option Period" has the meaning given to it in Section 13.04(b).

"ROFO Participant" has the meaning given to it in Section 13.04(a).

"ROFO Purchase Terms" has the meaning given to it in Section 13.04(a).

"ROFO Seller" has the meaning given to it in Section 13.04.

"Sale Notice" has the meaning given to it in Section 13.02(a).

"Sale of the Company" means the sale (in a single transaction or a series of related transactions) to any Independent Third Party or group of Independent Third Parties pursuant to which such Independent Third Party or group of Independent Third Parties will acquire (a) 50% or more of the then outstanding Common Units (whether by merger, consolidation, sale or Transfer of Units, reorganization, recapitalization or otherwise), or (b) all or substantially all of the assets of the Company Group, determined on a consolidated basis.

"Securities Act" means the Securities Act of 1933, as amended.

"Specified Blocker" means each Member that is (a) organized under the laws of the State of Delaware, (b) classified as a corporation for U.S. federal income tax purposes, (c) has never held any material assets other than Units or cash and (d) as of immediately before the Sale of the Company, (i) has (or will have) no outstanding indebtedness and (ii) holds (or will hold) Units entitled to at least 1% of the proceeds from any such Sale of the Company.

"Subsidiary" means any Person of which the Company owns securities having a majority of the voting power in electing the board of directors (or comparable body) directly or through one or more Subsidiaries or, in the case of any limited liability company, partnership, limited liability partnership or other similar entity, securities conveying, directly or indirectly, a majority of the economic interests in such entity.

"Tax Advance" has the meaning given to it in Section 5.05(a).

"Tax Matters Member" shall have the meaning set forth in Section 9.09(a).

"Tax Proceeding" shall have the meaning set forth in Section 9.09(b)(ii).

"Tax Representative" shall have the meaning set forth in Section 9.09(a).

"Transaction Agreement" means that certain Transaction Agreement, dated as of January 23, 2018, by and among Armstrong, the subsidiaries of Armstrong listed on Schedule 1 thereto, the Noteholders party thereto and Operator.

"Transfer" means any transfer, sale, assignment, pledge, lien, encumbrance or other disposition of any kind (including any of the foregoing that are effected or incurred by gift, for consideration, voluntarily, involuntarily, for collateral purposes, upon foreclosure, in a judicial sale, incident to divorce, during lifetime, upon death, by operation of law or otherwise). Transfer includes making a spouse the sole holder of record of securities where (before doing so) that spouse is not the holder of record of the securities but has an undivided community property interest in them. A Transfer of a security also includes any swap or other transaction (including a short sale covered by that security) that transfers all or part of the economic consequence of ownership (or any other incident of ownership) of that security. Transfer does not, however, include a sale or exchange of any security occurring in and solely by virtue of a merger or consolidation to which the Company is a constituent party.

"Transferring Holder" has the meaning given to it in Section 13.02(a).

"Treasury Regulations" means the income tax regulations, including temporary regulations, promulgated under the Code, as such regulations are amended from time to time.

"Unit" means (a) a unit of limited liability company interest in the Company (it being understood that all of the limited liability company interests in the Company are represented by Units) and (b) any securities issued or issuable with respect thereto (including securities issued or issuable pursuant to a distribution, split, reclassification or like action, or pursuant to a merger or exchange, and including stock of any corporate successor of the Company).

"Unit Holder" means an owner of one or more issued and outstanding Units, who may or may not also be a Member.

ARTICLE II
Organizational Matters

2.01 Legal Status. The Company is a limited liability company organized and existing under the Delaware Limited Liability Company Act, as amended from time to time (the "Act"). The Company shall be governed by the Act.

2.02 Name. The name of the Company is "Western Kentucky Coal Resources, LLC".

2.03 Purpose. The purpose of the Company is to engage in any lawful act or activity for which limited liability companies may be organized under the Act.

2.04 Term. The term of the Company commenced on the date specified in the Certificate of Formation filed with the Office of the Secretary of State of the State of Delaware and shall continue until the Company is dissolved pursuant to Article XI.

ARTICLE III
Members and Units

3.01 Admission; Ownership of Units.

(a) On the Effective Date and pursuant to the Plan, each of the Noteholders has exchanged, or is deemed to have exchanged, directly or indirectly, such Noteholder's Allowed Senior Notes Secured Claims (as defined in the Plan) for newly authorized and issued Units, which are registered in the name of such Noteholder or its Nominee. Such exchange shall be deemed Capital Contributions to the Company. Pursuant to the Plan, each Noteholder (including any Beneficial Owner holding through a Nominee) is automatically deemed to have accepted the terms of this Agreement (in its capacity as a Member of the Company) and is automatically deemed to be a party hereto as a Member as if, and with the same effect as if, such Noteholder (including any Beneficial Owner holding through a Nominee) had delivered a duly executed counterpart signature page to this Agreement, in each case, without any further action by any party. Notwithstanding anything to the contrary contained herein, no further approval of the Board of Managers, any Member or any other Person shall be required with respect to the foregoing. All Units to be delivered under the Plan shall be registered in the

name of the Noteholder or the Nominee that acted as the participant of The Depository Trust Company for the Claims (as defined in the Plan) giving rise to the right to receive such Units and such Nominees receiving such Units shall be deemed to be bound by the terms of this Agreement as if an original party hereto.

(b) The Persons who have been admitted as Members, and own the number and class of Units, as of the Effective Date, as are set forth on Exhibit A. The Company may update Exhibit A (without the consent of any Member) from time to time to reflect any change in ownership of Units permitted under this Agreement, including any permitted change as a result of any Transfer or issuance of Units.

3.02 Units. The limited liability company interests in the Company shall be represented by Units. The capital structure of the Company shall initially consist of Preferred Units and Common Units, which may be divided into one or more types or issued in one or more classes, series or subseries, in each case having such rights, powers, preferences, limitations and restrictions as may be determined by the Board of Managers (subject to the approval of the Class B Holders) and set forth in this Agreement.

3.03 Additional Units. Subject to Section 13.03, the Company may from time to time issue additional Units to those Persons as the Board of Managers shall determine for such consideration as shall be determined by the Board of Managers. The Company shall admit as Members those Persons to whom such additional Units are issued.

3.04 Conversion of Class B Common Units. Class B Common Units shall automatically, and without any action by the Board of Managers or any Member or Unit Holder, convert to Class A Common Units in the following circumstances:

(a) Immediately upon the Transfer of any Class B Common Units to Operator or one or more of its Affiliates or pursuant to Section 13.02, each such Transferred Class B Common Unit shall convert into one Class A Common Unit. Thereafter, the Company shall update Exhibit A to reflect such change in ownership of Units.

(b) Immediately upon the percentage of outstanding Class B Common Units constituting less than 10% of the total outstanding Common Units, each outstanding Class B Common Unit shall convert into one Class A Common Unit. Thereafter, the Company shall update Exhibit A to reflect such change in ownership of Units. For the avoidance of doubt, upon the conversion of each outstanding Class B Common Unit into one Class A Common Unit pursuant to this Section 3.04(b), any requirement to receive the approval or consent under this Agreement from the Class B Holders as a class shall forthwith be null and void.

3.05 Withdrawal of the Initial Member. Upon the execution of this Agreement by Armstrong, as the initial Member, with effect from the Effective Date, Armstrong shall be deemed to have withdrawn from the Company, have received the return of its capital contributions, if any, and will have no further interest in the Company or owe any obligation to the Company or the Members under the Initial LLC Agreement or this Agreement.

ARTICLE IV
Capital Contributions

4.01 Capital Contributions. No Member or Unit Holder shall be required to make any additional Capital Contribution. Except with the approval of the Board of Managers and subject to compliance with Section 13.03, no Member or Unit Holder shall be permitted to make any Capital Contribution to the Company after the effective date of this Agreement.

4.02 Loans. Subject to Section 7.01 and Section 7.04, any Member or Unit Holder may make loans to the Company ("Member Loans"), *provided* that such terms must be commercially reasonable and, taken as a whole, no less favorable to the Company than the terms that the Company would be able to obtain with respect to a loan negotiated on an arm's-length basis with an unaffiliated third party lender. Notwithstanding the foregoing, Class B Holder consent pursuant to Section 7.04 shall not be required with respect to the entry into an Approved Working Capital Facility with Operator or one of its Affiliates so long as such Approved Working Capital Facility is (a) approved by the Board of Managers and (b) on terms that are commercially reasonable and, taken as a whole, no less favorable to the Company than the terms that the Company would be able to obtain with respect to a loan negotiated on an arm's-length basis with an unaffiliated third party lender.

4.03 Return of Contributions; Interest. No Member or Unit Holder shall have a separate right to receive a return of such Member's or Unit Holder's Capital Contributions or to receive interest thereon, but shall have such distribution rights as are provided herein.

4.04 Capital Accounts. A capital account ("Capital Account") shall be established and maintained for each Unit Holder in accordance with the following provisions:

(a) On the effective date of this Agreement, the Capital Account of each Unit Holder shall be the amount shown on Exhibit A. Thereafter, to each Unit Holder's Capital Account shall be credited (i) the Capital Contributions of such Unit Holder, (ii) allocations to such Unit Holder of Net Income and Gains from Capital Transactions, (iii) any items of income or gain that are specially allocated to a Unit Holder pursuant to Article VI (other than allocations required by Section 704(c) of the Code), and (iv) the amount of any Company liabilities assumed by such Unit Holder or that are secured by any Company property distributed to such Unit Holder.

(b) To each Unit Holder's Capital Account there shall be debited (i) the amount of cash and the Gross Asset Value of any property (other than cash) distributed to such Unit Holder by the Company, (ii) allocations to such Unit Holder of Net Loss and Losses from Capital Transactions, (iii) any items of deduction or loss that are specially allocated to a Unit Holder pursuant to Article VI (other than allocations required by Section 704(c) of the Code) and (iv) the amount of any liabilities of such Unit Holder assumed by the Company or that are secured by property contributed to the Company by such Unit Holder.

(c) If Gross Asset Values of Company property are adjusted upon the occurrence of certain events in accordance with this Agreement, the Tax Representative shall adjust the Capital Accounts of each Unit Holder to reflect such revaluation on the Company's

books. The Capital Accounts shall be adjusted to reflect the manner in which the unrealized income, gain, loss or deduction inherent in such property would be allocated among the Unit Holders pursuant to the terms of this Agreement if there were a taxable disposition of such property for such Gross Asset Value on that date. Furthermore, the Tax Representative, in a manner consistent with Treasury Regulations Section 1.704-1(b)(2)(iv)(g), shall adjust the Capital Accounts as necessary to reflect any items of Net Income or Net Loss that are computed based on the Gross Asset Value of the Company property.

(d) In the event Units in the Company are transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent it relates to the transferred Units.

(e) The foregoing provisions of this Section 4.04 and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Treasury Regulations Sections 1.704-1(b) and 1.704-2, and shall be interpreted and applied in a manner consistent with such Treasury Regulations. In the event it is determined by the Board of Managers that it is prudent or advisable to modify the manner in which the Capital Accounts, or any increases or decreases thereto, are computed in order to comply with such Treasury Regulations, the Tax Representative may cause such modification to be made, *provided* that it is not likely to have a material effect on the amounts distributable to any Member upon the dissolution of the Company, and the Tax Representative, upon any such determination by the Board of Managers, is empowered to amend or modify this Agreement, notwithstanding any other provision of this Agreement.

ARTICLE V
Distributions

5.01 Net Cash Flow. Subject to Sections 5.03 through 5.06 and Article XI, Distributions of Net Cash Flow shall be made to the Unit Holders in the following order of priority.

(a) First, until each Preferred Holder has received cumulative Distributions pursuant to this Section 5.01(a) equal to the aggregate Liquidation Value for such Preferred Units, (i) 12% of the Distribution to the Preferred Holders, pro rata based on their respective Preferred Percentage Interests, and (ii) 88% to the Common Holders, pro rata based on their respective Common Percentage Interests;

(b) Second, 100% of the Distributions to the Class A Holders until the Class A Holders have received Distributions (including with respect to their Preferred Units, if any) pursuant to this Section 5.01 and/or Section 5.02 that, in the aggregate, equal an amount which is equal to 51% of the total amount of all Distributions made to all Members pursuant to this Section 5.01 and/or Section 5.02; and

(c) Thereafter, to the Common Holders, pro rata based on their respective Common Percentage Interests.

5.02 Net Cash From Refinancings and Net Cash From Sales. Subject to Sections 5.03 through 5.06 and Article XI, Distributions of Net Cash From Refinancings and Net Cash From Sales shall be shall be made to the Unit Holders in the following order of priority:

(a) First, to the Preferred Holders, pro rata based on their respective Preferred Percentage Interests, until each Preferred Holder has received cumulative Distributions pursuant to Section 5.01(a), Section 5.01(c) and this Section 5.02(a) equal to the aggregate Liquidation Value for such Preferred Units;

(b) Second, to the Class A Holders, pro rata in accordance with their respective number of Class A Common Units, until the Class A Holders have received Distributions (including with respect to their Preferred Units, if any) pursuant to Section 5.01 and/or this Section 5.02 that, in the aggregate, equal an amount which is equal to 51% of the aggregate amount distributed to all Unit Holders pursuant to Section 5.01 and/or this Section 5.02 (*provided*, that in connection with any redemption of Units by the Company, or any other similar transaction affecting the relative numbers of Class A Common Units and Class B Common Units, the Board of Managers shall be permitted to make equitable adjustments to this Section 5.02(b) in good faith to preserve the Members' intended economic arrangements); and

(c) Thereafter, to the Common Holders, pro rata based on their respective Common Percentage Interests.

5.03 Timing of Distributions. Subject to Section 5.04 and applicable law, including Section 18-607 of the Act, the Board of Managers shall determine whether, when and to what extent Distributions shall be made. Distributions made within 90 days following the close of the Company's fiscal year may be designated by the Board of Managers as being in respect of such fiscal year.

5.04 Distributions in Kind. Subject to applicable law, distributions of property other than cash may be made in accordance with this Article V in the discretion of the Board of Managers. Distributions of property shall be valued at the fair market value of the net equity therein, as determined by the Board of Managers in good faith.

5.05 Tax Distributions.

(a) Notwithstanding anything to the contrary herein, but subject to applicable law, with respect to each fiscal year, to the extent that the Company has cash available after the payment of its operating expenses and the establishment of adequate reserves without additional borrowing as determined by the Company in good faith, the Company shall make a cash advance (a "Tax Advance") at least annually (or at such other times as are appropriate for the Unit Holders to make estimated tax payments) to each Unit Holder in an amount equal to the excess (if any) of (i) an amount sufficient to enable such Unit Holder to pay its U.S. Federal and applicable state and local income taxes attributable to its Units with respect to such fiscal year (assuming that (A) each Unit Holder were subject to tax at the highest combined U.S. Federal, state and local income tax rate (taking into account (x) the deductibility of state and local income taxes for U.S. Federal income tax purposes and any limitations thereon, (y) the character of any tax items recognized by the Company and (z) any alternative minimum tax), (B) each Unit

Holder recognized no tax items other than those attributable to its Units and (C) each Unit Holder were either (I) an individual resident in New York, New York or (II) a corporation, whichever results in a higher tax) over (ii) the amount of Distributions previously made to such Unit Holder with respect to such fiscal year.

(b) All Tax Advances made on behalf of a Unit Holder shall be repaid to the Company by reducing the amount of the next succeeding distribution or distributions that would otherwise have been made to such Unit Holder pursuant to Section 5.02, or if such distributions are not sufficient for that purpose, by so reducing the proceeds of liquidation otherwise payable to such Unit Holder. To the extent that an amount otherwise distributable to a Unit Holder is so applied, it shall be treated for all purposes hereof (other than for purposes of determining the amounts of Tax Advances pursuant to Section 5.05(a)) as if such amount had actually been distributed to such Unit Holder pursuant to Section 5.02.

5.06 Withholding. If the Company is required to withhold any portion of any amounts distributed, allocated or otherwise attributable to a Member by applicable U.S. Federal, state, local or foreign tax laws, the Company may withhold such amounts and make such payments to taxing authorities as are necessary to ensure compliance with such tax laws. Any funds withheld by reason of this Section 5.06 shall nonetheless be deemed distributed to such Member in question for purposes of this Section 5.06. If the Company does not withhold from actual distributions any amounts it was required to withhold by applicable tax laws, the Company may, at its option, (i) require the Member to which the withholding was credited to reimburse the Company for withholding required by such laws, or (ii) reduce any subsequent distributions to such Member by such withholding, interest, penalties or additions thereto; *provided* that unless both Managers agree otherwise, the Company shall choose the same option for all Members. The obligation of a Member to reimburse the Company for such amounts shall continue after such Member transfers or liquidates its interest in the Company. Each Member agrees to furnish the Company with any representations and forms as shall reasonably be requested by the Company to assist in determining the extent of, and in fulfilling, any withholding obligations it may have.

ARTICLE VI
Allocations and Other Matters

6.01 Allocations of Net Income and Net Loss. After making any allocations as may be required by Section 6.02, Net Income and Net Loss of the Company shall be allocated among the Unit Holders as follows:

(a) Net Income. For each Fiscal Year, Net Income shall be allocated among the Members in the following order of priority: (i) first, pro rata among the Members in accordance with the respective aggregate amount of Net Loss, if any, that have been allocated to each such Member (and such Member's predecessors in interest) pursuant to Section 6.02 until the aggregate amount of Net Income allocated to each such Member pursuant to Section 6.01(a)(i) equals the aggregate amount of Net Loss so allocated to such Member, (ii) second, pro rata among the Members in accordance with the respective aggregate amount of Net Loss, if any, that have been allocated to each such Member (and such Member's predecessors in interest) pursuant to Section 6.01(b)(ii) until the aggregate amount of Net Income

allocated to each such Member pursuant to Section 6.01(a)(ii) equals the aggregate amount of Net Loss so allocated to such Member, (iii) third, to the Preferred Holders, pro rata based on their respective Preferred Percentage Interests, until the aggregate amount allocated to them pursuant to this Section 6.01(a)(iii) equals the aggregate amount Distributed pursuant to Section 5.01(a), (iv) to the Operator until the aggregate amount allocated pursuant to this Section 6.01(iv) equals the aggregate amount Distributed pursuant to Section 5.01(b) and (v) thereafter, the balance, if any, among the Common Holders, pro rata based on their respective Common Percentage Interests.

(b) Net Loss. Subject to Section 6.02, or each Fiscal Year, Net Loss shall be allocated among the Members in the following order of priority: (i) first, pro rata among the Members in accordance with the respective amount of Net Income, if any, that have been allocated to each such Member (and such Member's predecessors in interest) pursuant to Section 6.01(a) until the aggregate amount of Net Loss allocated to each such Member pursuant to this Section 6.01(b)(i) equals the aggregate amount of Net Income so allocated to such Member; and (ii) the balance, if any, among the Common Holders, pro rata based on their respective Common Percentage Interests.

(c) Gains or Losses from a Capital Transaction. Gains or Losses from a Capital Transaction during any Fiscal Year shall be allocated among the Members in a manner that will, as nearly as possible, cause the Capital Account balance of each Member at the end of such Fiscal Year to equal the excess (which may be negative) of: (A) the hypothetical distribution, if any, that such Member would receive if, on the last day of the Fiscal Year, (I) all remaining Company assets, if any, were sold for cash equal to their Gross Asset Value, taking into account any adjustments thereto for such Fiscal Year, (II) all Company liabilities were satisfied in cash according to their terms (limited, with respect to each Nonrecourse Liability to the Gross Asset Value of the assets securing such liability), (III) an amount of net proceeds equal to the excess, if any, of the cumulative Net Income of the Company for such Fiscal Year over the sum of (1) the cumulative distributions previously made under Section 5.01 for such Fiscal Year and (2) the cumulative Net Loss of the Company for such Fiscal Year, were distributed in full pursuant to Section 5.01 for such Fiscal Year, and (IV) the remaining net proceeds (after satisfaction of such liabilities) were distributed in full pursuant to Section 5.02; over (B) the sum of (x) the amount, if any, which such Member is unconditionally obligated to contribute to the capital of the Company, (y) such Member's share of Company Minimum Gain, and (z) such Member's share of Member Nonrecourse Debt Minimum Gain, all computed immediately prior to the hypothetical sale described above.

6.02 Restriction on Net Loss. The Net Loss allocated pursuant to Section 6.01 shall not exceed the maximum amount of Net Loss that can be so allocated without causing any Member to have an Adjusted Capital Account Deficit at the end of any Fiscal Year. In the event that some but not all of the Members would have Adjusted Capital Account Deficits as a consequence of an allocation of Net Loss pursuant to Section 6.01, the limitation set forth in this Section 6.02 shall be applied on a Member by Member basis so as to allocate the maximum permissible Net Loss to each Member under Treas. Reg. § 1.704-1(b)(2)(ii)(d). All Net Loss in excess of the limitations set forth in this Section 6.02 shall be allocated among the Common Holders, pro rata based on their respective Common Percentage Interests.

6.03 Regulatory Allocations. The following special allocations shall be made in the following order:

(a) Minimum Gain Chargeback. Except as otherwise provided in Treas. Reg. § 1.704-2(f), notwithstanding any other provision of this Article VI, if there is a net decrease in Company Minimum Gain during any taxable year, each Member shall be specially allocated items of the Company income and gain for such Fiscal Year (and if necessary, subsequent Fiscal Years) in an amount equal to such Member's share of the net decrease in Company Minimum Gain, determined in accordance with the principles of Treas. Reg. § 1.704-2(g). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated shall be determined in accordance with Treas. Reg. §§ 1.704-2(f)(6) and 1.704-2(j)(2). This Section is intended to comply with the minimum gain chargeback requirement in Treas. Reg. § 1.704-2(f) and shall be interpreted in a manner consistent therewith.

(b) Member Minimum Gain Chargeback. Except as otherwise provided in Treas. Reg. § 1.704-2(i)(4), notwithstanding any other provision of this Article, if there is a net decrease in Member Nonrecourse Debt Minimum Gain attributable to a Member Nonrecourse Debt during any taxable year, each Member who has a share of the Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with the principles of Treas. Reg. § 1.704-2(i)(5), shall be specially allocated items of Company income and gain for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to such Member's share of the net decrease in Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with the principles of Treas. Reg. § 1.704-2(i)(4). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated shall be determined in accordance with the principles of Treas. Reg. §§ 1.704-2(i)(4) and 1.704-2(j)(2). This Section is intended to comply with the minimum gain chargeback requirement in Treas. Reg. § 1.704-2(i)(4) and shall be interpreted consistently therewith.

(c) Qualified Income Offset. In the event any Member unexpectedly receives any adjustments, allocations or distributions described in Treas. Reg. §§ 1.704-1(b)(2)(ii)(d)(4), (5) or (6), items of Company income and gain shall be specially allocated to each such Member in an amount and manner sufficient to eliminate, to the extent required by such regulations, the Adjusted Capital Account Deficit of such Member as quickly as possible; *provided*, *however*, that an allocation pursuant to this Section 6.03(c) shall be made only if and to the extent that such Member would have Adjusted Capital Account Deficit after all other allocations have been tentatively made as if this Section 6.03(c) were not in this Agreement.

(d) Gross Income Allocation. In the event any Member has a deficit Capital Account at the end of any taxable year which is in excess of the sum of (i) the amount such Member is obligated to restore pursuant to any provision of this Agreement, and (ii) the amount such Member is deemed to be obligated to restore pursuant to the penultimate sentences of Treas. Reg. §§ 1.704-2(g)(1) and 1.704-2(i)(5), each such Member shall be specially allocated items of Company income and gain in the amount of such excess as quickly as possible, *provided* that an allocation pursuant to this Section 6.03(d) shall be made only if and to the

extent that such Member would have a deficit Capital Account in excess of such sum after all other allocations provided for in this Article VI have been made as if Section 6.03(c) hereof and this Section 6.03(d) were not in the Agreement.

(e) Nonrecourse Deductions. Nonrecourse Deductions shall be allocated among the Common Holders in proportion to their respective Common Percentage Interests at the end of the taxable year. The amount of the Nonrecourse Deductions, shall be determined in accordance with the principles of Treas. Reg. § 1.704-2(c).

(f) Member Nonrecourse Deductions. Any Member Nonrecourse Deductions for any Fiscal Year shall be specially allocated to the Member who bears the economic risk of loss with respect to the Member Nonrecourse Debt to which such Member Nonrecourse Deductions are attributable in accordance with the principles of Treas. Reg. § 1.704-2(i)(1).

(g) Curative Allocations. The allocations set forth in Sections 6.03(a) through 6.03(f) of this Agreement (the "Regulatory Allocations") are intended to comply with certain requirements of the Regulations. It is the intent of the Members that, to the extent possible, all Regulatory Allocations shall be offset either with other Regulatory Allocations or with special allocations of other items of LLC income, gain, loss, or deduction pursuant to this Section 6.03(g). Therefore, notwithstanding any other provision of this Article VI (other than the Regulatory Allocations), the Board of Managers shall make such offsetting special allocations of Company income, gain, loss, or deduction in whatever manner it determines appropriate so that, after such offsetting allocations are made, each Member's capital account balance is, to the extent possible, equal to the capital account balance such Member would have had if the Regulatory Allocations were not part of the Agreement and all Company items were allocated pursuant to Section 6.01. In exercising its discretion under this Section 6.03(f), the Members shall take into account future Regulatory Allocations under Sections 6.03(a) and 6.03(b) that, although not yet made, are likely to offset other Regulatory Allocations previously made under Sections 6.03(e) and 6.03(f).

(h) Intent to Comply With Code § 704(b). It is the intention of the Members that each Member's distributive share of tax items shall be determined and allocated in accordance with the allocation provisions of this Agreement to the fullest extent permitted by § 704(b) of the Code. Therefore, if the Company is advised by counsel or its accountants that the allocation provisions of this Agreement are unlikely to be respected for federal income tax purposes, the Board of Managers hereby has the authority to amend the allocation provisions of this Agreement, to the minimum extent deemed necessary by counsel or its accountants to effect the plan of allocations and distributions of Net Cash Flow.

(i) Intent to Comply With Non-Recourse Debt Rules. The foregoing provisions relating to allocations of nonrecourse debt are intended to comply with Treas. Reg. § 1.704-2 as if the Company were a partnership and shall be interpreted in a manner consistent therewith.

6.04 Tax Allocations; 704(c) Contributed Property.

(a) General. For federal, state and local income tax purposes, all items of taxable income, gain, loss, and deduction for each Fiscal Year shall, except as provided in Section 6.04(b), be allocated among the Members in accordance with the manner in which the corresponding items were allocated under Sections 6.01 through 6.03.

(b) Contributed Property. If property is contributed to the Company by a Member and there is a difference between the basis of such property to the Company for federal income tax purposes and the Gross Asset Value at the time of its contribution, then items of income, deduction, gain and loss with respect to such property as computed for federal income tax purposes (but not for book purposes) shall be shared among the Members so as to take account of such difference as required by Code § 704(c).

6.05 Revaluation. The Board of Managers may increase or decrease the Capital Accounts of the Members to reflect a revaluation of Company property on the Company's books and records, but only in accordance with rules set forth in Treas. Reg. §1.704-1(b)(2)(iv)(f) and subject to clause (ii) of the definition of "Gross Asset Value".

6.06 Other Allocation Rule. The Members are aware of the income tax consequences of the allocations made by this Article VI and hereby agree to be bound by the provisions of this Article VI in reporting their shares of LLC income and loss for income tax purposes.

6.07 Intent of Allocations/Cash Savings Clause. The parties intend that the foregoing tax allocation provisions of this Article VI shall produce final Capital Account balances of the Members that will permit liquidating distributions that are made in accordance with final Capital Account balances under Section 11.03 hereof to be made (after unpaid loans and interest thereon, including those owed to Members have been paid) in a manner identical to the order of priorities set forth in Section 5.02. To the extent that the tax allocation provisions of this Article VI would fail to produce such final Capital Account balances, (i) such provisions shall be amended by the Board of Managers if and to the extent necessary to produce such result and (ii) taxable income and taxable loss of the Company for prior open years (or items of gross income and deduction of the Company for such years) shall be reallocated by the Board of Managers among the Members to the extent it is not possible to achieve such result with allocations of items of income (including gross income) and deduction for the current year and future years, as approved by the Board of Managers. This Section 6.07 shall control notwithstanding any reallocation or adjustment of taxable income, taxable loss, or items thereof by the Internal Revenue Service or any other taxing authority. The Board of Managers shall have the power to amend this Agreement without the consent of the other Members, as it reasonably considers advisable, to make the allocations and adjustments described in this Section 6.07. To the extent that the allocations and adjustments described in this Section 6.07 result in a reduction in the distributions that any Member will receive under this Agreement compared to the amount of the distributions such Member would receive if all such distributions were made pursuant to the order of priority set forth in Article V, the Company may make a guaranteed payment (within the meaning of Section 707(c) of the Code) to such Member (to be made at the time such Member would otherwise receive the distributions that have been reduced) to the extent such payment does not violate the requirements of Sections 704(b) of the Code or

may take such other action as reasonably determined by the Board of Managers to offset such reduction.

ARTICLE VII
Management

7.01 Management of the Company.

(a) Subject to applicable law and the express provisions of this Agreement (including Section 7.04), the business and affairs of the Company shall be managed by a board of managers (the "Board of Managers").

(b) As used herein, "Manager" means a member of the Board of Managers. Upon execution of this Agreement, the Board of Managers shall consist of two (2) Managers for so long as both Class A Common Units and Class B Common Units remain outstanding, one (1) of which shall be appointed by a Majority of Class A Common Units for so long as the Class A Common Units remain outstanding (the "Class A Manager"), who shall initially be Robert E. Murray, and one (1) of which shall be appointed by a Majority of Class B Common Units for so long as the Class B Common Units remain outstanding (the "Class B Manager"), who shall initially be Andrew Schultz; *provided*, *however*, that upon a class of Units no longer being outstanding, the Board of Managers shall consist of one (1) Manager, the Manager appointed by the class of Units no longer outstanding shall resign (or may be removed by the other Manager) and a Majority of Class Units of the class of Units outstanding shall appoint such remaining Class A Manager or Class B Manager, as applicable. A Majority of Class A Common Units shall have the right to remove any Class A Manager from the Board of Managers at any time, and to fill any vacancy arising from time to time with respect to any Class A Manager. A Majority of Class B Common Units shall have the right to remove any Class B Manager from the Board of Managers at any time, and to fill any vacancy arising from time to time with respect to any Class B Manager. Managers need not be Members, Unit Holders or residents of the State of Delaware. For so long as there are both a Class A Manager and a Class B Manager, (i) each Manager shall have one vote on all items before the Board of Managers and (ii) except as provided in Section 15.14, any decisions made by the Board of Managers shall require the affirmative vote of both Managers who are then elected and qualified.

(c) Notwithstanding anything in this Agreement to the contrary but in each case subject to Section 7.04, any of the following actions, whether undertaken by the Company or any of its Subsidiaries (or the Tax Representative), in any single transaction or series of related transactions, shall require prior approval (and the Company and its Subsidiaries and the Tax Representative shall not take any such action without having obtained such approval) of the Board of Managers:

(i) adopting any Annual Business Plan or any amendment thereto, except as provided in Section 15.14;

(ii) hiring, terminating or entering into, amending, modifying or waiving any material term or provision of, or declaring any default under, any employment or

compensation agreement with the Company's Chief Executive Officer or other senior management of the Company Group;

(iii) making any loans to any third party, incurring or refinancing indebtedness of any member of the Company Group, or encumbering property of any member of the Company Group, in each case, in an amount in excess of $500,000, except for in each case Permitted Indebtedness to the extent provided for in an applicable Approved Business Plan;

(iv) entering into any transaction, agreement, obligation, commitment or arrangement between any member of the Company Group, on the one hand, and any unitholder, executive officer, manager or Affiliate (other than another member of the Company Group) of any member of the Company Group, on the other hand, that involves (or is reasonably likely to involve) consideration or the assumption of liabilities in excess of $500,000 in any calendar year or $1,000,000 in the aggregate;

(v) adopting or making any material change to any equity-based compensation plan or any stock option plan, except to the extent provided for in an applicable Approved Business Plan;

(vi) approving any commitment for a capital expenditure by any member of the Company Group of any amount, individually or in the aggregate for all members of the Company Group, in excess of $500,000, except to the extent provided for in an applicable Approved Business Plan;

(vii) approving any disposition by any member of the Company Group of assets with a fair market value, individually or in the aggregate for all members of the Company Group, in excess of $500,000, except (A) to the extent provided for in an applicable Approved Business Plan or (B) the sale of coal inventory in the ordinary course of business, *provided* that, with respect to clause (B), (1) the aggregate of all such sales during any fiscal year do not exceed 5% of the total volume of coal sales anticipated in the Approved Business Plan for such fiscal year and (2) no such sale is made at a price less than 95% of the price projected for that quality of product in the Approved Business Plan for such fiscal year;

(viii) initiating or settling any dispute, litigation or claim which could result in the payment by any member of the Company Group, individually or in the aggregate for all members of the Company Group, of an amount in excess of $500,000 or entering into any material consent decree or similar arrangement which could negatively affect future operations of any member of the Company Group;

(ix) approving the acquisition of an entity, a business or asset (or an equity interest in relation thereto) for an amount (including any assumed indebtedness) in excess of $500,000, except to the extent provided for in an applicable Approved Business Plan;

(x) writing-down or writing-off the value of any asset of any member of the Company Group with a net book value in excess of $500,000, except to the extent provided for in an applicable Approved Business Plan;

(xi) causing any member of the Company Group to engage in any liquidation event;

(xii) issuing, or authorizing the creation or issuance of, additional Units or other equity interests by any member of the Company Group, including in connection with an IPO or any strategic transaction;

(xiii) entering into any agreement or assuming any obligation that results (or is reasonably expected to result) in any member of the Company Group assuming any liability in excess of $500,000, except to the extent provided for in an applicable Approved Business Plan;

(xiv) changing the principal line of the business of the Company or any of its Subsidiaries;

(xv) changing any method of accounting or accounting practice (except for any such change required by reason of a concurrent change in GAAP);

(xvi) causing any member of the Company Group to convert from a limited liability company to a corporation or any other form of business entity or partnership;

(xvii) organizing or otherwise establishing a Subsidiary of the Company;

(xviii) approving or authorizing the acceptance of a Capital Contribution;

(xix) (A) changing the Tax Representative, (B) settling any material tax audit with respect to any member of the Company Group, (C) choosing a method of making allocations under Section 704(c) of the Code other than the "traditional method" or (D) taking any tax position (whether on a tax return or on audit) or tax election (including any action pursuant to Sections 4.04(e), 6.03(h), 6.05, 6.07, 9.07, 9.08 or 9.09) that is reasonably expected to have a material and disproportionate effect on Operator (or its direct or indirect owners), on the one hand, or the other Unit Holders (or their direct or indirect owners), on the other hand; or

(xx) taking any other action requiring the consent of the Class B Holders under this Agreement;

provided, *however*, that the approval of the Board of Managers shall not be required for the Company or any of its Subsidiaries to perform its obligations under, or consummate transactions expressly contemplated by, the Management Services Agreement, which shall have been entered into contemporaneously with the execution and delivery of this Agreement.

7.02 Actions by the Board; Delegation of Authority and Duties.

(a) In managing the business and affairs of the Company and exercising its powers, the Board of Managers may act through meetings and written consents pursuant to Section 7.08 and through any officer of the Company to whom authority and duties have been delegated pursuant to Section 7.09.

(b) Any Person dealing with the Company, other than a Member, may rely on the authority of any officer in taking any action in the name of the Company without inquiry into the provisions of this Agreement or compliance herewith, regardless of whether that action actually is taken in accordance with the provisions of this Agreement.

7.03 Powers and Authorities of the Board of Managers. Subject to applicable law and the express provisions of this Agreement (including Section 7.04), management of the Company shall be vested in the Board of Managers, which shall manage the day to day business and affairs of the Company except as otherwise delegated pursuant to Section 7.02(a). Except as otherwise provided in this Agreement, all decisions, determinations, actions, approvals or consents relating to the management and control of the conduct of the business of the Company and its affairs shall be made by the Board of Managers or through any officer of the Company to whom authority and duties have been delegated pursuant to Section 7.02(a), including decisions, determinations, actions, approvals and consents relating to any of the following: (a) the selection of representatives of the Company to serve on the management, supervisory or other governing boards or bodies of any company or other organization in which the Company owns an interest, (b) Distributions to Members, (c) the making of loans to any third party, the incurrence or refinancing of indebtedness of the Company, and the encumbering of Company property, (d) the selection of attorneys, accountants, appraisers and agents and (e) the entry into or performance of, on behalf of the Company, all other contracts, agreements and other undertakings and the taking of any other action as may be necessary or advisable in the judgment of the Board of Managers or incident to carrying out the business of the Company.

7.04 Class B Holder Approval of Certain Matters.

(a) Notwithstanding anything in this Agreement to the contrary, but subject to Section 7.04(b), the Company hereby covenants and agrees that, in addition to the other provisions of this Agreement that expressly require the consent of the Class B Holders, it shall not, and the Board of Managers shall not permit the Company to, and the Company shall cause its Subsidiaries not to, directly or indirectly, without the prior written approval of the Class B Holders holding a Majority of Class B Common Units:

(i) except as otherwise expressly provided in this Agreement, amend, modify, waive or terminate any of the terms of this Agreement or any other of the Company's or any of its Subsidiary's organizational documents;

(ii) change or cause any member of the Company Group to change the tax classification of any member of the Company Group;

(iii) effect a Sale of the Company or otherwise cause any member of the Company Group to merge or consolidate with or into another Person (other than another member of the Company Group) or to sell, lease or dispose of all or any substantial

portion of the assets of any member of the Company Group (other than to another member of the Company Group);

(iv) admit an additional Member of the Company or approve or authorize the admission of an additional member of any other member of the Company Group, except in accordance with the provisions of Article X;

(v) make any loans to any third party, incur or refinance indebtedness of any member of the Company Group, or encumber property of any member of the Company Group, in each case, in an amount in excess of $1,000,000, except for in each case Permitted Indebtedness to the extent provided for in an applicable Approved Business Plan;

(vi) enter into any transaction, agreement, obligation, commitment or arrangement between any member of the Company Group, on the one hand, and any unitholder, executive officer, manager or Affiliate (other than another member of the Company Group) of any member of the Company Group, on the other hand, that (a) involves (or is reasonably likely to involve) consideration or the assumption of liabilities in excess of $1,000,000 in any calendar year or $2,000,000 in the aggregate or (b) is on terms less favorable to the Company Group than available from an unaffiliated third party and involves (or is reasonably likely to involve) consideration or the assumption of liabilities in excess of $1,000,000 in the aggregate; or

(vii) take any other action requiring the approval or consent of the Class B Holders under this Agreement.

(b) In addition to any amendments otherwise expressly authorized herein, amendments may be made to this Agreement from time to time by the Board of Managers without the consent of the Class B Holders holding a majority of the Common Units held by all Class B Holders to delete or add any provisions of this Agreement to the extent required to be so deleted or added by federal, state or local law or by the Securities and Exchange Commission, the Internal Revenue Service, or any other federal agency or by a state securities or "blue sky" commission, a state revenue or taxing authority or any other similar entity or official.

7.05 Resignation. Any Manager may resign at any time by giving written notice to the Company. The resignation of a Manager who is also a Member shall not affect such individual's rights as a Member and shall not constitute a dissociation or withdrawal of a Member.

7.06 Vacancies. Any vacancy occurring for any reason in any Manager position shall be filled in accordance with Section 7.01.

7.07 Expenses of the Board of Managers. The Company shall pay the reasonable out-of-pocket expenses (including, without limitation, reasonable travel expenses) incurred by a Manager in connection with discharging any of his or her duties as a Manager, which shall include, in the case of the Class B Manager, the reasonable fees and expenses of outside advisors engaged to assist the Class B Manager in connection with discharging any of his

or her duties as a Manager, in each case, upon submission to the Company of appropriate receipts or other evidence of payment.

7.08 Member Meetings; Required Approvals.

(a) Meetings of the Members holding Common Units (or any class of Common Units) may be held for any purpose, unless otherwise prohibited by law or by the Certificate of Formation, and may be called by any Manager (or, in the case of a meeting of any class of Common Units, by the applicable class Manager) or by any Member or group of Members owning not less than 15% of the Common Units (or, in the case of a meeting of any class of Common Units, owning not less than 15% of such class of Common Units). All such meetings shall be held at such place as shall be designated from time to time by Manager (or by the applicable class Manager) and stated in the notice of the meeting or in a duly executed waiver of the notice thereof. Members may participate in any such meeting by means of conference telephone or other similar communication equipment whereby all Members participating in the meeting can hear each other. Participation in a meeting in this manner shall constitute presence in person at the meeting.

(b) The presence, in person or by proxy, of a Majority of Common Units (or, in the case of a meeting of any class of Common Units, the applicable Majority of Class Units) shall constitute a quorum for the transaction of business by the Common Holders (or by the applicable class of Common Holders). The affirmative vote of a Majority of Common Units (or, in the case of a meeting of any class of Common Units, the applicable Majority of Class Units) in attendance shall constitute a valid decision of the Holders, except where a larger vote is required by the Act, the Certificate of Formation or this Agreement.

(c) At any meeting of the Common Holders (or class of Common Holders), every Common Holder (or class member) having the right to vote thereat shall be entitled to vote in person or by proxy appointed by an instrument in writing (by means of electronic transmission or as otherwise permitted by applicable law) signed by such Common Holder and bearing a date not more than one year prior to such meeting.

(d) Any action required or permitted to be taken at any meeting of the Common Holders (or class of Common Holders) may be taken without a meeting, without prior notice and without a vote if a consent in writing setting forth the action so taken is signed by the Common Holders (or class of Common Holders) having authority to approve the action to be so taken. Such consent may be executed by facsimile and may be executed in counterparts.

(e) Notice stating the place, day and hour of the meeting and, in the case of a special meeting, the purpose for which the meeting is called shall be delivered not less than five days nor more than sixty days before the date of the meeting by or at the direction of the Manager or other Persons calling the meeting, to each Common Holder (or class member) entitled to vote at such meeting. When any notice is required to be given to any Common Holder hereunder, a waiver thereof in writing signed by such Common Holder, whether before, at, or after the time stated therein, shall be equivalent to the giving of such notice. A Common Holder may also waive notice by attending a meeting without objection to a lack of notice.

(f) Meetings of the Board of Managers shall be held at such time and at such places as they shall determine; *provided* that the Board of Managers shall meet no less than quarterly. In addition, any one Manager may, upon giving four (4) days' prior written notice to the others, call a meeting of the Board of Managers. No meeting of the Board of Managers shall be held without both Managers being present; *provided*, *however*, that if a meeting of the Board of Managers is not held as a result of failure to meet the quorum requirements, then the Manager present shall, in good faith, reschedule such meeting within thirty (30) calendar days from the initial meeting date. Managers may participate in a meeting of the Board of Managers by means of conference telephone or other similar communication equipment whereby all Managers participating in the meeting can hear each other. Participation in a meeting in this manner shall constitute presence in person at the meeting.

(g) Any action required or permitted by this Agreement to be taken at any meeting of the Board of Managers may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, is signed by the Managers having authority to approve the action to be so taken. Such consent may be executed by facsimile and may be executed in counterparts.

(h) When any notice is required to be given to any Manager hereunder, a waiver thereof in writing, signed by the Manager, whether before, at or after the time stated therein, shall be equivalent to the giving of such notice. Further, a Manager may waive notice of a meeting by attending such meeting without objection to a lack of notice.

(i) No Manager or Unit Holder, in its capacity as such, shall have the authority to bind the Company except to the extent expressly authorized to do so by resolution of the Board of Managers; *provided* that nothing in this Section 7.08(i) shall affect the validity of any decision, action, approval or consent of the Board of Managers or Unit Holders adopted in the manner contemplated by this Section 7.08.

7.09 Appointment of Officers. The Board of Managers may appoint a president and chief executive officer of the Company and such other officers or agents as it shall deem necessary from time to time, which officers shall hold the offices with such terms and shall exercise such power and perform such duties as shall be determined from time to time by the Board of Managers. The president and chief executive officer may appoint one or more of the following officers: vice president, secretary and treasurer. The president and chief executive officer may appoint such other officers and agents as he shall deem necessary who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the president and chief executive officer.

(a) *President and CEO*. The president and chief executive officer shall have general charge of the business, affairs and property of the Company, and control over its officers, agents and employees; in each case under the direction of the Board of Managers. The president and chief executive officer, if any, may execute contracts and instruments in the name of the Company (including contracts or instruments under the seal of the Company) and may, with the secretary, assistant secretary, treasurer or assistant treasurer, sign certificates (if any) for Units. The president and chief executive officer, if any, shall supervise the preparation and submission of the annual budget of the Company and, further, shall have such other powers

and perform such other duties as may be prescribed by the Board of Managers or as may be provided in this Agreement.

(b) *Vice Presidents*. In the absence of the president or in the event of his inability or refusal to act, the vice president, if there be any (or in the event there be more than one vice president, the vice presidents in the order designated, or in the absence of any designation, then in the order of their election), shall perform the duties of the president, and when so acting, shall have all the powers of and be subject to all the restrictions upon the president. The vice presidents shall perform such other duties and have such other powers as the president and chief executive officer or Board of Managers may from time to time prescribe.

(c) *Secretary and Assistant Secretaries*. The secretary and any assistant secretary shall have authority to attest any signature on behalf of the Company or to affix the seal of the Company, if any, to any instrument requiring it (and to attest the fixing by his signature). The president and chief executive officer and/or the Board of Managers may also give general authority to any other officer to affix the seal of the Company, if any, and to attest the affixing by his or its signature. The secretary shall perform such other duties and have such other powers as the president and chief executive officer or Board of Managers may from time to time prescribe. The assistant secretary, or if there be more than one, the assistant secretaries, in the order determined by the president and chief executive officer or the Board of Managers (or if there be no such determination, then in the order of their election) shall, in the absence of the secretary or in the event of his inability or refusal to act, perform the duties and exercise the powers of the secretary and shall perform such other duties and have such other powers as the president and chief executive officer or Board of Managers may from time to time prescribe.

(d) *Treasurer and Assistant Treasurers*. The treasurer, if any, shall have the custody of the Company's funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Company and shall deposit all moneys and other valuable effects in the name and to the credit of the Company in such depositories as may be designated by the president and chief executive officer or Board of Managers. The treasurer, if any, shall disburse the funds of the Company as may be ordered by the president and chief executive officer or Board of Managers, and shall, if requested by the president and chief executive officer or Board of Managers, render to the president and chief executive officer an account of all his transactions as treasurer and of the financial condition of the Company. The treasurer shall perform such other duties and have such other powers as the president and chief executive officer or Board of Managers may from time to time prescribe. The assistant treasurer, or if there shall be more than one, the assistant treasurers in the order determined by the president and chief executive officer or Board of Managers (or if there be no such determination, then in the order of their election), shall, in the absence of the treasurer or in the event of his inability or refusal to act, perform the duties and exercise the powers of the treasurer and shall perform such other duties and have such other powers as the president and chief executive officer or Board of Managers may from time to time prescribe.

7.10 Compensation. Each of the Class A Manager and the Class B Manager shall initially be paid an annual fee of $80,000.00 to serve as a "Manager" of the Company, which fee may be adjusted annually by the Board of Managers with the prior written approval of the Class B Holders holding a Majority of Class B Common Units. The compensation (including

salary, bonuses and other forms of current and deferred compensation) payable, directly or indirectly, to the Company's president and chief executive officer shall be determined by the Board of Managers.

7.11 Term of Office, Removal and Vacancies. Any officer elected or appointed by the Board of Managers or the president and chief executive officer may be removed at any time by the Board of Managers, with or without cause. Any officer elected or appointed by the president and chief executive officer may be removed at any time by the president and chief executive officer, with or without cause. Any vacancy occurring in any office of the Company other than the president and chief executive officer may be filled by the president and chief executive officer or by the Board of Managers.

ARTICLE VIII
Exculpation and Indemnification

8.01 Exculpation; Reliance. No Member, Tax Representative, Manager or officer of the Company shall be liable to the Company or to any Member or Unit Holder for any action (or omission to act) taken with respect to the Company so long as such Member, Manager or officer (a) acted in good faith and in a manner such Person reasonably believed to be in the best interests of the Company, (b) was neither grossly negligent nor engaged in willful malfeasance, (c) did not breach this Agreement in any material respect, and (d) did not knowingly violate any material law. A Member, Tax Representative or Manager shall be fully protected in relying in good faith upon the records of the Company and upon such information, reports or statements presented to the Company by any of its other managers, members, officers, employees or committees of the Company, or by any other person as to matters the Member, Tax Representative or Manager reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by the Company, including information, opinions, reports or statements as to the value or amount of the assets, liabilities, profits or losses of the Company or any other facts pertinent to the existence or amount of assets from which distributions to Unit Holders might properly be paid.

8.02 Indemnification.

(a) The Company shall, to the fullest extent permitted under applicable law, indemnify any Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such Person is or was a Member, Unit Holder, Tax Representative, Manager, Affiliate of a Member, Unit Holder, Tax Representative or Manager or officer of the Company, or is or was serving on behalf of the Company as a manager, member of the board of managers, director or officer of another limited liability company, corporation, partnership, joint venture, trust or other entity or enterprise (each, an "Indemnitee"), against any loss, damage, liability or expense (including attorneys' fees, costs of investigation and amounts paid in settlement) incurred by or imposed upon the Indemnitee in connection with any such action, suit or proceeding, unless the Indemnitee (i) did not act in good faith and in a manner that such Indemnitee reasonably believed to be in the best interest of the Company, (ii) was either grossly negligent or engaged in willful malfeasance, (iii) breached this Agreement in any material respect, or (iv) knowingly violated any material law.

Notwithstanding the foregoing, no indemnification shall be payable hereunder to any Indemnitee in respect of any action in which such Indemnitee is a plaintiff, other than an action for indemnification under this Section 8.02.

(b) The Company shall pay the expenses incurred by an Indemnitee in defending any action, suit or proceeding, or in opposing any claim arising in connection with any potential or threatened action, suit or proceeding, in each case for which indemnification may be sought pursuant to this Section 8.02, in advance of the final disposition thereof, upon receipt of a written undertaking by such Indemnitee to repay such payment if it shall be determined that such Indemnitee is not entitled to indemnification therefor as provided herein.

(c) The rights to indemnification and advancement of expenses conferred in this Article VIII shall not be exclusive of any other right which any Indemnitee may have or hereafter acquire under any law, statute, rule, regulation, charter document, by-law, contract or agreement and shall inure to the benefit of the executors, administrators, personal representatives, successors and permitted assigns of each such Indemnitee.

(d) Recourse by an Indemnitee for indemnity under this Article VIII shall be only against the Company as an entity and no Member or Unit Holder shall by reason of being a Member or Unit Holder be liable for the Company's obligations under this Article VIII.

(e) Rights and benefits conferred on an Indemnitee under this Article VIII shall be considered a contract right and shall not be retroactively abrogated or restricted without the written consent of the Indemnitee affected by the proposed abrogation or restriction.

Notwithstanding the foregoing, this Section 8.02 does not apply to any action, suit or proceeding by the Company against any Executive, including without limitation to enforce any rights under or related to any Employment Agreement or other material terms of employment.

ARTICLE IX
Books and Records

9.01 Books and Records. Proper and complete books and records of the Company, in which shall be entered fully and accurately the transactions of the Company, shall be kept and maintained at all times at the principal offices of the Company or, subject to the provisions of the Act, at such other place as the Board of Managers may from time to time determine. Each Member who holds at least 5% of the Common Units (and such Member's agents and attorneys) shall have the right during ordinary business hours and upon reasonable notice to inspect and copy (at such Member's own expense except in the case of any written operating agreement, a copy of which shall be provided at the Company's expense upon written demand) the books and records of the Company required to be kept by this Agreement or pursuant to the Act and the Company shall provide to each such Member such other reports and information concerning the business and affairs of the Company as may be reasonably requested by such Members from time to time. Each other Unit Holder irrevocably waives any rights to information from the Company provided under Section 18-305 of the Act.

9.02 Bank Accounts. Funds of the Company shall be used only for Company purposes and shall be deposited in such accounts in banks or other financial institutions as may be established from time to time by the Board of Managers. Withdrawals shall be made by such persons as are designated from time to time by the Board of Managers.

9.03 Financial Statements and Information.

(a) As promptly as reasonably possible but in any event within 90 days after the end of each fiscal year, the Company shall prepare and submit or cause to be prepared and submitted to each Member audited consolidated balance sheet, profit, loss and cash flow statements of the Company for the fiscal year most recently ended.

(b) As promptly as reasonably possible but in any event within 45 days after the end of each fiscal quarter, the Company shall mail to each Member unaudited consolidated financial statements of the Company for such fiscal quarter and for the year-to-date period then ended and a statement of such Member's Capital Account.

(c) As promptly as reasonably possible but in any event within 30 days after the end of each calendar month, the Company shall mail to each Member a monthly operating summary of the Company Group's activities, including financial and non-financial disclosures in a format and containing such substance as approved by the Board of Managers.

9.04 Reports to Current and Former Unit Holders. As promptly as reasonably possible, but in any event within 90 days after the end of each fiscal year, the Company shall prepare and submit or cause to be prepared and submitted to each Unit Holder, within a schedule approved by the Board of Managers as appropriate, a statement indicating such Unit Holder's (and, to the extent necessary, each former Unit Holder's) share of each item of the Company's income, gain, loss, deduction or credit for that fiscal year most recently ended for Federal, state and local income tax purposes and Schedule K-1s.

9.05 Accounting Methods. The Company shall use GAAP and within a schedule approved by the Board of Managers as appropriate, a statement indicating such Unit Holder's (and, to the extent necessary, each former Unit Holder's) share of each item of the Company's income, gain, loss, deduction or credit for that fiscal year most recently ended for Federal, state and local income tax purposes and Schedule K-1s.

9.06 Fiscal Year. The fiscal year of the Company shall end on December 31st of each year.

9.07 Tax Returns and Elections. The Company shall cause to be prepared and timely filed all Federal, state and local income tax returns or other returns or statements required by applicable law.

9.08 Section 754 Election.. In the event a distribution of Company assets occurs that satisfies the provisions of Section 734 of the Code or in the event a transfer of a Unit occurs that satisfies the provisions of Section 743 of the Code, the Company may elect, pursuant to Section 754 of the Code, to adjust the basis of the property or asset to the extent allowed by such Section 734 or 743 and shall cause such adjustments to be made and maintained.

9.09 Tax Matters Member/ Partnership Representative. Subject to Section 7.01(c)(xix):

(a) Appointment. With respect to Fiscal Years beginning on or before December 31, 2017, the Board of Managers hereby appoints Operator as the "tax matters partner" (as defined in Code Section 6231(a)(7) prior to enactment of the Revised Partnership Audit Procedures) (the "Tax Matters Member"), or such other Person designated by the Board of Managers. For tax years beginning on or after January 1, 2018, Operator, or such other Person designated by the Board of Managers, shall serve as the "partnership representative" (the "Partnership Representative") as provided in Code Section 6223(a) pursuant to the Revised Partnership Audit Procedures. The Tax Matters Member or Partnership Representative, as applicable (referred to herein as the "Tax Representative") may resign at any time. Upon any such resignation, the Board of Managers shall appoint a new Tax Representative.

(b) Tax Representative Authority.. The Tax Representative shall be subject to the following provisions:

(i) The Tax Representative shall keep the Board and Members reasonably informed regarding any material tax issues regarding the Company and shall give the Board and Members timely notice of, and shall furnish appropriate information to the Board and Members regarding, all significant audit and litigation events, including, but not limited to, the commencement of any examination or other action by a taxing authority, closing conference with the examining agent, proposed adjustments, rights of appeal, and requirements for filing a protest.

(ii) The Tax Representative is authorized and required to represent the Company (at the Company's expense) in connection with all tax audits, investigations, or other proceedings, including administrative settlement and judicial review, (a "Tax Proceeding") by any federal, state, local, or foreign taxing authority, and to expend Company funds for professional services and costs associated therewith, subject to reimbursement by the Members in the reasonable discretion of the Board of Managers to ensure that each Member bears its allocable share of such expenses. For any year in which the TEFRA audit rules of Code Sections 6221 through 6234 (prior to the Revised Partnership Audit Procedures) apply, the Tax Representative shall take such action as is necessary to cause each other Member to become a notice partner within the meaning of Code Section 6231(a)(8). The Tax Representative shall promptly notify the Board and the Members upon the receipt of a notice of final partnership administrative adjustment or final partnership adjustment. Without the consent of the Board of Managers, the Tax Representative shall not extend the statute of limitations, file a request for administrative adjustment, file suit relating to any Company tax refund or deficiency or enter into any settlement agreement relating to items of income, gain, loss or deduction of the Company with any taxing authority.

(c) Revised Partnership Audit Procedures Elections. The Company will not elect into the Revised Partnership Audit Procedures for any tax year beginning before January 1, 2018. In connection with any Tax Proceeding for any tax year beginning on or after January 1, 2018, the Tax Representative shall have the right to make any and all elections and to

take any actions that are available to be made or taken by the Tax Representative or Company under the Revised Partnership Audit Procedures (including any election under Code Section 6226(a)). If an election under Code Section 6226(a) is made, Company shall furnish to each Member for the Reviewed Year a statement of the Member's share of any adjustment set forth in the notice of final partnership adjustment, and each Member shall take such adjustment into account as required under Code Section 6226(b). The Tax Representative may request modifications as set forth in Code Section 6225(c) within forty-five (45) days of notice of final partnership adjustment, and the Members hereby agree to cooperate with the Tax Representative in making any such request. The Tax Representative may also for any Fiscal Year make the election out of the Revised Partnership Audit Rules under Code Section 6221(b), if applicable.

(d) Tax Returns and Tax Deficiencies. Each Member agrees that such Member shall not treat any Company item inconsistently on such Member's federal, state, foreign or other income tax return with the treatment of the item on the Company's return. The Members shall cooperate as reasonably requested by the Tax Representative in connection with any Tax Proceeding or the reduction or satisfaction of any Company Tax Liability and shall promptly provide upon the Tax Representative's request therefor, such information as the Tax Representative may reasonably request.

(i) If for any tax year beginning after December 31, 2017, the Company incurs or is required to pay any liability for any taxes, interest, penalties, other additions to tax, or any related costs and expenses (including reasonable accounting and attorney's fees) of any kind or nature that may be sustained or suffered by the Company or the other Members, (including any costs incurred in connection with a Tax Proceeding) for any taxable year (a "Company Tax Liability"):

(A) the Board of Managers may cause each Reviewed Year Member to pay its allocable share of such Company Tax Liability, as reasonably determined by the Board of Managers, and each such Member hereby agrees to pay, that amount to the Company and such amount shall not be treated as a Capital Contribution for purposes of any provision of this Agreement that affects distributions to the Members;

(B) any amount not paid by a Reviewed Year Member at the time reasonably requested by the Tax Representative shall accrue interest at the rate set by the Board of Managers (not to exceed the maximum rate permitted by law), compounded quarterly, until paid, and that Member shall also be liable to the Company for any damages resulting from a delay in making such payment beyond the date such payment is reasonably requested by the Tax Representative, and for this purpose the fact that the Company could have paid this amount with other funds shall not be taken into account in determining such damages;

(C) without reduction in a Reviewed Year Member's obligation under Section 9.09(d)(i)(A) and Section 9.09(d)(i)(B), any amount paid by the Company that is attributable to a Reviewed Year Member, as reasonably determined by the Board of Managers, and that is not paid by that Member pursuant to Section 9.09(d)(i)(A) or Section 9.09(d)(i)(B) may be treated (A) as a distribution to (and shall reduce amounts otherwise distributable to) that Member, or (B) in such other manner as reasonably determined by the Board of Managers; and

(D) each Member hereby agrees to indemnify and hold harmless the Company and the other Members from and against any Company Tax Liability or other liability for taxes with respect to income attributable to, or distributions or other payments to, such Member.

(ii) Each Person (for purposes of this Section 9.09, called a "Pass-Thru Member") that holds or controls an interest as a Member as a nominee on behalf of, or for the benefit of, another Person or Persons, or which Pass-Thru Member (if it is not classified as a corporation for U.S. tax purposes) is beneficially owned (directly or indirectly through entities that are not classified as corporations for U.S. tax purposes) by another Person or Persons, shall, within thirty (30) days following receipt from the Tax Representative of any notice, demand, request for information or similar document, convey such notice or other document in writing to all such holders of beneficial interests in the Company holding such interests through such Pass-Thru Member.

(e) Survival. Notwithstanding any other provision of this Agreement, the obligations of each Reviewed Year Member under this Section 9.09: (i) shall survive indefinitely with respect to any taxes withheld or paid by the Company that relate to the period during which such Person was actually a Member, regardless of whether such taxes are assessed, withheld or otherwise paid during such period, (ii) may be enforced by legal process or any other lawful means, including, without limitation, by offsetting any unpaid obligations against amounts otherwise distributable to the Member, and (iii) shall survive the transfer by that Member of its interest and the winding-up, dissolution, liquidation, and termination of the Company.

(f) Amendment. The Members covenant and agree that the Board of Managers may amend this Agreement, without the consent of the Members, in order to reflect the effect of any applicable Treasury Regulations or other guidance promulgated with respect to a tax matters partner or partnership representative.

(g) Reviewed Year Member. References to a Reviewed Year Member in this Section 9.09 include those Persons who or which are permitted assigns of Reviewed Year Members.

9.10 PTP Compliance.

(a) Safe Harbor; Qualifying Income. If a Transfer (i) is within one or more safe harbors set forth in Treasury Regulations Section 1.7704-1(e), (f), (g), (h) or (j) or (ii) occurs at a time when (A) Western Kentucky Consolidated Resources, LLC is classified as a corporation for U.S. federal income tax purposes and (B) the Company is otherwise reasonably expected to qualify as a partnership described in Section 7704(c) of the Code, then in each case the Board of Managers shall treat such Transfer as not resulting in the consequences described in Section 10.02(d)(ii).

(b) Liquidity of Units. The Board of Managers shall use commercially reasonable efforts to operate the Company (including managing Transfers) in such a way as to minimize the impact of Section 10.02(d)(ii) in restricting the liquidity of Units, including, as the Board of Managers determines appropriate, (i) qualifying (and maintaining qualification) for the

safe harbor set forth in Treasury Regulations Section 1.7704-1(h), (ii) adjusting the timing and amount of Transfers so as to qualify such Transfers for the safe harbor set forth in Treasury Regulations Section 1.7704-1(j) or (iii) in consultation with the Company's tax advisors, developing a program for managing Transfers (including redemptions by the Company) in such a way that, taking into account all of the facts and circumstances, the Unit Holders are not readily able to buy, sell, or exchange their partnership interests in a manner that is comparable, economically, to trading on an established securities market, within the meaning of Treasury Regulations Section 1.7704-1(c)(i).

ARTICLE X
Restrictions on Transfer

10.01 No Transfers.

(a) No Unit Holder may Transfer Units except:

(i) pursuant to any Sale of the Company;

(ii) pursuant to a Transfer of Units to the Company;

(iii) pursuant to the provisions of Section 10.01(b), Section 13.01, Section 13.02 or Section 13.04; or

(iv) as otherwise expressly provided in this Agreement.

Any purported Transfer of Units in violation of this Agreement is null and void.

(b) Other than pursuant to Section 13.04, none of Operator or any of its Affiliates shall be permitted to offer to purchase (or purchase) any Class B Common Units; *provided*, *however*, that Operator and/or one of its Affiliates may offer to purchase all (and not less than all) of the Class B Common Units and Preferred Units held by the Class B Holders or their Permitted Transferees pursuant to an Operator Class B Purchase Offer.

(c) Subject to Section 10.02, the restrictions contained in this Section 10.01 shall not apply to any Transfer of Units by, and Transfer of Units is specifically permitted for the Transfer by, (i) any Unit Holder to the Company, (ii) any Unit Holder to one or more of its Affiliates (*provided* that no legal or beneficial interest in any such entity may be further conveyed other than to another Affiliate of such Unit Holder), (iii) any Class B Holder to another Class B Holder or one or more Affiliates of such Class B Holder, or (iv) in the case of any Unit Holder that is an individual, any Unit Holder to a member of such Unit Holder's Family Group (*provided* that no legal or beneficial interest in any such member may be further conveyed other than to such other member of the Unit Holder's Family Group) (each such transferee, a "Permitted Transferee").

10.02 Other Restrictions on Transfer.

(a) Any Person (including any Permitted Transferee) to whom Units are to be Transferred (except pursuant to a Sale of the Company) shall execute and deliver, as a

condition to such Transfer, all documents deemed reasonably necessary by the Company, in consultation with its counsel, to evidence such party's joinder in and to this Agreement. Each such transferor of Units shall, prior to the Transfer, cause the transferee thereof to so execute and deliver such documents and any spousal consent required by Section 10.02(b).

(b) No Units may be Transferred (if the proposed transferee is a married individual), unless, prior to that Transfer, the transferee furnishes a spousal consent (in form and substance satisfactory to the Company) whereby the spouse of that transferee agrees that his or her community property interest, if any, in the Units held from time to time by the transferee is subject to this Agreement.

(c) Except as otherwise provided herein, Units that are Transferred shall thereafter continue to be subject to all restrictions (including restrictions on Transfer imposed by this Article X) and obligations imposed by this Agreement with respect to Units and Transfers thereof.

(d) No Transfer of Units (including any Transfer to a Permitted Transferee) shall be permitted, and no transferee of Units (including any Permitted Transferee) shall be admitted to the Company as a Member, if, in the opinion of the Board of Managers (in its sole discretion), such Transfer or admission alone or in conjunction with one or more other Transfers or admissions would (i) result in a violation of applicable securities laws, (ii) result in the Company being taxable as a corporation for Federal, state and local income tax purposes, (iii) result in the Company becoming subject to the periodic and current reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended, (iv) be an event which would constitute a violation or breach (or, with the giving of notice or passage of time, would constitute a violation or breach) of any law, regulation, ordinance, agreement or instrument by which the Company, or any of its properties or assets, is bound, or (v) require the Company to register under the Investment Company Act of 1940, as amended. The restrictions contained in this Section 10.02(d) are in addition to the restrictions concerning the admission of a transferee as an additional or substitute Member contained in Section 10.04.

(e) Other than transfers to existing Unit Holders, no Transfer of Units shall be permitted to any Person who is a Competitor; *provided, however*, that Operator may waive the application of this Section 10.02(e) with respect to any Transfer. A determination by the Board of Managers regarding whether a Person is such a Competitor shall be binding and conclusive on the Unit Holders, but the absence of such a determination shall not waive the right of Operator to object to any such transfer to a Competitor.

(f) The restrictions on Transfer imposed in this Agreement are in addition to, and not in limitation of, any other restrictions on Transfer that may be imposed on any Units by any other contract entered into by a Holder and binding on such Units.

10.03 Duration of Article X. Notwithstanding anything to the contrary contained in this Agreement, the provisions of this Article X shall terminate upon (and shall not apply to or restrict in any way) the consummation of a Sale of the Company.

10.04 Limitation on Admissions. Upon a Transfer of Units permitted pursuant to this Article X, no transferee of such Units shall be admitted into the Company as an additional or substituted Member or have any rights to participate in the management of the business and affairs of the Company as a Member without the prior express written consent of the Class B Holders, which consent may be granted or withheld in the sole discretion of the Class B Holders for any reason or for no reason; *provided, however,* that any transferee to whom Units are Transferred following compliance by a Member with the provisions of Section 10.01 shall automatically be admitted into the Company as an additional or substituted Member, *provided* that the provisions of Section 10.02 have been satisfied. A transferee of a Unit not admitted into the Company as an additional or substituted Member shall have the rights only of a Unit Holder.

ARTICLE XI
Withdrawal and Dissolution

11.01 Withdrawal. Except for the Transfer of all of a Member's Units pursuant to the provisions of Article X, a Member shall not voluntarily withdraw from the Company without the prior written consent of all of the Members.

11.02 Events of Dissolution.

(a) The Company shall be dissolved upon the first to occur of (a) the affirmative vote or written consent of the Board of Managers and the Class B Holders to dissolve, (b) the sale or other disposition of substantially all of the assets of the Company and the receipt and distribution of all of the proceeds therefrom or (c) the occurrence of any other event causing a dissolution of the Company under the provisions of Section 18-801 of the Act.

(b) Notwithstanding the foregoing, upon an Event of Withdrawal of a Member or upon the occurrence of any other event which terminates the continued membership of a Member in the Company (other than the last remaining Member of the Company), the Company shall not be dissolved and the business of the Company shall continue. Each Member hereby specifically consents to such continuation of the business of the Company upon the Event of Withdrawal of any Member (other than the last remaining Member).

11.03 Distributions; Allocations. The assets of the Company on winding-up shall be applied first to the expenses of the winding-up, and thereafter all of the remaining assets of the Company shall be distributed in the following order:

(a) first, to creditors of the Company, including any Unit Holder who is also a creditor (by virtue of any Member Loan or otherwise), in the order of priority as provided by law;

(b) next, to the setting up of such reserves as the Person required or authorized by law to wind up the Company's affairs may reasonably deem necessary or appropriate for any disputed, contingent or unforeseen liabilities or obligations of the Company, *provided* that any such reserves shall be paid over by such Person to an independent escrow agent, to be held by such agent or its successor for such period as such Person shall deem advisable for the purpose of applying such reserves to the payment of such liabilities or

obligations and, at the expiration of such period, the balance of such reserves, if any, shall be distributed as hereinafter provided;

(c) finally, the remaining balance, if any, to the Unit Holders in accordance with Section 5.02.

11.04 Conduct of Winding-Up. The winding-up of the business and affairs of the Company shall be conducted by the Board of Managers except as otherwise required by law or provided by the Board of Managers.

11.05 Claims of the Unit Holders. The Unit Holders shall look solely to the Company's assets for the return of their Capital Contributions, and if the assets of the Company remaining after payment of or due provision for all debts, liabilities and obligations of the Company are insufficient to return such Capital Contributions, the Unit Holders shall have no recourse against the Company or any other Member, Unit Holder or any other Person. No Unit Holder with a negative balance in such Unit Holder's Capital Account shall have any obligation to the Company or to the other Members, Unit Holders or to any creditor or other Person to restore such negative balance during the existence of the Company, upon dissolution or termination of the Company or otherwise, except to the extent required by the Act.

ARTICLE XII
Representations, Warranties, Agreements and Other Matters

12.01 Representations, Warranties and Agreements of Unit Holders. Each Unit Holder represents and warrants to the Company and agrees and acknowledges, that:

(a) The execution, delivery and performance of this Agreement by such Unit Holder do not and shall not conflict with, violate or cause a breach of any agreement, contract or instrument to which such Unit Holder is a party or any judgment, order or decree to which such Unit Holder is subject.

(b) Such Unit Holder has not and shall not grant any proxy or become party to any voting trust or other agreement which is inconsistent with, conflicts with or violates any provision of this Agreement.

(c) If such Unit Holder is a corporation, partnership, limited liability company, trust, custodianship, estate or other entity, this Agreement has been duly executed by a duly authorized person on its behalf.

(d) This Agreement is a legal, valid and binding obligation of such Unit Holder, enforceable against such Unit Holder in accordance with its terms.

(e) The Units acquired by such Unit Holder were acquired for such Unit Holder's own account, for investment purposes only and not for the benefit of any other Person and not for resale to any other Person or future distribution, and such Unit Holder has relied solely on the advice of such Unit Holder's personal tax, investment or other advisors in making such investment decision.

12.02 Additional Agreements and Understandings. Units issued by the Company pursuant to a distribution, split, reclassification or like action, or pursuant to the exercise of a right granted by the Company to all Unit Holders to purchase Units on a proportionate basis, shall be subject to the terms of this Agreement. In the event of a merger of or exchange involving the Company where this Agreement does not terminate, securities (including any partnership units, membership units, shares of common stock, options, warrants or convertible securities) that are issued in exchange for or otherwise with respect to Units shall thereafter be treated as Units subject to the terms of this Agreement.

ARTICLE XIII
Co-Sale Rights; Preemptive Rights; Right of First Offer

13.01 Drag-Along Rights.

(a) If the Board of Managers and the Class B Holders approve a Sale of the Company, or Operator (or one of its Affiliates) proposes and Class B Holders holding an aggregate of 66⅔% or more of such class approve an Operator Class B Purchase Offer (a "Class B Drag-Along Sale"), then the Board of Managers (in a Sale of the Company) or Operator (in a Class B Drag-Along Sale) (as applicable, the "Dragging Member") shall have the right (the "Drag-Along Right"), subject to the provisions of this Section 13.01, to require each of the Unit Holders (other than Class A Holders in a Class B Drag-Along Sale) (each, a "Dragged Member") to effect (whether by vote, direct sale or otherwise) such Sale of the Company or Class B Drag-Along Sale without raising any objections to, or bringing any claim against any other Unit Holder or the Company or otherwise contesting or attempting to frustrate such Sale of the Company or Class B Drag-Along Sale. If the Sale of the Company or Class B Drag-Along Sale is structured as (i) a merger or consolidation, then each Dragged Member shall waive any dissenters rights, appraisal rights or similar rights in connection with such merger or consolidation or (ii) a sale of Units, then each Dragged Member shall (x) agree to sell all or such portion of such Dragged Member's Units on a pro rata basis in proportion to the number of Units being Transferred in such Sale of the Company or purchase of the applicable Units by Operator by the Dragging Member, and (y) subject to the limitations in Section 13.01(c), execute such purchase agreement and other documents as approved by the Dragging Member.

(b) If the Dragging Member desires to exercise its Drag-Along Right, the Dragging Member shall give written notice to the Dragged Members ("Drag-Along Notice") of the Sale of the Company or Class B Drag-Along Sale, setting forth the name and address of the purchaser, the date on which such transaction is proposed to be consummated (which shall be not less than twenty (20) calendar days after the date such Drag-Along Notice is given) and the proposed amount of consideration and copies of any form of agreement proposed to be executed in connection therewith.

(c) Upon the consummation of the Sale of the Company, each Dragged Member shall receive the same form of consideration and the same amount of consideration as such Dragged Member would have received had the aggregate consideration amount received by the Unit Holders in connection with such Sale of the Company been distributed to the Dragged Members pursuant to Section 5.02. Each Dragged Member transferring Units pursuant to this Section 13.01: (i) will only be required to make

representations and warranties as to due power and authority, non-contravention and ownership of Units, free and clear of all liens and (ii) in connection with a Sale of the Company, shall be severally (and not jointly or jointly and severally) obligated to join on a pro rata basis (based on its share of the aggregate proceeds paid with respect to its interest) in any indemnification obligation the other Dragging Member have agreed to in connection with such sale other than any such obligation that relates specifically to a particular Dragged Member, such as indemnification with respect to representations and warranties given by a Dragged Member regarding such Dragged Member's title to and ownership of Units; *provided* that (A) in connection with a Sale of the Company, no Dragged Member shall be obligated in connection with such sale to indemnify the prospective transferee or its Affiliates with respect to an amount in excess of the net cash proceeds paid to such Dragged Member in connection with such sale (other than as a result of a breach of its representations and warranties described in clause (i)) and (B) no Dragged Member shall be required to enter into any restrictive covenant (*e.g.*, non-competition or non-solicitation agreement) in connection with such a transaction (*provided* that, for the avoidance of doubt, the foregoing shall not be construed to limit the survival or enforceability of any restrictive covenant (*e.g.*, non-competition or non-solicitation agreement) then in existence).

(d) Notwithstanding any provision hereof to the contrary, in connection with the Transfer of any Units subject to this Section 13.01, each Specified Blocker shall be entitled to elect to cause its equity to be Transferred in such transaction in lieu of such Specified Blocker Transferring its Units in such transaction (and without any discount in consideration received for such equity), and the foregoing provisions of this Section 13.01 shall apply *mutatis mutandis* to such Transfer.

(e) Notwithstanding any provision hereof to the contrary (including Section 13.01(c)), in connection with the Transfer of any Units subject to this Section 13.01, in the event that any Unit Holder is not an "accredited investor" within the meaning of Rule 501 under the Securities Act, such Unit Holder may, in the sole discretion of the Board of Managers, receive, in lieu of securities to be received in a Sale of the Company or Class B Drag-Along Sale, cash consideration with the equivalent value of such securities that is approved by the Board of Managers.

13.02 Tag-Along Rights.

(a) Subject to first complying with Section 13.04, at least 30 days prior to any Transfer of Units (other than to a Permitted Transferee or a Transfer pursuant to Section 10.01(b) or Section 13.01) by Operator or any of its Affiliates (the "Transferring Holder"), the Transferring Holder shall deliver a written notice (the "Sale Notice") to the non-transferring Unit Holders specifying in reasonable detail the identity of the prospective transferee, the number and class of Units to be transferred and the terms and conditions of the Transfer (which notice may be the same notice and given at the same time as the ROFO Notice under Section 13.04(a)). The non-transferring Unit Holders may elect to participate in the contemplated Transfer by delivering written notice to the Transferring Holder within ten (10) days after delivery of the Sale Notice. If any non-transferring Unit Holders have elected to participate in such Transfer, the Transferring Holder and such non-transferring Unit Holders shall be entitled to sell in the contemplated Transfer a number of Units equal to the product of

(i) the quotient determined by dividing the number of Units owned by such Unit Holder by the aggregate number of Units owned by the Transferring Holder and the non-transferring Unit Holders participating in such sale and (ii) the number of Units to be sold in the contemplated Transfer. Each Unit Holder participating in any Transfer pursuant to this Section 13.02 shall receive (with respect to any Units sold in the transaction) the same form of consideration and the same amount of consideration for each such Unit as such Unit Holder would have received had the aggregate consideration amount received by the Transferring Holder and the participating Unit Holders in connection with such Transfer been distributed to the Unit Holders participating in such Transfer pursuant to Section 5.02, but only taking into account those Unit Holders participating in, and those Units actually being sold, in such transaction (*e.g.*, if not all of the Units are being sold in such transaction, then a Unit Holder owning those Units not being sold shall not be entitled to any consideration with respect to such Units not being sold and such Units not being sold shall not be considered in calculating the consideration to be paid for the Units being sold in such transaction). To the extent that the Transferring Holder is proposing to Transfer both Common Units and Preferred Units (or one class and not the other), the non-transferring Unit Holders electing to participate in such Transfer shall Transfer the same proportion of Common Units to Preferred Units (or solely Common Units or Preferred Units, as applicable) as is being Transferred by the Transferring Holder.

(b) Each Transferring Holder shall use its commercially reasonable efforts to obtain the agreement of the prospective transferee to the participation of the non-transferring Unit Holders in any contemplated Transfer and to the inclusion (in the case of the non-transferring Unit Holders) of all Units held by the non-transferring Unit Holders in the contemplated Transfer, and no Transferring Holder shall Transfer any of its Units to any prospective transferee if such prospective transferee declines to allow the participation of the non-transferring Unit Holders in such transaction. Each Unit Holder transferring Units pursuant to this Section 13.02: (i) will only be required to make representations and warranties as to due power and authority, non-contravention and ownership of Units, free and clear of all liens, (ii) shall be severally (and not jointly or jointly and severally) obligated to join on a pro rata basis (based on its share of the aggregate proceeds paid with respect to its interest) in any indemnification obligation the other Unit Holders have agreed to in connection with such sale other than any such obligation that relates specifically to a particular Unit Holder, such as indemnification with respect to representations and warranties given by a Unit Holder regarding such Unit Holder's title to and ownership of Units; *provided* that no Unit Holder shall be obligated in connection with such sale to indemnify the prospective transferee or its Affiliates with respect to an amount in excess of the net cash proceeds paid to such Unit Holder in connection with such sale (other than as a result of a breach of its representations and warranties described in clause (i)) and (iii) shall not be required to enter into any restrictive covenant (*e.g.*, non-competition or non-solicitation agreement) in connection with the transfer of Units pursuant to this Section 13.02 (*provided* that, for the avoidance of doubt, the foregoing shall not be construed to limit the survival or enforceability of any restrictive covenant (*e.g.*, non-competition or non-solicitation agreement) then in existence).

(c) Notwithstanding any provision hereof to the contrary (including Section 13.02(a)), in connection with the Transfer of any Units subject to this Section 13.02, in the event that any Unit Holder is not an "accredited investor" within the meaning of Rule 501 under the Securities Act, such Unit Holder may, in the sole discretion of the Board of Managers,

receive, in lieu of securities to be received pursuant a Transfer pursuant to this Section 13.02, cash consideration with the equivalent value of such securities that is approved by the Board of Managers and the prospective transferee.

13.03 Preemptive Rights.

(a) Each time the Company proposes to sell or issue Units, the Company shall also make an offering of such Units to the Unit Holders in accordance with the following provisions:

(i) The Company shall deliver a notice to each Unit Holder stating the number of Units to be offered (and such Unit Holder's proposed percentage allotment determined in accordance with Section 13.03(a)(ii)) and the price and the terms on which it proposes to offer such Units.

(ii) Within 15 days after delivery of the notice, each Unit Holder may elect to purchase, at the price and on the terms specified in the notice delivered pursuant to Section 13.03(a)(i), up to its pro rata portion of such Units (based on the number of Common Units held by such Unit Holder relative to the total number of outstanding Units of all Unit Holders) by delivering written notice of such election to the Company within such 15 day period.

(iii) The Unit Holders electing to purchase their entire pro rata portion of Units offered pursuant to this Section 13.03 shall have the right to purchase all or any portion of the Units offered pursuant to this Section 13.03 that other Unit Holders did not elect to purchase under Section 13.03(a)(ii) on a pro rata basis for a period of 15 days after receipt of written notice from the Company notifying such Unit Holders of the number of Units that Unit Holders did not elect to purchase under Section 13.03(a)(ii), at the price and on the terms specified in the notice delivered pursuant to Section 13.03(a)(i).

(iv) Any Units referred to in the notice that the Unit Holders do not elect to purchase as provided in Section 13.03(a)(ii) and Section 13.03(a)(iii) may, during the 90 day period thereafter, be offered by the Company to any third parties at a price not less than, and on terms no more favorable to the offeree than, those specified in the notice delivered pursuant to Section 13.03(a)(i).

(b) The preemptive rights set forth in this Section 13.03 shall not be applicable to the issuance of (i) the Units being issued to the Members on the date hereof or (ii) Units in connection with a Sale of the Company approved by the Board of Manager and the Class B Holders.

13.04 Right of First Offer. Except for Transfers to a Permitted Transferee or pursuant to Section 13.01 or Section 13.02, if at any time a Unit Holder (the "ROFO Seller") wishes to Transfer any or all of the Units held by such ROFO Seller, such Transfer shall be permitted subject to the following provisions:

(a) The ROFO Seller shall deliver an irrevocable written notice (the "ROFO Notice") to the other Unit Holders (each a "ROFO Participant"), offering such Units to

the ROFO Participants and specifying in reasonable detail the number of Units proposed to be Transferred (the "ROFO Interests") and the proposed purchase price and any other material terms and conditions of the offer (the "ROFO Purchase Terms").

(b) For a period of three (3) days after the ROFO Notice has been delivered to the ROFO Participant (the "ROFO Option Period"), the ROFO Participants shall have the right to elect to purchase all, but not less than all, of the ROFO Interests for cash (or other consideration specified in the ROFO Notice) by delivering a written notice (a "ROFO Exercise Notice") to the ROFO Seller prior to the expiration of the ROFO Option Period, to the Company and the ROFO Seller agreeing to purchase the ROFO Interests on the terms set forth in the ROFO Notice (including the same price and with the same amount of consideration per Unit), which ROFO Exercise Notice shall include (i) such ROFO Participant's election and agreement to purchase the number of ROFO Interests up to such ROFO Participant's entire pro rata portion (based on the Unit holdings of all ROFO Participants) of such ROFO Interests, and (ii) if such ROFO Participant has elected to purchase its entire pro rata portion of such ROFO Interests (an "Excess ROFO Participant"), then, in such Excess ROFO Participant's sole discretion, the number of remaining ROFO Interests not purchased by other ROFO Participants (the "Excess Portion"). If more than one Excess ROFO Participant wishes to exercise its right to purchase more than its pro rata portion (based on the Unit holdings of the Excess ROFO Participants) of the Excess Portion, each such Excess ROFO Participant shall only have the right to purchase its pro rata portion (based on the Unit holdings of the Excess ROFO Participants wishing to purchase more than their pro rata portion of the Excess Portion) of the Excess Portion.

(c) If ROFO Participants shall have exercised their rights of first offer pursuant to this Section 13.04 and elected to purchase all (and not less than all) of the ROFO Interests subject to any ROFO Notice, then the closing of the sale by the ROFO Seller of the ROFO Interests to the ROFO Participants (including any Excess ROFO Participants) shall be held within thirty (30) days (or such later date as may be necessary to satisfy any applicable law) after the ROFO Exercise Notice is received by the ROFO Seller or at such other time as the ROFO Participants and the ROFO Seller shall agree. At such closing, the ROFO Participants shall deliver the aggregate purchase price for the ROFO Interests being purchased under this Section 13.04 and in exchange therefor, the ROFO Seller shall deliver such ROFO Interests by delivering written instruments of transfer in form reasonably satisfactory to the ROFO Participants, duly executed by the ROFO Seller, and accompanied by all requisite transfer taxes, if any. Such ROFO Interests shall be free and clear of any liens (other than liens imposed by this Agreement or U.S. securities laws) and the ROFO Seller shall so represent and warrant, and further represent and warrant that it is the sole beneficial and record owner of such ROFO Interests.

(d) If the ROFO Participants (including any Excess ROFO Participants) do not agree to purchase all (and not less than all) of the ROFO Interests subject to a ROFO Notice, the ROFO Seller may Transfer the ROFO Interests (subject to compliance with Section 13.02) within one hundred twenty (120) days, or (as long as a definitive acquisition agreement providing for such sale is entered into within such 120 days) such longer period as may be necessary to obtain approval for such Transfer under applicable law (the "Post-ROFO Period") of the expiration of the ROFO Option Period (or such earlier date that the ROFO Participant shall have delivered such aforementioned written confirmation); *provided* that the

purchase price of such Transfer is not less than 100% of the proposed purchase price set forth in the ROFO Notice and the other terms and conditions of such Transfer, as a whole, are not materially more favorable to the transferee than the ROFO Purchase Terms; *provided further* that any such Transfer shall again be subject to this Section 13.04 and Section 13.02 if not consummated prior to the end of such Post-ROFO Period.

13.05 Duration of Certain Provisions. Notwithstanding anything to the contrary contained in this Agreement, the rights and obligations under this Article XIII shall terminate upon a Sale of the Company.

ARTICLE XIV
Company Business Opportunities; Waiver of Fiduciary Duties

14.01 Company Business Opportunities. In respect of each Unit Holder and its Affiliates: (i) the legal doctrines of "corporate opportunity," "business opportunity" and similar doctrines will not be applied to any ventures or activities of such Unit Holders or their respective Affiliates, (ii) none of the Unit Holders or their respective Affiliates will have any obligation to any member of the Company Group or any of the other Members or their respective Affiliates with respect to any opportunity to expand any member of the Company Group's business, whether geographically or otherwise, (iii) the Company (on behalf of itself and the other members of the Company Group) and each other Unit Holder (on behalf of itself and its Affiliates) hereby renounces any interest or expectancy in any business opportunity, transaction or other matter in which any such Unit Holder or its Affiliates participates or desires or seeks to participate (each, a "Business Opportunity"), (iv) no such Unit Holder (or its Affiliates) shall have any obligation to communicate or offer any Business Opportunity to the any member of the Company Group or any other Unit Holder, and each may pursue for itself or direct, sell, assign or transfer to any other Person any such Business Opportunity, and (v) such Unit Holders and their respective officers, directors, partners, members, managers, representatives, employees, stockholders and Affiliates shall be entitled to and may have business interests and activities that are in direct competition with any member of the Company Group or a Unit Holder or that are enhanced by the activities of any member of the Company Group, and none of any member of the Company Group or any Unit Holder shall have any rights by virtue of this Agreement in any business venture of such Persons, in each case, except as otherwise provided in any other agreement between a Unit Holder and a member of the Company Group.

14.02 Waiver of Fiduciary Duties. To the fullest extent permitted by law and notwithstanding any other provision of this Agreement or any other agreement contemplated herein or in applicable provisions of law or equity or otherwise, the parties hereto hereby agree that pursuant to the authority of Sections 18-1101(c)-(e) of the Act, the parties hereto hereby eliminate any and all fiduciary duties a Member may have to such parties and hereby agree that the Members shall have no fiduciary duty to the Company or any other Member; *provided, however*, the foregoing shall not eliminate the implied contractual covenant of good faith and fair dealing, only to the extent such covenants are not waivable under Sections 18-1101(c)-(e) of the Act.

ARTICLE XV
General Provisions

15.01 Remedies. No remedy conferred upon any party to this Agreement is intended to be exclusive of any other remedy herein or by law provided or permitted, but each such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

15.02 Waiver. None of the terms of this Agreement shall be deemed to have been waived by any party hereto, unless such waiver is in writing and signed by that party. The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any other provision of this Agreement or any further breach of the provision so waived.

15.03 Notices. All notices hereunder shall be in writing and shall be delivered by hand, by facsimile, by local messenger, by reputable overnight courier, or by United States mail, postage prepaid, registered or certified mail, return receipt requested. Notices shall be deemed given: (a) when received, if delivered by hand or local messenger; (b) when sent, if sent by facsimile during the recipient's normal business hours; (c) on the first business day after being sent, if sent by facsimile other than during the recipient's normal business hours; (d) one business day after being delivered to the courier for next day delivery, if sent by courier; and (e) three business days after being deposited in the United States mail, if mailed. A notice delivered by facsimile shall only be effective, however, if the notice is also given by hand, local messenger or courier no later than two (2) business days after its delivery by facsimile. All notices shall be addressed as follows: (i) if to the Company: Western Kentucky Coal Resources, LLC, 46226 National Road, St. Clairsville, Ohio 43950, Attention: General Counsel; and (ii) if to any Unit Holder or Member, to the last address or fax number for such Person as reflected in the Company's records, or (in each case) to such other addresses or addressees as may be designated by notice given in accordance with the provisions of this Section 15.03.

15.04 Entire Agreement. This Agreement contains the entire agreement, and supersedes all prior agreements and understandings and arrangements, oral or written, among the parties hereto with respect to the subject matter hereof.

15.05 Amendments and Modifications. Neither this Agreement nor the Certificate of Formation may be modified, amended or changed except in accordance with the terms of this Agreement, including Section 7.04(a); *provided* that no such modification, amendment or change that has an adverse effect on any Unit Holder when compared to the effect thereof on the other Unit Holders holding the same class or series of Units shall be valid unless the prior written consent of each affected Unit Holder shall have been obtained

15.06 Binding Effect; Benefits. All of the terms and provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective legal representatives, successors and permitted assigns.

15.07 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any

provision of this Agreement shall be unenforceable or invalid under applicable law, such provision shall be ineffective only to the extent of such unenforceability or invalidity, and the remaining provisions of this Agreement shall continue to be binding and in full force and effect.

15.08 Headings. The section and other headings contained in this Agreement are for convenience only and shall not be deemed to limit, characterize or interpret any provisions of this Agreement.

15.09 No Strict Construction. The parties hereto jointly participated in the negotiation and drafting of this Agreement. The language used in this Agreement shall be deemed to be the language chosen by the parties hereto to express their collective mutual intent, this Agreement shall be construed as if drafted jointly by the parties hereto, and no rule of strict construction shall be applied against any Person.

15.10 Interpretation. As used in this Agreement, the masculine, feminine or neuter gender shall be deemed to include the others whenever the context so indicates or requires. Terms defined in the singular have a comparable meaning when used in the plural and vice versa. Terms defined in the current tense shall have a comparable meaning when used in the past or future tense and vice versa. Terms defined as a noun shall have a comparable meaning when used as an adjective, adverb, or verb and vice versa. Whenever the term "include" or "including" is used in this Agreement, it shall mean "including, without limitation," (whether or not such language is specifically set forth) and shall not be deemed to limit the range of possibilities to those items specifically enumerated. Unless otherwise limited, the words "hereof", "herein" and "hereunder" and words of similar import refer to this Agreement as a whole and not to any particular provision. Each reference herein to any entity includes any successor thereto.

15.11 Counterparts. This Agreement may be executed in any number of counterparts, and by facsimile, each of which shall be effective only upon delivery and thereafter shall be deemed to be an original, and all of which shall be taken to be one and the same instrument with the same effect as if each of the parties hereto had signed the same signature page.

15.12 Governing Law. This Agreement and the rights of the parties hereunder shall be construed and interpreted in accordance with the laws of the State of Delaware applicable to agreements made and to the performance wholly within that jurisdiction.

15.13 Confidentiality. Each party hereby acknowledges and agrees that all information provided to them by or on behalf of the Company concerning the business and assets of a member of the Company Group or any Member shall be deemed strictly confidential and shall not, without the prior written consent of the Board of Managers, be (a) disclosed to any person other than a Member or (b) used by a Member for a purpose adverse to the Company unless reasonably related to protecting the Member's interest in the Company. The foregoing requirements shall not apply to a Member with regard to any information that (i) has been made or become publicly available, generally known or otherwise placed in the public domain other than by a Member in violation of this Agreement, (ii) is or becomes available to a Member from any other person, firm or entity, *provided* that, to the knowledge of the applicable Member, such

source obtains and discloses such confidential information lawfully and without breach of any confidentiality agreement with or obligation to the Company, (iii) is released by the Company to any other person, firm or entity without restriction, other than by a Member in violation of this Agreement or (iv) is required to be disclosed by law or by the rules of a securities exchange on which a Member may from time to time be listed. In the event that a Member becomes legally compelled to disclose any such information or documents referred to in this paragraph, such Member shall, to the extent reasonably practicable, provide the Company with prompt written notice before such disclosure, sufficient to enable the Company either to seek a protective order, at its expense, or another appropriate remedy preventing or prohibiting such disclosure or to waive compliance with the provisions of this Section 15.13, or both.

15.14 Deadlock Resolution. In the event the Managers fail to agree on an Annual Business Plan or any amendment thereto as proposed by the Class A Manager, upon the request of Operator the proposed Annual Business Plan or amendment thereto as proposed by the Class A Manager shall be promptly submitted to the Class B Holders for a vote. If a Majority of the Class B Common Units approve the Annual Business Plan or amendment thereto as proposed by the Class A Manager, the Managers shall adopt the Annual Business Plan or amendment thereto as proposed by the Class A Manager. If a Majority of the Class B Common Units do not approve the Annual Business Plan or amendment thereto as proposed by the Class A Manager, Operator (the "Notifying Member") may, within 15 days after such matter is not approved, give written notice (each a "Deadlock Notice") to the Class B Holders (the "Notified Members"), describing the matter and stating that the Notifying Member desires to invoke the procedures described in this Section 15.14.

(b) Within 20 days after receipt by the Notified Members of a Deadlock Notice given by a Notifying Member pursuant to Section 15.14(a), the Board of Managers shall meet and confer in good faith with a view to resolving the matter which gave rise to the Deadlock Notice. If such matter is not resolved by the end of such 20-day period, the Notifying Member may, within 25 days after the expiration of such 20-day period, give written notice (each, a "Buy-Sell Notice") to all, but not less than all, of the Notified Members.

(c) A Buy-Sell Notice shall contain the absolute and unconditional offer of the Notifying Member or its designees to purchase for cash, in a stated amount (the "Stated Amount") per Unit (adjusted as provided in Section 15.14(e)), all of the Units of the Notified Members.

(d) During the 30 days following receipt by the Notified Member of a Buy-Sell Notice, one or more of the Notified Members may give written notice (each, a "Buy Notice") to the Notifying Member and to each of the other Notified Members. The Buy Notice shall contain the absolute and unconditional agreement of the Notified Members or their designees, pro-rata among all Notified Members delivering a Buy Notice to their respective Class B Common Units ownership (or in such other proportion as stated therein), to purchase for cash, in the Stated Amount per Unit (adjusted as provided in Section 15.14(f)), all of the Units of the Notifying Member and the offer to purchase for cash, in the Stated Amount per Unit (adjusted as provided in Section 15.14(e)), all of the Units of the other Notified Members.

(e) If the Notified Members fail to give a Buy Notice during the 30 days following receipt by the Notified Members of the Buy-Sell Notice, the Notifying Member or its designees shall purchase all of the Units of the Notified Members for cash in the Stated Amount per Unit, plus the profits or minus the losses of the Company, minus any distributions to Members, per Unit, between the date of the Buy-Sell Notice and the closing date.

(f) If one or more of the Notified Members give a Buy Notice during the 30 days following receipt by the Notified Member of the Buy-Sell Notice, the Notified Member(s) or their designees delivering a Buy Notice shall purchase (i) all of the Units of the Notifying Member in the Company for cash in the Stated Amount per Unit, plus the profits or minus the losses of the Company, less any distributions to Members, per Unit, between the date of the Buy-Sell Notice and the closing date, plus (ii) all of the Units of the other Notified Members who elect to sell their Units to such Notified Members for cash in the Stated Amount per Unit (adjusted as provided in Section 15.14(e)).

(g) The closing of the purchase of Units provided in Section 15.14(e) and Section 15.14(f) shall take place within five business days after all necessary government approvals have been obtained. The Members shall cooperate in good faith and use commercially reasonable efforts to obtain all such approvals and consummate the closing. At the closing: (i) the Members which sell their Units pursuant to Section 15.14(e) or Section 15.14(f) (the "Selling Members") shall sell, assign and deliver such interests to the purchasing Members free and clear of all liens, and (ii) each Selling Member shall execute and deliver to the purchasing Members written representations and warranties of such Selling Member to the effect that it is the owner of the Units to be sold at the closing, has full power and authority to sell, assign and deliver good and marketable title to such Units to the purchasing Members, and is assigning and delivering such Units to the purchasing Members at the closing free and clear of all liens. A Member may assign its right and obligation to purchase the Selling Members Units under this Section 15.14 to an Affiliate of such purchasing Member.

(h) The restrictions contained in Article X and Article XIII shall not apply to any Transfer pursuant to this Section 15.14.

[The remainder of this page has been left blank intentionally.]

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

Company: Western Kentucky Coal Resources, LLC

By: _____
Name: _____
Title: _____

Members:

Murray Kentucky Energy, Inc.

By: _____
Name: _____
Title: _____

Members: [Caspian Entity]

By: _____
Name: _____
Title: _____

Members: [GoldenTree Entity]

By: _____
Name: _____
Title: _____

Members: [Marathon Entity]

By: _____
Name: _____
Title: _____

Members: [Teachers Entity]

By: _____
Name: _____
Title: _____

Exhibit A
Members

Members	Class A Common Units	Class B Common Units	Preferred Units	% Interest
Murray Kentucky Energy, Inc. 46226 National Road, St. Clairsville, Ohio 43950 Attention: General Counsel Facsimile No.: 740-695-7028	102,000,000		0	51%
Caspian Solitude Master Fund, L.P c/o Caspian Capital LP 767 Fifth Ave., 45th Floor New York, NY 10153 Attention: Susan Lancaster Facsimile No.: 212-826-6980	0	603,680	6,160	0.30%
Caspian SC Holdings, L.P. c/o Caspian Capital LP 767 Fifth Ave., 45th Floor New York, NY 10153 Attention: Susan Lancaster Facsimile No.: 212-826-6980	0	1,159,340	11,830	0.58%
Caspian WKCR I, LLC c/o Caspian Capital LP 767 Fifth Ave., 45th Floor New York, NY 10153 Attention: Susan Lancaster Facsimile No.: 212-826-6980	0	8,260,665	84,293	4.13%
Caspian WKCR II, LLC c/o Caspian Capital LP 767 Fifth Ave., 45th Floor New York, NY 10153 Attention: Susan Lancaster Facsimile No.: 212-826-6980	0	6,110,055	62,347	3.06%
GoldenTree Distressed Fund 2014 LP c/o GoldenTree Asset Management LP 300 Park Avenue, 21st Floor New York, NY 10022 Facsimile No.: 212-847-3497	0	3,900,400	39,800	1.95%
GoldenTree E Distressed Debt Fund II LP c/o GoldenTree Asset Management LP 300 Park Avenue, 21st Floor New York, NY 10022 Facsimile No.: 212-847-3497	0	31,360	320	0.02%
GoldenTree NJ Distressed Fund 2015 LP c/o GoldenTree Asset Management LP 300 Park Avenue, 21st Floor New York, NY 10022 Facsimile No.: 212-847-3497	0	9,437,890	96,305	4.72%

San Bernardino County Employees Retirement Association c/o GoldenTree Asset Management LP 300 Park Avenue, 21st Floor New York, NY 10022 Facsimile No.: 212-847-3497	0	979,020	9,990	0.49%
GT Armstrong Onshore, LLC c/o GoldenTree Asset Management LP 300 Park Avenue, 21st Floor New York, NY 10022 Facsimile No.: 212-847-3497	0	24,695,020	251,990	12.35%
Marathon Centre Street Partnership LP c/o Marathon Asset Management, LP One Bryant Park, 38th Floor New York, NY 10036 Facsimile No.: 212-205-8772	0	6,365,590	64,955	3.18%
Marathon CLO IV, Ltd. c/o Marathon Asset Management, LP One Bryant Park, 38th Floor New York, NY 10036 Facsimile No.: 212-205-8772	0	1,959,020	19,990	0.98%
Master SIF SICAV – SIF c/o Marathon Asset Management, LP One Bryant Park, 38th Floor New York, NY 10036 Facsimile No.: 212-205-8772	0	1,614,550	16,475	0.81%
TRS Credit Fund LP c/o Marathon Asset Management, LP One Bryant Park, 38th Floor New York, NY 10036 Facsimile No.: 212-205-8772	0	1,577,310	16,095	0.79%
Teachers Insurance and Annuity Associate of America 730 Third Avenue New York, NY 10017 Facsimile No.: 212-916-6140	0	5,599,230	57,135	2.80%
Other Holders	0	25,706,870	262,315	12.85%
TOTAL	102,000,000	98,000,000	1,000,000	100.00%