

The Dayton Power and Light Company
Transaction Confirmation

Seller:	Buyer:	The Dayton Power and Light Company
Address:	Address:	1065 Woodman Drive Dayton, OH 45432
Phone:	Phone:	(937) 259-7225
Fax:	Fax:	(937) 259-7250
Email:	Email:	Michael.Perkins@dplinc.com

This Transaction Confirmation (“Confirmation”) confirms the agreement between Buyer and Seller (each a “Party” and collectively the “Parties”) with respect to the transaction described below (the “Transaction”), and incorporates by reference the terms and conditions attached as Annex A. This Confirmation and the Annex A (collectively the “Agreement”) constitute all of the terms and conditions of the binding agreement regarding this transaction. Seller agrees to deliver and Buyer agrees to purchase Coal of the quality and quantity and at the price stated in this Confirmation, subject to the terms and conditions of the Agreement.

Transaction Date:

Contract ID:

Product: Crushed, bituminous coal containing no synthetic fuels, substantially free from any extraneous material and debris, with no intermediate sizes to be added or removed and otherwise meeting the Specifications of this Agreement (hereinafter “Coal”).

Contract Term:

Contract Price:

Contract Quantity: _____ tons

Tonnage Flexibility:

Delivery Point: FOB barge at _____ dock (MP _____ on the _____ River) (each barge a “Shipment”).

Source:

Specifications: Seller shall deliver Coal that: (1) on an individual barge basis conforms to each of the Individual Shipment Reject Specifications set forth below; and (2) on a monthly weighted average basis conforms to the Guaranteed Monthly Average Specifications set forth below.

Quality Specifications:

Characteristics:	Guaranteed Monthly Average Specifications	Individual Shipment Reject Specifications
BTU/lb. (Min.)		<
% Ash		>
Lbs. SO ₂ /MMBTU (Max.)		>
% Moisture		>
Grind (HGI) (Min.)		< *
Volatile Matter (Min.)		<
Size	2" x 0"	
%Fines (Max.) -passing a 1/4" screen	%	>0%*
REDUCING ATMOSPHERE		
Initial Deformation		<
Softening (H=W)		Min.
Softening (H=1/2 W)		
Fluid		

* Grind (HGI) and %Fines will only be tested upon advance request by either party and prior to loading. Seller agrees to allow Buyer periodic testing at any time Buyer requests.

Governing Weights: Seller, at its expense, in accordance with Annex A.

Governing Samples: Seller at its expense, in accordance with Annex A.

Governing Laboratory: Buyer's independent laboratory (Mineral Labs, Inc.), for Buyer's account.

Sampling Person: Seller

Quality Adjustments:

BTU Price Adjustment:

$[(As\ Received\ BTU/lb.\ -\ Guaranteed\ BTU/lb.) / Guaranteed\ BTU/lb.] * Contract\ Price$

SO₂ Price Adjustment: The adjustment is \$0.30 per ton per every 0.1 lbs. SO₂/MMBTu above Guaranteed SO₂/MMBTu.

$[(As\ Received\ SO_2\ -\ Guaranteed\ SO_2) * 10] * \0.30

This Agreement will not be a binding Transaction until it is signed by Seller and returned to Buyer by mail, facsimile or mutually acceptable electronic means.

Seller:

Buyer:

The Dayton Power and Light Company

By: _____

By: _____

Title: _____

Date: _____

Date: _____

ANNEX A
Terms and Conditions

Scheduling: Buyer shall advise Seller (in writing via electronic mail or other mutually acceptable means) on or before the 15th day of each calendar month (the "Nomination Period") preceding scheduled shipments of the number of barges it desires to load during the succeeding month to fulfill the Contract Quantity and Buyer's desired loading dates and delivery schedule ("Delivery Schedule"). Seller will advise Buyer (in writing via electronic mail or other mutually acceptable means) no later than ten (10) days prior to the end of the calendar month preceding shipment of its source loadout(s) for the scheduled monthly Shipment(s). The Parties will work together in good faith to agree on a reasonable and mutually acceptable Delivery Schedule within the Nomination Period and within each month during the Nomination Period. Once the Delivery Schedule is agreed upon there shall be no material changes except through mutual consent. Unless otherwise set forth in the Confirmation, all deliveries will occur in approximately ratable amounts over the Contract Term and Seller shall use its best efforts to deliver the Coal pursuant to the Delivery Schedule.

Additional Transportation Charges: In the event a Party incurs increased transportation charges, penalties or other costs, including demurrage, attributable to the other Party's failure to timely and appropriately load or unload the Coal, and if such failure is not due to Force Majeure, failure of the other Party or the other Party's railcars or transportation carrier, such failing Party shall promptly reimburse the other for such actual charges, if such charges are usual and customary, after written notice thereof.

Sampling and Analysis: Sampling Person shall sample, via a mechanical sampler at the Delivery Point, each shipment of Coal delivered to Buyer. Buyer shall analyze each Shipment of Coal at its expense. All sampling preparation and analysis shall be performed in accordance with then current published American Society of Testing and Materials (ASTM) standards by a mutually agreeable independent laboratory. Such analysis shall be final and binding and shall govern for payment.

The Sampling Person shall make available sample splits within twenty-four (24) hours of loading. Buyer shall report the analysis of each sample's quality to Seller. Such analysis shall be provided in a format specified by Buyer. Sampling Person shall retain, for a period of 60 days from the loading date, sample splits taken in accordance with the provisions of this Agreement.

In the event of a disagreement over Coal analysis and upon Buyer and Seller selecting a mutually agreed upon independent laboratory, Sampling Person shall provide sample splits to the independent laboratory for analysis. Such analysis shall be accepted as the quality of Coal received. The cost of the independent analysis shall be equally shared between Buyer and Seller; however, the cost of the independent analysis shall be paid by other party if the results of such analysis and Sampling Person's analysis are within applicable ASTM standards for repeatability and reproducibility, or in the absence of ASTM standards, mutually agreeable coal industry standards. If Sampling Person's results are not so confirmed, then the laboratory's results shall be accepted as the quality and characteristics of the Coal.

Weight Determination: Shipments delivered by barge(s) shall be weighed at Seller's expense by means of a certified belt scale (such certification to be not older than six (6) months from the date of loading), or if such scale is not available, by draft survey taken by Seller's agent at the Delivery Point prior to the departure of the barge(s) from the Delivery Point. The weights thereby determined (absent manifest error) will be the basis on which invoices will be rendered and payments made hereunder.

Buyer's Rejection Rights: If any Shipment of Coal triggers any of the Individual Shipment Rejection Specifications for a Transaction (a "Non-Conforming Shipment"), Buyer shall have the option, exercisable by written notice to Seller within twenty-four (24) hours of Buyer's receipt of the Sampling Person's analysis, of either (a) rejecting such Non-Conforming Shipment at the Delivery Point or in route or (b) accepting any Non-Conforming Shipment with a Contract Price reduction mutually agreed upon by the Parties. With respect to any Non-Conforming Shipment rejected by Buyer, title to and risk of loss of the Coal automatically will transfer back to Seller upon such rejection, unless otherwise mutually agreed upon in writing by the Parties. Seller shall be responsible, at its expense, for promptly transporting any rejected Coal to an alternative destination determined by Seller and, if applicable,

promptly unloading such Coal, and shall reimburse Buyer for all direct costs and expenses actually incurred in connection with the transportation, storage, handling and removal of the Non-Conforming Shipment. Seller shall replace the rejected Coal within a reasonable period of time (but in no event later than thirty (30) days) unless Buyer gives written notice to Seller of Buyer's desire not to replace the rejected Coal within forty-eight (48) hours after rejection of the Non-Conforming Shipment.

Buyer's Suspension Rights: In addition to the rejection rights set forth above, Buyer shall have the right to suspend Shipments of Coal immediately by giving verbal or written notice to Seller in the event that any Shipment of Coal triggers any of the Individual Shipment Rejection Specifications. After receipt of such notice, Seller shall immediately take action to correct such deficiencies. After Seller has determined that Coal is in compliance with this Agreement, Seller shall so notify Buyer, and an inspection and/or a test Shipment of Coal may be scheduled or other determination of compliance provided, at Buyer's option and at Seller's expense. If compliance is not demonstrated, Buyer shall have the option to allow further determination of compliance or to cancel the Transaction and seek any and all remedies in connection therewith.

General Terms and Conditions

Representations and Warranties: On the Effective Date hereof, each Party represents and warrants to the other that:

- (a) The execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate or other organizational action on its part and do not violate or conflict with any law applicable to it, its organizational documents or any order or judgment of a court or other agency of government applicable to it or its assets;
- (b) Its obligations under this Agreement are legally valid and binding obligations, enforceable in accordance with their terms;
- (c) It, or its affiliates, have, or will diligently pursue, any and all necessary governmental and other third party permits, approvals and licenses required in connection with the execution, delivery and performance of this Agreement;
- (d) There are no Bankruptcy Proceedings, as defined herein, pending or being contemplated by it or, to its knowledge, threatened against it;
- (e) There are no known suits, proceedings, judgments rulings or orders by or before any court or any governmental authority that materially adversely affect its ability to perform its obligations under this Agreement;
- (f) With respect to this Agreement, it, or its affiliates, are a producer, processor, commercial user or merchant handling Coal, and it is entering into such Agreement for purposes related to its business as such.

Force Majeure: If a Party is delayed in or prevented from performing, in whole or in part, any of its obligations due to acts of God, war, riots, civil insurrection, acts of the public enemy, strikes, lockouts, natural disasters, or other causes that are beyond the reasonable control and without the fault or negligence of the Party affected thereby, including without limitation Buyer's inability to utilize Coal sold hereunder in its electric generation operations due to unplanned outages of equipment or facilities (such events being referred to herein as "Force Majeure"), and such Party gives oral notice and full details of the Force Majeure to the other Party as soon as reasonably practicable after the occurrence of the event of Force Majeure (such notice to be confirmed in writing), then during the pendency of such Force Majeure but for no longer period, the obligations of the Parties (other than obligations to make payments then due) shall be suspended to the extent required by the event. The Party affected by the Force Majeure shall remedy the Force Majeure with all reasonable dispatch and will keep the other Party advised as to the continuance of the Force Majeure event; provided however, that this provision shall not require Seller to deliver, or Buyer to receive, the Coal at points other than the Delivery Point for the authorized Source including allowable substitutions under the Agreement. The Party not declaring Force Majeure shall have the right, at its own risk and at its sole cost and expense, to inspect the facility of the Party declaring Force Majeure to the extent that the cause or event that resulted in such declaration is located at or related to said facility. Any deficiencies in the delivery or receipt of Coal caused by Force Majeure may be required to be made-up at the option of the Party not declaring the Force Majeure,

which option shall be exercised by a notice to the declaring Party to be provided in writing within 14 calendar days after the declaring Party has provided notice of the end of the Force Majeure. If such option is exercised, the Party with the power to exercise the option shall have the further option of specifying that the make-up quantities shall be made up either: (1) by an extension of the Contract Term as appropriate such that the make-up deliveries can be made in a ratable manner; or (2) by increasing the remaining monthly obligations through the end of the affected calendar year, provided, however, that increasing the remaining monthly obligations shall be specified only if the Force Majeure had a duration of less than 150 days.

A change in market conditions including the ability of Seller to sell Coal at a higher price, or Buyer or Buyer's customer to buy Coal at a lower price, whether or not foreseeable shall not be considered a Force Majeure event. If an event of complete or partial Force Majeure persists for a continuous period of sixty (60) days, then the Party not claiming Force Majeure shall have the option, upon three (3) days' prior written notice, to terminate this Agreement to the extent affected and the associated obligations of the Parties (other than payment obligations for prior performance thereunder). In the event of a Force Majeure, delivery of the affected Contract Quantity of Coal may be required to be made-up at the option of the Party not declaring the Force Majeure, which option shall be exercised by a notice to the declaring Party to be provided in writing within 14 calendar days after the declaring Party has provided notice of the end of the Force Majeure. The price for such make-up deliveries shall be the Contract Price in effect at the time of the Force Majeure. If Seller claims Force Majeure and is unable to meet all of its sales obligations under this Agreement and any other of its Coal sales agreements involving Coal of a similar type and quality as the Coal, or if Buyer claims Force Majeure and is unable to meet all of its purchase obligations under this Agreement and any other of its Coal purchase agreements involving Coal of a similar type and quality as the Coal, then any reductions in Seller's deliveries or Buyer's purchases (as applicable) shall be allocated on a pro rata basis among the affected transaction(s) and such other Coal supply or purchase agreements involving Coal of the same type and quality as the Coal, to the extent contractually permitted by such agreements.

Additives: Seller shall use Commercially Reasonable Efforts to treat the Coal with freeze control agents or other additives as directed by Buyer. Buyer shall reimburse Seller for the actual cost of materials, including reasonable application costs as charged by the Source or Delivery Point, as applicable, for application of the freeze control agents or other additives. Seller shall invoice Buyer and Buyer shall pay Seller for such freeze control agents or other additives in accordance with the provisions of this Agreement. Seller shall provide to Buyer a copy of the applicable then-current Material Safety Data Sheet ("MSDS"). "Commercially Reasonable Efforts" means the taking by a Party of such action as would be in accordance with reasonable commercial practices as applied to the particular matter in question to achieve the result as expeditiously as practicable; provided, however, that such action shall not require that such Party incur unreasonable expense.

Insurance: Seller shall provide and/or cause its transloading operators at the Delivery Points to procure and maintain the following minimum insurance coverages:

- (a) Statutory Longshore and Harbor Workers' Compensation Act Insurance and/or statutory Workers' Compensation Insurance or Jones Act (Maritime Employers Liability), whichever is applicable, covering all the workers at the Delivery Points; and
- (b) Marine Liability insurance (in any combination of primary and excess policies) including but not limited to Protection and Indemnity Liability, Jones Act (Maritime Employers Liability), Pollution Liability, Full Collision Liability, Marine Operators Liability, Marine Contractual Liability, Wharfinger Liability, Towers' Liability, Hull and Cargo Legal Liability and Cost of Removal of Wreck and Cargo (including voluntary or statutory), as applicable, covering Buyer and/or transloading operators, as applicable, motor vessels, docks and fleets operations at all barge loading points in an amount not less than \$10,000,000 per occurrence.

Remedies: As an alternative to the Damages provision below, if the Parties mutually agree in writing, the Non-Defaulting Party may schedule deliveries or receipts, as the case may be, pursuant to such terms as the Parties agree in order to discharge some or all of the obligation to pay damages. In absence of such agreement, the damages provision below shall apply.

Damages:

(a) Unless excused by Force Majeure or the Buyer's failure to perform, if Seller fails to deliver all or part of the Contract Quantity of the Coal to be delivered hereunder pursuant to the Delivery Schedule, Seller shall pay to the Buyer for each ton of deficiency (the "Deficiency") an amount equal to the positive difference, if any, obtained by subtracting the Contract Price for the Deficiency from the Replacement Price. "Replacement Price" means the price at which Buyer, acting in a commercially reasonable manner, purchases substitute Coal for the Deficiency (plus additional transportation charges, if any, incurred by Buyer as a result of taking delivery of substitute Coal at a location other than the Delivery Point) or, absent such a purchase, the market price for such quantity of Coal FOB the Delivery Point, as determined by Buyer in a commercially reasonable manner. It is expressly agreed that Buyer shall not be required to enter into a replacement transaction in order to determine the Replacement Price.

(b) Unless excused by Force Majeure or the Seller's failure to perform, if Buyer fails to accept all or part of the Contract Quantity of the Coal to be delivered hereunder pursuant to the Delivery Schedule, Buyer shall pay to the Seller for each ton of deficiency (the "Deficiency") an amount equal to the positive difference, if any, obtained by subtracting the Sales Price from the Contract Price for the Deficiency. "Sales Price" means the price at which Seller, acting in a commercially reasonable manner, resells (if at all) the Deficiency (plus additional transportation charges, if any, incurred by Seller as a result of delivering Coal to a location other than the Delivery Point) or, absent such resale, the market price for such quantity of Coal FOB the Delivery Point, as determined by Seller in a commercially reasonable manner. It is expressly agreed that Seller shall not be required to enter into a replacement transaction in order to determine the Sales Price.

Invoicing and Payments: Seller shall provide Buyer an invoice for Shipments delivered during the previous calendar month. Seller's invoice shall include information detailing the Seller's remittance information, the Contract ID number, commodity type, tonnage, price, quality adjustments (including cost per ton), invoice number, date loaded, barge or train number, loading point, and subtotals for the quality adjustments and commodity type.

Payment shall be made no later than ten (10) Business Days after the receipt of Seller's invoice, or the 15th of the month, whichever is later (or if such day is not a Business Day, the immediately following Business Day), provided that an invoice has been received. "Business Day" means a day on which Federal Reserve member banks in New York City are open for business; and a Business Day shall open at 8:00 a.m. and close at 5:00 p.m. Eastern Prevailing Time. Buyer shall remit payment by electronic transfer to Seller with reference to Seller's invoice number. Seller shall send invoicing correspondence to Buyer at settlements@dplinc.com.

Bankruptcy: In the event either Party (i) files a petition or otherwise commences or acquiesces in a proceeding under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), or (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, (collectively, "Bankruptcy Proceedings"), then the other Party may, at its option and in its sole discretion anytime thereafter upon written notice, terminate this Agreement in whole or in part.

Event of Default: An Event of Default ("Event of Default") with respect to a Party (the "Defaulting Party") shall mean: (i) the failure of the Defaulting Party to pay when due any required payment and such failure is not remedied within five (5) Business Days after written notice; (ii) the failure of the Defaulting Party to comply with its other material obligations under this Agreement (other than a failure to deliver or receive Coal, the exclusive remedy for which is set forth above) and such failure is not remedied within five (5) Business Days after written notice; (iii) a Party or its credit support provider is subject to a Bankruptcy Proceeding; or (iv) any representation or warranty made by a Party herein shall prove to be untrue in any material respect when made.

Early Termination: Upon the occurrence and during the continuance of an Event of Default, as to the Defaulting Party, the other Party (the "Non-Defaulting Party") may, in its sole discretion: (a) accelerate and liquidate the Parties' respective obligations by establishing and notifying the Defaulting Party of an early termination date (which shall be no earlier than the date such written notice is received and no later than twenty (20) days after the date of such notice) on which this and any other Coal Agreement shall terminate ("Early Termination Date"); and/or (b)

withhold any payments due to the Defaulting Party until such Event of Default is cured; and/or (c) suspend performance of its obligations until such Event of Default is cured.

Early Termination Payment: If an Early Termination Date is established pursuant to the previous paragraph (an “Early Termination Date”), the Non-Defaulting Party shall in good faith calculate its direct damages determined in accordance with the Uniform Commercial Code resulting from the termination of this Agreement, and then notify the Defaulting Party of the net amount owed or owing. If such amount is not reasonably disputed by the Defaulting Party, such Party shall within twenty (20) Business Days of its receipt of such notice pay the net amount to the Non-Defaulting Party, including interest at the Interest Rate from the Early Termination Date until paid. In the event said damages are reasonably disputed by the Non-Defaulting Party, such dispute shall be resolved in accordance with the provisions below. The Non-Defaulting Party shall use Commercially Reasonable Efforts to mitigate any costs and damages that it is entitled to hereunder and act at all times in a commercially reasonable manner. The Defaulting Party shall have the right to audit (through a third party independent auditor mutually agreed to by the Parties) the calculation of all such damages alleged by the Non-Defaulting Party. Notwithstanding anything to the contrary herein or in applicable provisions of the Uniform Commercial Code, neither Party shall be entitled to recover consequential damages for any reason or in any circumstance. Interest Rate means, for any date, two percent (2%) over the per annum rate of interest equal to the prime lending rate as may from time to time be published in the *Wall Street Journal* under “Money Rates”; provided, however, that the Interest Rate shall never exceed the maximum rate allowed by applicable law.

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

Limitation of Liability: No waiver of remedies or damages herein shall apply to claims of anticipatory repudiation or remedies thereof provided for by law except that neither Seller nor Buyer shall be liable to the other for consequential, incidental, punitive, exemplary, special or indirect damages, lost profits, or business interruption damages, whether in equity or by statute, in tort, or in contract, under any indemnity provision or otherwise.

Title and Indemnity: Seller represents and warrants to Buyer that at the time of delivery it will have good and marketable title to the Coal, and will deliver the Coal to Buyer free and clear of all liens, claims, security interests and other encumbrances. Seller shall indemnify, defend and hold harmless Buyer from any claims arising from or related to claims of title, personal injury or death, property damage or other charges related to the Coal that are in connection with or relate to periods before title passes to Buyer.

Title/ Risk of Loss: Seller warrants good title to all Coal delivered hereunder, free and clear of all claims and encumbrance. Title and risk of loss shall pass to the Buyer upon delivery at the Delivery Point.

Assignment: Neither Party shall assign this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed.

Entire Agreement: This Agreement is the final and entire agreement between the Parties. No modification or amendment of this agreement shall be effective or binding unless set forth in writing signed by both Parties.

No Waiver: Waiver of any breach of the Agreement shall not be construed as a waiver of any other breach.

Governing Law: This Agreement shall be construed in accordance with and governed by the laws of the State of New York, including without limitation the Uniform Commercial Code, without giving effect to the doctrine of conflict of laws.

Confidentiality: Each Party hereby acknowledges that this Agreement contains confidential information that may place such a Party at a competitive disadvantage if disclosed to the public. Therefore, the terms of this Agreement shall be preserved as confidential by the Parties, except to the extent disclosure may be required by law, regulation or judicial administrative order, and the Parties shall employ reasonable means to effectuate such confidentiality. However, disclosure of information is permitted to a Party's affiliates, directors, employees, regulators, counsel, auditors, agents, or partners in ownership of a generation facility, provided that it is necessary to show the information to such individuals or entities due to their relationship with the Party and such individuals and entities are informed of the confidential nature of the information.

Notwithstanding the foregoing, the Parties hereby consent to each Party's limited use and disclosure of the terms and conditions of all relevant Confirmations in connection with arbitration intended to establish a market price for Fuel. The Parties shall ensure that the arbitrators and the other party to the arbitration are covered by a confidentiality agreement.

Notices: Notices under this Agreement shall be given in writing and shall be effective when received.

Limitation on Warranty: Except as expressly set forth herein, Seller expressly disclaims any other representations or warranties, written or oral, express or implied, including merchantability, or fitness for any particular purpose.

Recording: Each Party hereby consents to recording of conversations without any further notice.

Forward Contract: The Parties agree that this Agreement constitutes a "forward contract" and that the Parties shall be "forward contract merchants" within the meaning of the United States Bankruptcy Code.

Dispute Resolution:

A. Procedure. If a dispute arises between the Parties relating to this Agreement, the Parties agree to use the following procedure prior to either Party pursuing other available remedies:

- (i) A meeting shall be held promptly between the Parties, attended by individuals with decision-making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute.
- (ii) If within thirty (30) days after such meeting, the Parties have not succeeded in negotiating a resolution of the dispute, the dispute shall be submitted to binding arbitration.

B. Arbitration. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. With respect to any arbitration, the number of arbitrators shall be three, each Party having the right to appoint one arbitrator who shall together then appoint a third neutral arbitrator within thirty (30) days in accordance with the Commercial Arbitration Rules. The third arbitrator shall be a person who has five (5) years or more experience in the coal industry. None of the arbitrators shall have been previously employed by either Party or have any direct interest in either Party or the subject matter of the arbitration, unless such conflict is expressly acknowledged and waived in writing by both Parties. The place of arbitration shall alternate between the office of Buyer and Seller, the first being held at Buyer's office. It is expressly agreed that the arbitrators shall have no authority to award consequential, special, indirect, or exemplary, or punitive damages of any type under any circumstances regardless of whether such damages may be available under applicable law, or federal law, or under the Federal Arbitration Act, the Parties hereby waiving their rights, if any, to recover consequential, special, indirect, exemplary, and punitive damages with respect to this Agreement. Any award reached by the arbitrators may be vacated pursuant to Section 12 or modified pursuant to Section 13 of the Uniform Arbitration Act (adopted by the National Conference of Commissioners on Uniform State Laws in 1955), as amended. The Parties agree that all arbitration proceedings conducted hereunder and the decision of the arbitrators shall be kept confidential and not disclosed, except as required by applicable law or to the Parties' Affiliates, accountants, lawyers and regulatory bodies to the extent necessary to enforce the decision.

Both Parties agree that in the event of any dispute between the Parties, it will continue to provide products or services without interruption.