

COMMERCIAL AND INDUSTRIAL  
RENEWABLE ENERGY PROGRAM PURCHASE AGREEMENT

This Commercial and Industrial Renewable Energy Program Purchase Agreement (“Agreement”) is made and entered into this 1st day of October, 2023, by and between East Kentucky Power Cooperative, Inc., 4775 Lexington Road, Winchester, Kentucky 40391 (“EKPC”); Inter-County Energy Cooperative Corporation, with its principal place of business at 1009 Hustonville, Rd., Danville, Kentucky (“Cooperative”); and the following identified commercial or industrial end-use retail (“Customer”), who is a Member of Cooperative:

Customer: Maker’s Mark, Inc.  
Mailing Address: 3350 Burkes Springs Rd, Loretto, Kentucky 40037  
Service Address(es): 3350 Burkes Springs Rd, Loretto, Kentucky 40037  
Telephone Number: 270-865-2881 Email: Kecia.stevens@makersmark.com  
Account Number(s): 697-013

WHEREAS, Customer is a commercial or industrial customer of Cooperative and has an interest in acquiring energy from renewable resources and/or renewable energy credits (“RECs”) arising from the generation of energy from renewable resources; and

WHEREAS, Customer desires and agrees to purchase, and EKPC and Cooperative are both willing and agree to sell, renewable energy and/or purchase and retire RECs from the Dedicated Solar Facility (as defined below) and potentially other renewable resource(s) to offset a portion or all of the energy consumed by the Customer at the above-listed service address and account;

THEREFORE, in mutual consideration of the promises, representations, recitals, terms and conditions, the receipt and sufficiency of which is hereby acknowledged, the Parties do hereby agree as follows:

- Purchase and Sale of Renewable Energy.** The Customer may annually purchase renewable energy from Cooperative up to an amount equal to the Customer’s average annual energy consumption over the previous three (3) calendar years. In the event Customer has not yet consumed power provided by Cooperative for at least three years, the Customer’s actual usage over the previous three calendar years shall be used to calculate an average annual energy consumption amount. Cooperative shall acquire the renewable energy sold to Customer from EKPC. The calculations and elections necessary to fulfill the obligation to purchase and sell renewable energy are set forth in Appendix A, which is adopted and incorporated by reference as if set forth herein in full. This Agreement shall be updated Appendix A from time to time during

KENTUCKY  
PUBLIC SERVICE COMMISSION  
Linda C. Bridwell  
Executive Director

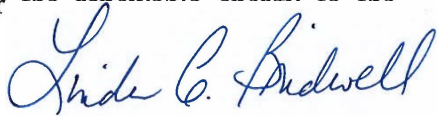
*Linda C. Bridwell*

EFFECTIVE  
**12/1/2023**  
PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

requested updates shall be no more frequently than annually without the prior written consent of Cooperative and EKPC) by delivery of such updated Appendix A to EKPC and Cooperative.

2. **Purchase and Sale of Renewable Energy Credits.** The Customer may direct Cooperative and EKPC to offset up to all of the Customer's energy consumption, resulting in such portion of energy consumed to be considered renewable, by purchasing and retiring RECs equal to the amount designated by the Customer. The amount of RECs to be purchased and retired shall be determined by the Customer through: (a) covering a set percentage of the Customer's energy consumption each month; (b) setting a particular dollar amount for REC purchases per month; or (c) designating a set number of megawatt hours ("MWhs") to be covered by REC purchases. The calculations and elections necessary to fulfill the obligation to purchase and retire RECs are set forth in Appendix A, which is adopted and incorporated by reference as if set forth herein in full. EKPC will act as the Customer's REC purchasing agent including settling the REC market transactions and REC retirements. The Customer may instruct Cooperative and EKPC to secure an advance purchase of RECs in the amount not to exceed 12 months of projected REC need pursuant to the terms in this Agreement.
3. **Account Aggregation.** Should the Customer have multiple accounts or service addresses with the Cooperative, the Customer shall be able to aggregate the energy consumption across all accounts or services addresses for purposes of determining the amount of renewable energy and RECs allowed to be purchased pursuant to the terms of this Agreement. The sum of the renewable energy purchases and REC purchases by Customer shall not exceed the Customer's energy usage at all accounts listed above.
4. **Transmission.** EKPC shall arrange and be responsible for all transmission service for the renewable energy contemplated to be purchased hereunder and shall deliver or cause to be delivered such renewable energy to the point(s) of delivery of all current and future non-renewable energy sales to the Cooperative and from which the Cooperative's electric distribution system currently delivers energy to the Customer. EKPC shall schedule or arrange for scheduling services with its transmission providers to deliver the renewable energy to said point(s) of delivery.
5. **Distribution.** The Cooperative shall arrange and be responsible for all distribution service for the renewable energy contemplated to be purchased hereunder and shall deliver or cause to be delivered such renewable energy to the Customer's meter(s).
6. **Title and Risk of Loss.** Title to and risk of loss related to the renewable energy acquired herein shall transfer: (a) from EKPC to the Cooperative at the delivery point(s) for all energy delivered to the Cooperative currently and in the future, and (b) from the Cooperative to the Customer at the Customer's meter. EKPC and Cooperative both warrant that they will deliver the renewable energy to the

**KENTUCKY  
PUBLIC SERVICE COMMISSION**  
Linda C. Bridwell  
Executive Director



**EFFECTIVE  
12/1/2023  
PURSUANT TO 807 KAR 5:011 SECTION 9 (1)**

Customer free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person arising prior to the Customer's meter.

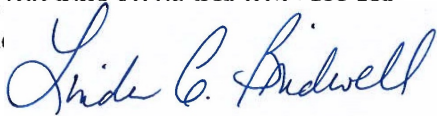
7. **Renewable Resources.** Pursuant to the Site Lease Agreement dated as of the date hereof between Customer and EKPC, EKPC will construct, own, operate and maintain a 500 kW solar facility at a location mutually agreeable to EKPC and Customer on land owned by the Customer (the "Dedicated Solar Facility"). All energy and RECs created by the Dedicated Solar Facility will be first reserved for the exclusive benefit of the Customer to satisfy all or a portion of the Customer's renewable energy and REC requirements determined by the Customer. If for any reason the output of the Dedicated Solar Facility exceeds the Customer's renewable energy and REC requirements set forth on Appendix A, any excess energy and RECs shall be retained by EKPC and transferrable in its sole discretion. To the extent the Dedicated Solar Facility is unable to satisfy the Customer's renewable energy and REC requirements set forth on Appendix A, EKPC will, upon prior written approval from Customer, acquire such renewable energy and RECs from alternative sources at the current market value of resources. The Customer may choose the type(s) of renewable resource from which the renewable energy or RECs sold hereunder, and not coming from the Dedicated Solar Facility (the "Non-Dedicated Renewable Energy"), shall be generated. The choices available include: solar, wind, hydro, landfill methane gas or biomass. The Customer may not request or designate that the Non-Dedicated Renewable Energy be acquired from any particular generation facility. EKPC retains the sole and exclusive right to select the resource(s) from which the Non-Dedicated Renewable Energy contemplated herein are acquired.

8. **Pricing.**

a. **Energy Pricing.** Customer shall pay to Cooperative and Cooperative shall pay to EKPC \$0.08932 per kWh produced by the Dedicated Solar Facility. The cost per kWh reflects EKPC's cost to construct, own, and operate the Dedicated Solar Facility. Costs incurred by EKPC includes, but are not limited to, capital construction expenditures, financing cost, operation, maintenance, future major equipment replacement cost, leases, taxes and insurance. Customer shall pay to Cooperative and Cooperative shall pay to EKPC for energy generated in a given month with a single billing cycle delay. Customer agrees to realign and adjust the Energy Price every three (3) years with the then current cost incurred by EKPC and at the end of the initial 25-year term in accordance with Appendix B – Pricing Model. See Appendix B – Pricing Model.

b. **REC Pricing.** Customer shall pay to Cooperative and Cooperative shall pay to EKPC the market value of the RECs purchased on the Customer's behalf without mark-up from either Cooperative or EKPC. EKPC will increase the Cooperative's monthly wholesale bill for the RECs purchased at the market price plus a monthly transactional fee of \$100 plus \$0.08 per REC for Green-e® RECs. For any agreement instru

KENTUCKY  
PUBLIC SERVICE COMMISSION  
Linda C. Bridwell  
Executive Director

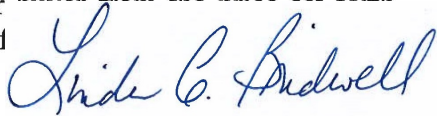


EFFECTIVE  
**12/1/2023**  
PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

in advance of the billing cycle, a monthly carrying charge equal to 1/12 of the annual retail deposit accrual rate set by the Commission will be added to the Cooperative's bill.

9. **Wholesale Credits.** The Cooperative shall receive a monthly credit on its wholesale power bill in an amount equal to the lesser of: (1) the avoided cost of: (a) base fuel and fuel adjustment clause per MWh of renewable energy delivered and capacity credits (when applicable); and (b) variable environmental surcharge equal to the demand energy; or (2) the PJM Localized Marginal Cost. At no time shall EKPC be required to convert any credit accruing hereunder to cash. Any excess credit(s) can be carried forward to offset a later billed amount.
  
10. **Retail Credits.** The Customer shall receive a monthly credit on its retail power bill in an amount equal to the lesser of: (1) the avoided cost of: (a) base fuel and fuel adjustment clause per MWh of renewable energy delivered and capacity credits (when applicable); and (b) variable environmental surcharge equal to the demand energy; or (2) the PJM Localized Marginal Cost. At no time shall Cooperative be required to convert any credit accruing hereunder to cash. Any excess credit(s) can be carried forward to offset a later billed amount.
  
11. **Billing.** EKPC shall invoice the Cooperative for all cost to deliver renewable energy and any associated credits to the Cooperative and all costs for RECs purchased, and any associated cost to obtain and retire RECs on behalf of the Customer, together with the REC purchase transaction fee, as part of the invoice it sends to the Cooperative for all non-renewable energy and REC purchases by the Cooperative. The Cooperative shall then invoice the Customer for all cost to deliver renewable energy and associated credits to the Customer and all RECs purchased and any associated cost to obtain and retire RECs on behalf of the Customer, together with the REC purchase transaction fee, as part of the invoice it sends to the Customer for all non-renewable energy purchases by the Customer. In both cases, the invoice shall provide sufficient information to demonstrate the manner in which the charges for renewable energy sales were calculated. All charges and credits will be billed by EKPC to Cooperative and from Cooperative to Customer one billing cycle past the month that credits and energy costs were incurred.
  
12. **Failure to Take Delivery.** If Customer fails to pay for all or part of the renewable energy that it has elected to acquire from the Dedicated Solar Facility, or to pay for any RECs acquired by EKPC and or Cooperative at the direction of the Customer, when such purchases are made in performance of their respective obligations under this agreement, and such failure is not excused by EKPC's or the Cooperative's failure to perform, then the Customer shall pay to the Cooperative, on the date payment would otherwise be due in respect of the month in which the failure occurred an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the amount for which the renewable energy or RECs are actually sold by EKPC or Cooperative to another customer from the amount due hereunder or the purchased REC price. The invoice for such deficiency shall be due on the date of the invoice for such deficiency.

**KENTUCKY  
PUBLIC SERVICE COMMISSION**  
*Linda C. Bridwell*  
Executive Director



**EFFECTIVE  
12/1/2023  
PURSUANT TO 807 KAR 5:011 SECTION 9 (1)**

written statement explaining in reasonable detail the calculation of such amount and efforts made by EKPC and or Cooperative to market the renewable energy or RECs at the best market price attainable.

- 13. **Term.** Subject to paragraph twenty-six (26) below, this Agreement shall be effective beginning on the date set forth above and will continue for a period of 25 years (the “Term”), subject to early termination as provided herein. This Agreement shall continue in effect for additional three (3) year automatic renewal terms after the initial 25 year term; provided, however, that the Agreement may be cancelled after the initial 25 year term by any party upon giving written notice of such termination at least one (1) year prior to the desired termination date.
- 14. **Obligation to Customer.** EKPC and Cooperative agree to provide Customer with reasonable updates in the event of any changes in the availability of renewable energy or RECs purchased pursuant to this Agreement.
- 15. **Non-Transferrable.** The Customer may not transfer or assign any obligation, right, liability, or credit arising under this Agreement from one account or service address to another account or service address that is not listed above. The Customer may not transfer, assign, convey, sell or donate this Agreement to any other person unless EKPC and the Cooperative have both provided their express written consent to such action. Such consent may be granted or withheld in the sole discretion of EKPC and the Cooperative, provided that consents to transfers to affiliates of equal or greater creditworthiness shall not be unreasonably withheld, conditioned or delayed.
- 16. **Effect on other Rates.** Nothing in this Agreement shall be construed to effect, limit, alter, amend or change the terms or conditions of Customer’s receipt of service from the Cooperative under any other tariff or rate schedule then in effect or subsequently approved by the Kentucky Public Service Commission (“Commission”) which applies to the Customer. Likewise, nothing in this Agreement shall be construed to effect, limit, alter, amend or change the terms or conditions of the Cooperative’s receipt of service from EKPC under any other tariff or rate schedule then in effect or subsequently approved by the Commission which applies to the Cooperative.
- 17. **Events of Default.** An “Event of Default” shall mean, with respect to a Party (a “Defaulting Party”), the occurrence of any of the following:

- (a) the failure to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within three (3) Business Days after written notice;
- (b) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated;

KENTUCKY  
PUBLIC SERVICE COMMISSION

Linda C. Bridwell  
Executive Director



EFFECTIVE  
12/1/2023  
PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

- (c) the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default, and except for such Party's obligations to receive the renewable energy, the exclusive remedy for which is provided in paragraph twelve (12) above) if such failure is not remedied within thirty (30) days after written notice;
- (d) such Party becomes bankrupt; or
- (e) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other Party.

18. **Termination for an Event of Default.** If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, any other Party (the "Non-Defaulting Party") shall have the right to: (i) designate a day, no earlier than the day such notice is effective and no later than 20 days after such notice is effective, as an early termination date ("Early Termination Date") to accelerate all amounts owing between the Parties; (ii) withhold any payments due to the Defaulting Party under this Agreement; and (iii) suspend performance. The Non-Defaulting Party shall calculate, in a commercially reasonable manner and considering the full period of non-performance from the Early Termination Date through the date of the expiration of the Agreement's Term, a Termination Payment Amount as of the Early Termination Date. As soon as practicable after a termination, notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Termination Payment and whether the Termination Payment is due to or due from the Non-Defaulting Party. The notice shall include a written statement explaining in reasonable detail the calculation of such amount. The Termination Payment shall be made by the Party that owes it within two (2) Business Days after such notice is effective. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment, in whole or in part, the Defaulting Party shall, within two (2) Business Days of receipt of the Non-Defaulting Party's calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute; provided, however, that if the Termination Payment is due from the Defaulting Party, the Defaulting Party shall first transfer to the Non-Defaulting Party an amount equal to the Termination Payment to be held in escrow pending the outcome of the dispute.

19. **Security and Guaranty.**

- (a) **Financial Information.** If requested by an a Party shall deliver within one hundred t

KENTUCKY PUBLIC SERVICE COMMISSION
Linda C. Bridwell Executive Director

EFFECTIVE 12/1/2023 PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

end of each fiscal year, a copy of the Party's or Party's parent company annual report containing audited consolidated financial statements for such fiscal year. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles (i.e. GAAP, IFRS and the RUS USoA); provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as the Party providing such information diligently pursues the preparation, certification and delivery of the statements. Each Party shall provide concurrent notice to the other Parties in the event of a material negative change in its financial condition.

(b) **Obligation to Provide Performance Assurance.**

(i) **By Customer.** For the avoidance of doubt, as of the date hereof, no Performance Assurance is necessary from the Customer. Following the date hereof, the Customer, or its Guarantor, shall, if requested in writing by Cooperative or EKPC, provide either (x) a guaranty substantially in the form attached hereto as Appendix C from a guarantor (a "Guarantor") that is an affiliate with a credit rating of "BBB" or higher from Standard & Poor's ("S&P") or Fitch or "Baa2" or higher from Moody's or (y) Performance Assurance acceptable to Cooperative and EKPC in an amount equal to:

(A) the current sum of the Early Customer Termination Payment if: (1) the Customer's or its Guarantor's highest Credit Rating is less than "BBB" from Standard & Poor's ("S&P") or Fitch or "Baa2" from Moody's; (2) an Event of Default on the part of the Customer has occurred; or (3) the Customer or its Guarantor has no Credit Rating from S&P, Fitch or Moody's;

(B) half the current sum of the Early Customer Termination Payment if the Customer's or its Guarantor's highest Credit Rating is between "A" from S&P or Fitch or "A2" from Moody's and "BBB" from S&P or Fitch or "Baa2" from Moody's, inclusive; or

(C) zero if the Customer's or its Guarantor's highest Credit Rating is better than "A" from S&P or Fitch or "A2" from Moody's.

(D) If Performance Assurance is required to be posted pursuant to subparagraphs (A) through (C) herein, the Early Customer Termination Payment shall be calculated quarterly. If Customer provides Performance Assurance via an irrevocable standby letter of credit, the ar and EKPC will release the ex

KENTUCKY  
PUBLIC SERVICE COMMISSION  
Linda C. Bridwell  
Executive Director

EFFECTIVE  
**12/1/2023**  
PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

appropriate. For purposes of this Agreement, "Credit Rating" means with respect to any entity, on any date of determination, the respective rating then assigned to such entity's unsecured, senior long-term debt or deposit obligations (not supported by third party credit enhancement) by S&P, Fitch or Moody's, or if such entity does not have a rating for its unsecured, senior long-term debt or deposit obligations, then the rating assigned to such entity as its issuer rating by S&P, Fitch or Moody's.

(ii) **By EKPC.** For the avoidance of doubt, as of the date hereof, no Performance Assurance is necessary from EKPC. Following the date hereof, EKPC shall, if requested in writing by the Customer, provide Performance Assurance acceptable to Customer in an amount equal to:

(A) the current sum of the Supplier Early Termination Payment if: (1) EKPC's highest Credit Rating is less than "BBB" from Standard & Poor's ("S&P") or Fitch or "Baa2" from Moody's; or (2) an Event of Default on the part of EKPC has occurred;

(B) half the current sum of the Supplier Early Termination Payment if EKPC's highest Credit Rating is between "A" from S&P or Fitch or "A2" from Moody's and "BBB" from Standard & Poor's or "Baa2" from Moody's, inclusive; or

(C) zero if the EKPC's highest Credit Rating is better than "A" with S&P or Fitch or "A2" from Moody's.

(D) If Performance Assurance is required to be posted pursuant to subparagraphs (A) through (C) herein, the Supplier Early Termination Payment shall be calculated quarterly. If EKPC provides Performance Assurance via an irrevocable standby letter of credit, the amount will be adjusted quarterly and Customer will release the excess Performance Assurance as appropriate. For purposes of this Agreement, "Credit Rating" means with respect to any entity, on any date of determination, the respective rating then assigned to such entity's unsecured, senior long-term debt or deposit obligations (not supported by third party credit enhancement) by S&P, Fitch or Moody's, or if such entity does not have a rating for its unsecured, senior long-term debt or deposit obligations, then the rating assigned to such entity as its issuer rating by S&P, Fitch or Moody's.

(iii) **Performance Assurance Threshold.** Notwithstanding the provisions of subparagraphs (i) and (ii), Performance Assurance shall be required to be


KENTUCKY  
PUBLIC SERVICE COMMISSION  
Linda C. Bridwell  
Executive Director  
*Linda C. Bridwell*  
EFFECTIVE  
**12/1/2023**  
PURSUANT TO 807 KAR 5:011 SECTION 9 (1)



EKPC if the current sum of the Early Customer Termination Payment or the Supplier Early Termination Payment, as applicable, is equal to or less than \$5,000.

- (c) **Form of Performance Assurance.** Unless otherwise agreed to in writing by EKPC and Customer, the form of any Performance Assurance required herein shall be an irrevocable, transferable, standby Letter of Credit, issued by a commercial bank or trust company organized under the laws of the United States or a political subdivision thereof, with: (i) a Credit Rating of at least (a) "A-" by S&P or "A3" by Moody's; and (ii) having a capitalization of at least \$1,000,000,000. The Letter of Credit must be reasonably acceptable to the beneficiary thereof. The costs and expenses (including but not limited to the reasonable costs, expenses, and attorneys' fees of the Secured Party) of establishing, renewing, substituting, canceling, and increasing the amount of a Letter of Credit shall be borne by the applicant (the "Pledging Party").
- (d) **Administration of Performance Assurance.** Any Letter of Credit shall be subject to the following provisions:
- (i) Unless otherwise agreed to in writing by the parties, each Letter of Credit shall be maintained for the benefit of the Secured Party. The Pledging Party shall: (A) renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit; (B) if the bank that issued an outstanding Letter of Credit has indicated its intent not to renew such Letter of Credit, provide either a substitute Letter of Credit at least twenty (20) business days prior to the expiration of the outstanding Letter of Credit; and (C) if a bank issuing a Letter of Credit shall fail to honor the Secured Party's properly documented request to draw on an outstanding Letter of Credit, provide for the benefit of the Secured Party either a substitute Letter of Credit that is issued by a bank acceptable to the Secured Party within one (1) business day after such refusal;
  - (ii) The Pledging Party may increase the amount of an outstanding Letter of Credit or establish one or more additional Letters of Credit; and
  - (iii) With respect to each such Letter of Credit, the Pledging Party hereby irrevocably constitutes and appoints the Secured Party and any officer or agent thereof, with full power of substitution, as the Pledging Party's true and lawful attorney-in-fact with full irrevocable power and authority to act in the name, place and stead of the Pledging Party or in the S time to time in the Secured Party

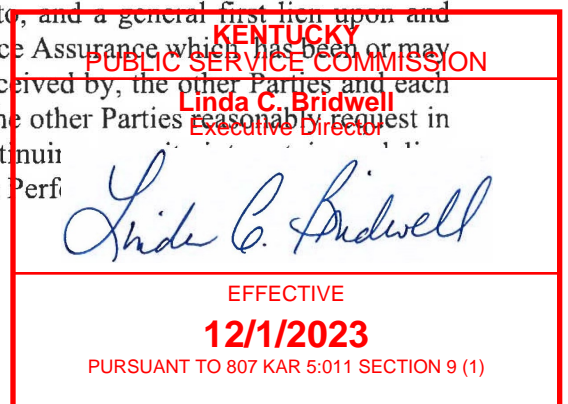
KENTUCKY  
PUBLIC SERVICE COMMISSION  
Linda C. Bridwell  
Executive Director



EFFECTIVE  
**12/1/2023**  
PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

adhere to the terms set forth in the Letter of Credit, for the purpose of taking any and all action and executing and delivering any and all documents or instruments which may be necessary or desirable to accomplish the purposes of this Paragraph 19.

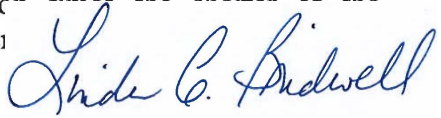
- (e) **Exercise of Rights Against Performance Assurance.** In the event that: (1) an Event of Default with respect to the Pledging Party has occurred and is continuing, and all required notices have been given and any cure periods set forth in this Agreement have run; or (2) the Agreement is terminated by any Party prior to the expiration of the term, a Secured Party may exercise any one or more of the rights and remedies provided under the Agreement or as otherwise available under applicable Kentucky law, including, without limitation, exercising any one or more of the following rights and remedies:
- (i) all rights and remedies available to a secured party under the Kentucky Uniform Commercial Code and other applicable Laws with respect to the Performance Assurance held by or for the benefit of the Secured Party;
  - (ii) the right to set off any Performance Assurance held by or for the benefit of the Secured Party against, and in satisfaction of, any amount payable by the Pledging Party in respect of any of its obligations; and
  - (iii) the right to draw in strict adherence with the terms on any outstanding Letter of Credit issued for its benefit. A Secured Party shall be under no obligation to prioritize the order with respect to which it exercises any one or more rights and remedies available hereunder. The Pledging Party shall in all events remain liable to the Secured Party for any amount payable by the Pledging Party in respect of any of its Obligations remaining unpaid after any such liquidation, application and set off.
- (f) **Encumbrance; Grant of Security Interest.** As security for the prompt and complete payment of all amounts due or that may now or hereafter become due from a Party to the other Party and the performance by a Party of all covenants and obligations to be performed by it pursuant to this Agreement, each Party hereby pledges, assigns, conveys and transfers to the other Parties, and hereby grants to the other Parties a present and continuing security interest in and to, and a general first lien upon and right of setoff against, all Performance Assurance which has been or may in the future be transferred to, or received by, the other Parties and each Party agrees to take such action as the other Parties reasonably request in order to perfect the other Party's continuing security interest in and to, and a general first lien upon and right of setoff against, such Performance Assurance.



- (g) **Guaranty.** Customer's obligations with regard to payment and the provision of Performance Assurance may be assumed by an affiliated guarantor of the Customer who shall be permitted to use its own Credit Rating from Standard & Poor's, Fitch or Moody's for purposes of calculating any Performance Assurance amounts due hereunder. Any such Guaranty shall be in a form substantially similar to that set forth in Appendix B and that is acceptable to EKPC and Cooperative in their respective sole and exclusive discretion. The Customer may substitute an affiliated entity as its Guarantor after having received the express written consent of EKPC and Cooperative, which shall not be unreasonably withheld, to do so. The existence of a Guarantor shall not relieve or excuse the Customer from any obligations set forth in this Agreement.
- (h) **Customer Deposit.** In addition to all other payment and Performance Assurance obligations, the Customer shall, prior to December 31, 2023 (and by December 31<sup>st</sup> of each subsequent year the Agreement is in effect):
- (i) Pay to Cooperative a sum equal to the amount necessary to purchase a bond or secondary insurance policy equal to the amount of two times the estimated monthly average \$78,000 billings; or
  - (ii) Provide a surety bond issued by any Certified Company listed on the most recent version of the U.S. Department of the Treasury's Circular 570 naming Cooperative as the beneficiary thereof and in an amount equal to two times the estimated monthly average \$78,000 billings.
- (j) **Early Termination Payment Calculation.**
- (i) **By Customer.** The Early Customer Termination Payment shall be the sum of:
    - (A) **Wholesale Renewable Energy Program resulting from a Purchase Power Agreement as described in Paragraph 7.** In the event that the Customer ceases operations at the Facility or otherwise stops taking service at the Facility at any time within the Term of this Agreement, the Customer shall pay EKPC/Cooperative the difference, if positive, of the levelized cost of existing renewable energy contracts less the forward market value of equivalent renewable energy times the prior three years' average production times the shorter of the Agreement Term or the re

KENTUCKY  
PUBLIC SERVICE COMMISSION

Linda C. Bridwell  
Executive Director



EFFECTIVE  
12/1/2023  
PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

energy contract term(s) within 30 days from the date the Customer ceases operations at the Facility or stops taking service at the Facility; and

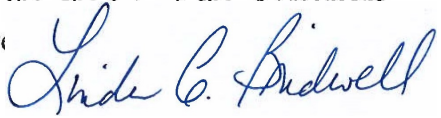
- (B) **REC Program.** In the event that the Customer fails to purchase all RECs which have been ordered pursuant to the terms of this Agreement, the Customer shall pay EKPC/Cooperative the difference, if positive, of the sum paid for the RECs less the current market value of the RECs within thirty (30) days from the date the Customer's payment obligation became an Event of Default; and
- (C) **Dedicated Solar Facility.** In the event that the Customer ceases operations or otherwise stops taking service at any time within the Term of this Agreement, EKPC, Cooperative and Customer agrees that EKPC will continue the Site Lease Agreement and operate the Dedicated Solar Facility to the benefit of EKPC/Cooperative for the remaining Agreement Term. Additionally, Customer shall pay EKPC/Cooperative the difference, if positive, of the levelized cost of Dedicated Solar Facility less the forward market value of equivalent renewable energy for the Agreement Term within 30 days from the date the Customer ceases operations at the Dedicated Solar Facility or stops taking service.

Upon the written request of the Customer (provided that such request is delivered no more frequently than annually), EKPC or Cooperative shall provide Customer with an estimate of the Early Customer Termination Payment.

- (ii) **By EKPC.** The Early Supplier Termination Payment shall be the sum of:

- (A) **Wholesale Renewable Energy Program resulting from a Purchase Power Agreement as described in Paragraph 7.** In the event that EKPC defaults on its obligation to sell renewable energy to Customer, other than as a result of a Force Majeure, at any time within the Term of this Agreement, EKPC shall pay Customer the difference, if positive, of the forward market value of equivalent renewable energy less the levelized cost of contracted renewable energy times the prior three years' average production times the remaining years of the Term or the remaining years of the Agreement Term.

**KENTUCKY**  
**PUBLIC SERVICE COMMISSION**  
**Linda C. Bridwell**  
**Executive Director**



**EFFECTIVE**  
**12/1/2023**  
PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

contract term(s) (the "Supplier Early Termination Payment") within 30 days from the date EKPC defaults on its obligation to sell renewable energy hereunder; and

(B) **REC Program.** In the event that EKPC fails to supply all RECs which have been ordered pursuant to the terms of this Agreement, EKPC shall pay Customer the difference, if positive, of the sum paid by the Customer for RECs less the current market value of the RECs within thirty (30) days from the date EKPC's obligation to supply the RECs became an Event of Default; and

(C) **Dedicated Solar Facility.** In the event that EKPC defaults on its obligation to provide renewable energy to Customer from the Dedicated Solar Facility, other than as a result of a Force Majeure, at any time within the Agreement Term, EKPC shall pay Customer the difference, if positive, of the forward market value of equivalent renewable energy less the levelized cost of contracted renewable energy for the Agreement Term or the remaining years of the renewable energy contract term(s) (the "Supplier Early Termination Payment") within 30 days from the date EKPC defaults on its obligation to sell renewable energy hereunder.

20. **Disputes and Adjustments of Bills.** A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice, rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the objection given to the other Parties. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the rate of two percent (2%) over the stated rate for commercial paper as published in the Wall Street Journal on the date that notice of the Dispute is given, from and including the due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments. Any dispute with respect to an invoice is waived unless the other Parties are notified in accordance with this paragraph within twelve (12) months after the invoice is rendered or any dispute or adjustment to an invoice is made. If an invoice is not rendered within twelve (12) months after the close of the month during which performance occurred, the right to payment for such performance is waived.

KENTUCKY  
PUBLIC SERVICE COMMISSION

Linda C. Bidwell  
Executive Director

EFFECTIVE  
**12/1/2023**  
PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

21. **Resolution of Disputes.** Any dispute or need of interpretation between the Parties involving or arising under this Agreement first shall be referred for resolution to a senior representative of each Party. Upon receipt of a notice describing the dispute and designating the notifying Party's senior representative and that the dispute is to be resolved by the Parties' senior representatives under this Agreement, the other Parties shall promptly designate its senior representatives to the notifying Party. The senior representatives so designated shall attempt to resolve the dispute on an informal basis as promptly as practicable. If the dispute has not been resolved within thirty (30) days after the notifying Party's notice was received by the other Parties, or within such other period as the Parties may jointly agree, the Parties may pursue any remedies available at law or in equity to enforce its rights provided in the Agreement. Notwithstanding any inconsistent provision herein, any Party may be entitled to injunctive or other equitable relief without resort to the settlement or resolution procedures set forth herein.
22. **Representations and Warranties.** Each Party represents and warrants to the other Parties that:
- (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
  - (b) it has all regulatory authorizations necessary for it to legally perform its obligations under this Agreement;
  - (c) the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it, except as set forth herein;
  - (d) this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms;
  - (e) it is not bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt;
  - (f) there is not pending or, to its knowledge, threatened against it or any of its affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement;
  - (g) no Event of Default or Potential Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing this Agreement;

KENTUCKY  
PUBLIC SERVICE COMMISSION

Linda C. Bridwell  
Executive Director



EFFECTIVE  
12/1/2023  
PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

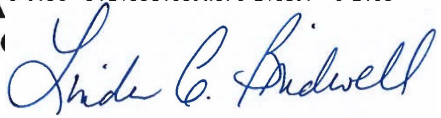
- (h) it is acting for its own account, has made its own independent decision to enter into this Agreement and, as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of any other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement;
- (i) it has entered into this Agreement in connection with the conduct of its business and it has the capacity or ability to make or take delivery of all renewable energy and to purchase all RECs referred to herein; and
- (j) the material economic terms of this Agreement were and are subject to individual negotiation by the Parties.

23. **Disclaimer and Force Majeure.** Customer understands and acknowledges that the generation of renewable energy and the sale of renewable energy is dependent upon numerous factors, including many which are beyond the control of EKPC and the Cooperative. EKPC and the Cooperative shall not be responsible or liable for any disruption or prevention of the production of renewable energy from any generation resource that is attributable to: (a) natural events such as acts of God, landslides, lightning, eclipses, weather patterns, earthquakes, fires, storms or the like; (b) interruption and/or curtailment of transmission facilities of third-parties; (c) acts of others such as strikes, lockouts or other industrial disturbances, riots, sabotage, insurrections or wars, or acts of terror; and (d) governmental actions such as necessity for compliance with any court or administrative order, law, statute, ordinance, regulation, order, or policy having the effect of law promulgated by a governmental authority having jurisdiction. In the event of any inability by EKPC or the Cooperative to acquire or deliver the renewable energy contemplated to be purchased herein, the Customer agrees to accept non-renewable energy from the Cooperative under the terms and conditions of the Cooperative's tariffs and rate schedules in effect at such time(s).

24. **Limitation of Liability.** EXCEPT AS MAY BE SET FORTH EXPRESSLY HEREIN, CUSTOMER UNDERSTANDS AND ACKNOWLEDGES THAT EKPC AND THE COOPERATIVE HAVE MADE NO SPECIFIC OR GENERAL REPRESENTATIONS OR WARRANTIES REGARDING THE RENEWABLE ENERGY TO BE PURCHASED HEREBY OR ANY FACILITIES ASSOCIATED WITH GENERATING, TRANSMITTING OR DISTRIBUTING SAME, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. TO THE EXTENT ANY REPRESENTATIONS AND WARRANTIES HAVE BEEN MADE, UNLESS EXPRESSLY SET FORTH HEREIN, CUSTOMER UNDERSTANDS AND ACKNOWLEDGES THAT THEY ARE HEREBY EXPRESSLY DISCLAIMED. CUSTOMER AGREES THAT HIS OR HER SOLE AND EXCLUSIVE REMEDY SHALL BE AS PROVIDED IN THE AGREEMENT.

KENTUCKY  
PUBLIC SERVICE COMMISSION

Linda C. Bridwell  
Executive Director



EFFECTIVE  
12/1/2023  
PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

**EVENT OF A BREACH OF THIS AGREEMENT BY EKPC OR THE COOPERATIVE IS EXPRESSLY LIMITED TO THE SUPPLIER EARLY TERMINATION PAYMENT.**

25. **Notice.** All notices, requests, consents, and other communications required under this Agreement shall be in writing and will be mailed to the mailing address for each Party as set forth above. Notices will be deemed delivered upon the earlier of: (a) the date of actual receipt, with a copy thereof being sent concurrently by certified or registered mail, return receipt requested; (b) three business days after being deposited in certified or registered mail, return receipt requested, postage prepaid; or (c) the following business day after being delivered to a reputable overnight courier service. If for any reason, a Party's mailing address should change, that Party must notify the other Parties in writing of the change of address for notices to be sent.
26. **Regulatory Approvals.** The Agreement is subject to approval by the Commission. This Agreement shall be filed with the Commission by EKPC within twenty (20) days of its full and final execution and EKPC and Cooperative agree to use reasonable efforts to obtain said approval from the Commission. However, in the event that Commission approval is not obtained within one hundred twenty (120) days, the Agreement shall be null and void. This Agreement may also be filed with the United States Rural Utilities Service, however, such a filing would be for informational purposes only.
27. **No Agency.** In performing their respective obligations hereunder, no Party is acting, or is authorized to act, as agent of any other Party.
28. **Forward Contract.** The Parties acknowledge and agree that all sales of renewable power hereunder constitute "forward contracts" within the meaning of the United States Bankruptcy Code.
29. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all previous proposals, both oral and written, negotiations, representations, commitments, writings and all other communications between the parties. This Agreement may not be released, discharged, or modified except by an instrument in writing signed by a duly authorized representative of each of the parties.
30. **Waiver of Trial by Jury.** EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THE AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THE AGREEMENT. EACH

KENTUCKY  
PUBLIC SERVICE COMMISSION  
Linda C. Bridwell  
Executive Director

*Linda C. Bridwell*

EFFECTIVE  
**12/1/2023**  
PURSUANT TO 807 KAR 5:011 SECTION 9 (1)



**ACKNOWLEDGES THAT (A) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (B) SUCH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THE AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.**

- 31. **Jurisdiction.** Each party agrees that any suit, action, dispute or other proceeding arising out of the Agreement or any transaction contemplated by the Agreement shall be heard in, and hereby irrevocably submits to the exclusive jurisdictions of the Circuit Court of Clark County, and the United States District Court for the Eastern District of Kentucky, Lexington Division, and the related appellate courts. Each party further agrees that service of any process, summons, notice or document by U.S. registered mail to such Party's respective address set forth in the Agreement shall be effective service of process for any actions, suit, dispute or other proceeding described herein. Each Party irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement in the aforementioned courts and the related appellate courts, and hereby and thereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.
  
- 32. **Governing Law.** This Agreement shall be deemed to have been made in, and shall be construed under, the internal laws of the State of Kentucky, without regard to the principles of conflicts of laws thereof.

*[signature page follows]*

<b>KENTUCKY PUBLIC SERVICE COMMISSION</b>
<b>Linda C. Bridwell</b> Executive Director

<b>EFFECTIVE 12/1/2023</b> PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

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


**MAKER'S MARK, INC.**

Kim Harmon  
GENERAL MANAGER  
MAKER'S MARK, INC.

  
CUSTOMER SIGNATURE

**INTER-COUNTY ENERGY  
COOPERATIVE CORPORATION**

Jerry Carter  
PRESIDENT & CEO  
INTER-COUNTY ENERGY  
COOPERATIVE CORP (please print)

  
SIGNATURE

**EAST KENTUCKY POWER  
COOPERATIVE, INC.**

Tony Campbell  
PRESIDENT & CEO  
EAST KENTUCKY POWER  
COOPERATIVE, INC. (please print)

  
SIGNATURE

<b>KENTUCKY PUBLIC SERVICE COMMISSION</b>
<b>Linda C. Bridwell</b> Executive Director 
EFFECTIVE <b>12/1/2023</b> <small>PURSUANT TO 807 KAR 5.001, SECTION 9(4)</small>

**APPENDIX A  
ORDER SUMMARY**

Customer's Average Annual Energy Consumption = 17,000 MWhs per year

Amount of Renewable Energy to be Purchased = Dedicated Solar Facility MWhs yearly

Equivalent MWs of Capacity to be Purchased = 0.5 MWs

Types of Renewable Energy Credits to be Purchased (check all that apply):

- Solar
- Wind
- Hydro
- Landfill Methane Gas
- Biomass
- Lowest priced REC from any resource type

Amount of Renewable Energy Credits to be Purchased (Choose One) =

- % of Customer's monthly energy consumption\*\*;
- Dollars per month; or
- MegaWatt Hours per month\*\*

Types of Renewable Energy Credits to be Purchased (check all that apply):

- |   |                                    |
|---|------------------------------------|
| <input type="checkbox"/> Solar                | <input type="checkbox"/> % of RECs |
| <input type="checkbox"/> Wind                 | <input type="checkbox"/> % of RECs |
| <input type="checkbox"/> Hydro                | <input type="checkbox"/> % of RECs |
| <input type="checkbox"/> Landfill Methane Gas | <input type="checkbox"/> % of RECs |
| <input type="checkbox"/> Biomass              | <input type="checkbox"/> % of RECs |

**\*\* REC Price requiring additional approval: \$ \_\_\_\_\_ (month)**

**KENTUCKY  
PUBLIC SERVICE COMMISSION**

**Linda C. Bridwell**  
Executive Director



EFFECTIVE  
**12/1/2023**  
PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

**APPENDIX B  
PRICING MODEL**

**Maker's Mark 500kW Solar**  
**Installed, Owned and Operated by EKPC for Maker's Mark**  
**Cost per kWh Model**

Annual Interest Rate (RUS)	4.50%	
Capital Expense	\$2,250,000	Including Owner's Engineering
IRA Reduction Direct Pay	65%	IRA Discount
Reduced Capital Expense	\$787,500	
Total Capital & Finance	\$1,313,154	Total Over 25 Years
Lifetime O&M, Lease, Meter Charges	\$557,309	
Calculated Monthly Capital & Finance Charges	\$4,377	
Total kWh Production 25 Years	20,941,241	kWh
Price per kWh	\$0.08932	per kWh

De-Commissioning Cost Accrual      \$92,432 Present Value

**KENTUCKY  
PUBLIC SERVICE COMMISSION**

**Linda C. Bridwell**  
Executive Director



EFFECTIVE  
**12/1/2023**  
PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

**APPENDIX C**

**FORM OF GUARANTY**

**GUARANTY AGREEMENT**

This is a GUARANTY AGREEMENT (the “Guaranty Agreement”), dated and effective as of October 1, 2023, by and between: **East Kentucky Power Cooperative, Inc.**, a Kentucky corporation with its principal offices at 4775 Lexington Road, Winchester, Kentucky 40391 (“EKPC”), Inter-County Energy Cooperative Corporation, a Kentucky corporation with its principal offices at 1009 Hustonville, Rd., Danville, Kentucky (“Cooperative”); and Maker’s Mark, Inc., a Kentucky Corporation with its principal offices at [3350 Burkes Springs Rd., Loretto, Kentucky 40037] (“Guarantor”).

**Recitals**

**WHEREAS** Maker’s Mark, Inc. (“Customer”) has entered into a Commercial and Industrial Power Agreement with Renewable Energy Power and/or Renewable Energy Credit Purchases, dated October 1, 2023, with EKPC and Cooperative (the “Industrial Power Agreement”), pursuant to which Customer has made certain promises and covenants and has certain payment and performance assurance obligations; and

**WHEREAS** the Industrial Power Agreement requires Customer to post varying amounts of performance assurance under certain circumstances involving its credit rating from Standard & Poor’s or Moody’s; and

**WHEREAS** Customer may use the credit rating of an affiliate who agrees to guaranty its payment and performance assurance obligations under the Industrial Power Agreement; and

**WHEREAS**, Guarantor, a corporate affiliate, parent, subsidiary or other entity or entities under common control with Customer, agrees to be Customer’s guarantor under the Industrial Power Agreement, thereby substituting its credit rating for that of Customer and reducing the amount of performance assurance required under the Industrial Power Agreement;

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, agree as follows:

1. **Guaranty of Payment and Performance.** The Guarantor, intending to be bound as an accommodation party for Customer, absolutely and unconditionally guarantees to EKPC and Cooperative, their respective successors, endorsees, transferees and assigns, the prompt performance by Customer of all of Customer’s payment and performance assurance obligations under the Industrial Power Agreement (collectively, the “Guaranteed Obligations”).

2. **Obligations Unconditional.** This is an unconditional guaranty of payment and performance. If for any reason Customer fails to perform its obligations,

**KENTUCKY  
PUBLIC SERVICE COMMISSION**  
Linda C. Bridwell  
Executive Director

*Linda C. Bridwell*

**EFFECTIVE  
12/1/2023  
PURSUANT TO 807 KAR 5:011 SECTION 9 (1)**

undertaking or condition (whether affirmative or negative) in the Industrial Power Agreement to be performed or observed by Customer, or if any event of default occurs thereunder and any required notice has been given and any cure period has run, the Guarantor shall promptly perform or observe or cause to be performed or observed each such obligation, undertaking or condition, or be responsible for the damages occasioned by such default, regardless of any set-off or counterclaim which Customer may have or assert, and regardless of whether or not EKPC or Cooperative, or anyone on their behalf, shall have instituted any suit, action or proceeding or exhausted their remedies or taken any steps to enforce any rights against Customer, or any other person to compel such performance or to collect all or any part of such amount pursuant to the provisions of the Industrial Power Agreement, or at law or in equity, or otherwise, and regardless of any other condition or contingency. The liability of the Guarantor shall be for the entire amount of the Guaranteed Obligations, jointly and severally with that of Customer.

3. **Waivers and Agreements.** The Guarantor hereby unconditionally:

(a) Waives any requirement that EKPC or Cooperative first seeks to enforce its remedies against Customer or any other person or entity before seeking to enforce this Guaranty Agreement against the Guarantor.

(b) Covenants that the Guarantor's obligations under this Guaranty Agreement will not be discharged except by complete payment and performance of all the Guaranteed Obligations existing under the Industrial Power Agreement.

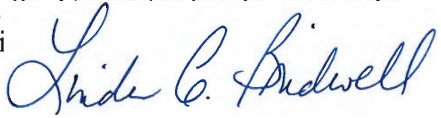
(c) Agrees that this Guaranty Agreement shall remain in full force and effect without regard to, and shall not be affected or impaired by any invalidity, irregularity or unenforceability in whole or in part of, the Industrial Power Agreement; or any limitation of the liability of Customer thereunder; or any limitation on the method or terms of payment or performance assurance thereunder which may now or hereafter be caused or imposed in any manner whatsoever.

(d) Waives any obligation that EKPC or Cooperative might otherwise have to marshal assets or to proceed against any particular persons or assets in any particular order.

**IT IS THE INTENTION OF THE GUARANTOR THAT THIS AGREEMENT CONSTITUTE AN ABSOLUTE AND UNCONDITIONAL GUARANTY IN ANY AND ALL CIRCUMSTANCES, AND THIS GUARANTY AGREEMENT SHALL BE DISCHARGED ONLY BY THE PERFORMANCE IN FULL OF ALL OF THE GUARANTEED OBLIGATIONS.**

4. **Waiver of Notice.** The Guarantor waives notice of acceptance of this Guaranty Agreement by EKPC and Cooperative, notice of execution and delivery of this Guaranty Agreement, and any other guaranty agreement, or any instrument referred to in such documents. The Guarantor further waives, to the fullest extent permitted by applicable law, each and every notice to which the Guarantor would otherwise be entitled under principles of guaranty or suretyship law. Without limiting the generality of the foregoing, the Guarantor waives all notices and defenses whatsoever with respect to this

KENTUCKY  
PUBLIC SERVICE COMMISSION  
Linda C. Bridwell  
Executive Director



EFFECTIVE  
**12/1/2023**  
PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

respect to the Guaranteed Obligations, including, but not limited to, notice of EKPC's and Cooperative's acceptance of this Guaranty Agreement or its intention to act, or its action, in reliance upon this Guaranty Agreement; notice of the present existence or future incurring by Customer of any of its Guaranteed Obligations or any other obligations or liability or any terms or amount thereof or any change therein; notice of any default (whether to the Guaranteed Obligations or of any other obligation or liability) by Customer or any accommodation party, co-maker, surety, pledgor, mortgagor, grantor of security, any other guarantor(s) or any other person or entity; notice of the obtaining or release of any guaranty or surety agreement (in addition to this Guaranty Agreement), pledge, mortgage, security interest, assignment, or other security for any of the Guaranteed Obligations; notice of dishonor; notice of nonpayment; notice of acceleration of the Guaranteed Obligations; notice of the making of a demand for payment of the liability or obligations of Customer; presentment and notice of presentment; protest and notice of protest; demand and notice of demand; nonpayment and notice of nonpayment; notice of the disposition of any collateral held to secure the Guaranteed Obligations; and any other notice required by law or otherwise.

5. **Subrogation.** The Guarantor agrees not to exercise any right which may have been acquired by way of subrogation under this Guaranty Agreement, by any payment made hereunder or otherwise, unless and until all of the Guaranteed Obligations, including, but not limited to, all obligations, undertakings or conditions to be performed or observed by Customer pursuant to the Industrial Power Agreement, shall have been performed, observed or paid in full. If any payment shall be made to the Guarantor on account of such subrogation rights at any time when such obligations, undertakings or conditions have not been performed, observed or paid in full, the Guarantor shall pay each and every such amount to EKPC or Cooperative if any amount is outstanding under the Industrial Power Agreement, to be credited and applied upon any of the obligations, undertakings or conditions to be performed, observed or paid pursuant to the Guaranty Agreement.

6. **Maximum Aggregate Liability and Termination.** For purposes of KRS 371.065: (a) the amount of the maximum aggregate liability of the Guarantor hereunder is the sum of all payment and performance assurance obligations of Customer as specified and calculated in the Industrial Power Agreement, plus all interest accruing on the Guaranteed Obligations and fees, charges and costs of collecting the Guaranteed Obligations, including reasonable attorneys' fees; and (b) this Guaranty Agreement shall remain in full force and effect until, and shall terminate on the date which the Industrial Power Agreement also terminates; provided, however, that termination of this Guaranty Agreement on such termination date shall not affect in any manner the liability of the Guarantor with respect to: (i) claims by EKPC or Cooperative against Customer which arise under the Industrial Power Agreement prior to such termination date; or (ii) Guaranteed Obligations created or incurred prior to such termination date, and extensions or renewals of, interest accruing on, or fees, costs or expenses incurred with respect to, such Guaranteed Obligations prior to, on or after such termination date.

7. **Miscellaneous.**

(a) This Guaranty Agreement shall be binding on the Guarantor, its heirs, assigns, successors and assigns, and shall inure to the benefit of the Guarantor.

<b>KENTUCKY</b> <b>PUBLIC SERVICE COMMISSION</b>
<b>Linda C. Bridwell</b> Executive Director

<b>EFFECTIVE</b> <b>12/1/2023</b> PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

and Cooperative and their respective successors, transferees and assigns, including each and every holder of any indebtedness, obligation or liability of Customer constituting all or a portion of the Guaranteed Obligations.

(b) EKPC and Cooperative may enforce this Guaranty Agreement with respect to one or more breaches either separately or cumulatively.

(c) This Guaranty Agreement may not be modified or amended without the prior written consent of each Party hereto, and any attempted modification or amendment without such consent shall be void.

(d) This Guaranty Agreement shall in all respects be governed by, and construed and enforced in accordance with, the laws (without regard to the conflicts of laws rules) of the Commonwealth of Kentucky.

(e) If any part, term or provision of this Guaranty Agreement is unenforceable or prohibited by any law applicable to this Guaranty Agreement, the rights and obligations of the Parties shall be construed and enforced with that part, term or provision limited so as to make it enforceable to the greatest extent allowed by law, or if it is totally unenforceable, as if this did not contain that particular part, term or provision. A determination in one jurisdiction that any part, term or provision of this Guaranty Agreement is unenforceable or prohibited by law does not affect the validity of such part, term or provision in any other jurisdiction.

(f) The headings in this Guaranty Agreement have been included for ease of reference only and shall not be considered in the construction or interpretation of this Agreement.

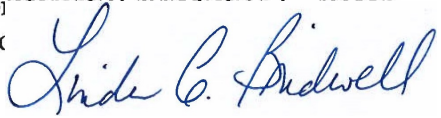
(g) This Guaranty Agreement may be signed by each Party hereto upon a separate copy, and in such case, one counterpart of this Guaranty Agreement shall consist of enough of such copies to reflect the signature of each Party.

(h) This Guaranty Agreement may be executed by each party in multiple counterparts, each of which shall be deemed an original. It shall not be necessary in making proof of this Guaranty Agreement or its terms to account for more than one such counterpart.

(i) In the event that any of the Guaranteed Obligations arise out of or are evidenced by more than one obligation or liability of Customer to EKPC or Cooperative, this Guaranty Agreement may be enforced as to each separate liability or obligation constituting a Guaranteed Obligation, either separately or cumulatively.

(j) Guarantor acknowledges and agrees that any suit, action or proceeding with respect to or arising out of this Guaranty Agreement shall only be brought in the Circuit Court of Clark County Kentucky, or Boyle County, Kentucky, and the United States District Court for the Eastern District of Kentucky, Lexington Division, and the related appellate court, and Guarantor hereby submits to the nonexclusive jurisdiction of such courts for the purpose of any such suit, action, proceeding or judgment and Guarantor waives any other place of domicile. Guarantor hereby irrevocably waives any objection

KENTUCKY  
PUBLIC SERVICE COMMISSION  
Linda C. Bridwell  
Executive Director



EFFECTIVE  
**12/1/2023**  
PURSUANT TO 807 KAR 5:011 SECTION 9 (1)



hereafter have to the laying of venue of any suit, action or proceeding brought in any one of the above-described courts or that any such suit, action or proceeding has been brought in an inconvenient forum.

**(k) TO THE EXTENT PERMITTED BY APPLICABLE LAW, GUARANTOR HEREBY VOLUNTARILY AND INTENTIONALLY WAIVES ANY AND ALL RIGHT GUARANTOR NOW HAS, OR MAY HAVE IN THE FUTURE, TO A TRIAL BY JURY ON ANY CLAIM, ACTION OR PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS GUARANTY AGREEMENT.**

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date first set forth above.

