

POWER PURCHASE AND INTERCONNECTION AGREEMENT (FROM A QUALIFYING FACILITY WITH A DESIGN CAPACITY OVER 100kW)

This Agreement is made and entered into and effective this 30th day of August, 2024, among East Kentucky Power Cooperative, Inc., a Kentucky corporation with its principal office at 4758 Lexington Road, Winchester, Kentucky 40391 ("EKPC"), Fleming-Mason Energy Cooperative ("FME"), a Kentucky corporation with its principal office at 1449 Elizaville Road, Flemingsburg, Kentucky 41041 and Morehead Automotive Group, LLC, a Kentucky business with its principal office at 99 Tim Short Drive, Morehead, Kentucky 40351 ("Seller") (collectively, the "Parties").

WITNESSETH:

WHEREAS, Seller is developing and installing a new solar facility and will be producing electrical power at its business at KY 801 N Carlot, Morehead, Kentucky; and

WHEREAS, EKPC is a rural electric cooperative that generates and transmits electricity to its sixteen (16) Owner-Member Cooperatives ("owner-members") that includes FME; and

WHEREAS, FME purchases wholesale power from EKPC under a wholesale power supply contract, as amended; and

WHEREAS, Seller desires to sell the excess output from the facilities to EKPC; and

WHEREAS, Seller's facilities will be interconnected to a FME's distribution system that connects to EKPC's transmission system, and said facilities will primarily provide power to Seller; and

WHEREAS, during certain low loading periods, the output of the Seller's solar facilities is expected to exceed the total load of Seller, and surplus electricity will flow from Seller into the FME System or EKPC system; and

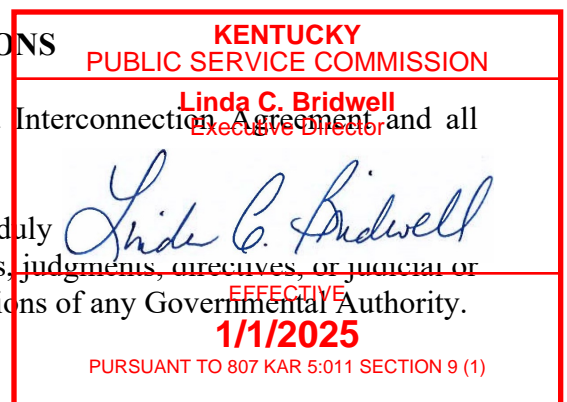
WHEREAS, EKPC has agreed to purchase this excess electricity from Seller at a price equivalent to the PJM Balancing Market at the EKPC Aggregate load node, on the terms and conditions set out herein.

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

ARTICLE I - DEFINITIONS

1.01 "Agreement" shall mean this Power Purchase and Interconnection Agreement and all Schedules hereto.

1.02 "Applicable Laws and Regulations" shall mean all duly and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority.



1.03 “Authorization” shall mean any license, permit, approval, filing, waiver, exemption, variance, clearance, entitlement, allowance, franchise, or other authorization from or by a Governmental Authority.

1.04 “Authorization Date” shall mean the date that the last Authorization required to be given in order for the Parties to perform this Agreement is granted by the Kentucky Public Service Commission, the Administrator of the Rural Utilities Service or any other applicable Governmental Authority.

1.05 “Delivery Point” shall mean the meter at the point of connection of the facilities of FME and the facilities of the Seller.

1.06 “Dispute” shall have the meaning given in Section 9.06(a).

1.07 “Early Termination Date” shall have the meaning given in Section 9.03(a).

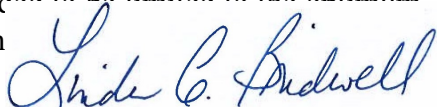
1.08 “Environmental Attributes” shall mean: 1) production tax credits applicable to electricity produced from certain renewable resources pursuant to 26 U.S.C. § 45, or any successor thereto or equivalent thereof; 2) any other federal or state tax deductions, credits or incentives for which the Qualifying Facility is eligible based upon its generation of electricity from renewable resources; 3) any grants or other payments from a Governmental Authority or non-profit entity (other than a cooperative corporation formed under KRS Chapter 279 and to the extent permitted by law) for which the Qualifying Facility is eligible based upon its generation of electricity from renewable resources; 4) environmental air quality credits, off-sets, emission reductions, allowance or other benefits related to the generation of electricity from the Qualifying Facility in a manner which reduces, displaces or off-sets emissions resulting from fuel combustion at another location pursuant to any law; and 5) credits, off-sets, environmental and other certificates, green pricing programs, renewable energy credit trading programs or any similar program.

1.09 “Event of Default” shall have the meaning given in Section 9.01 and Section 9.02.

1.10 “Force Majeure” shall have the meaning given in Section 7.01.

1.11 “Good Utility Practice” shall mean any of the practices, methods and acts employed by owners and/or lessors, operators or maintainers of electric generation, transmission or distribution facilities similar in size and operational characteristics to the Qualifying Facility, Interconnection Facilities, FME’s System and EKPC’s transmission system which, in the exercise of reasonable judgment in the light of the facts known or that reasonably should have been known at the time that a decision was made, could reasonably have been expected to accomplish the desired result at the lowest reasonable cost, consistent with licensing and regulatory considerations, environmental considerations, reliability, safety, protection of lives and property, expedition, the technical specifications and manufacturer’s maintenance requirements, and the applicable requirements of any Governmental Authority. Good Utility Practice is not intended to be limited to the continuous practice, method or act, to the exclusion of all others, but rather practices, methods or acts generally accepted in the region.

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1.12 “Governmental Authority” shall mean the federal government of the United States, and any state, county or local government, and any regulatory department, body, political subdivision, commission (including the Kentucky Public Service Commission and Federal Energy Regulatory Commission), agency, instrumentality, ministry, court, judicial or administrative body, taxing authority, or other authority of any of the foregoing (including any corporation or other entity owned or controlled by any of the foregoing), any regional transmission organization or independent system operator, any national or regional reliability organization or council (including NERC) or any reliability coordinator, in each case, having jurisdiction or authority over the Agreement (or any portion thereof), the Seller, EKPC, FME, the Qualifying Facility, the Interconnection Facilities, FME’s System or EKPC’s transmission system, whether acting under actual or assumed authority.

1.13 “Initial Term” shall mean the period commencing on the effective date of this Agreement, written above, and concluding on a date five years following the Authorization Date.

1.14 “Interconnection Costs” shall mean all reasonable costs of connection, switching, metering, transmission, distribution, safety provisions and administrative costs incurred by EKPC or FME directly related to the installation and maintenance of physical facilities necessary to permit interconnected operations with the Qualifying Facility, to the extent those costs are in excess of corresponding costs which EKPC or FME would have incurred if either had not engaged in interconnected operations with the Qualifying Facility but instead had generated an equivalent amount of electric energy itself or purchased an equivalent amount of electric energy or capacity or both from other sources. Interconnection costs shall not include any costs included in the calculation of EKPC’s or FME’s avoided costs.

1.15 “Interconnection Facilities” shall mean all facilities, lines, equipment, appurtenances and meters, as identified and designated on Schedule A, between the Qualifying Facility and FME’s System that are necessary to physically and electrically interconnect the Qualifying Facility to FME’s System, regardless of whether owned by EKPC, FME or Seller.

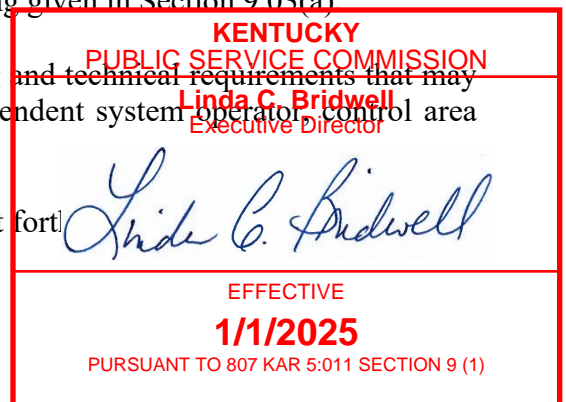
1.16 “Interconnection Manual” shall mean the document titled “Manual for Small Generator Interconnection Requirements for Direct Interconnection with EKPC Member Cooperative Distribution Systems (For Generating Facilities of 10 MW or Less),” dated June 1, 2015, which is adopted and incorporated herein as Schedule B.

1.17 “FMEs System” shall mean FME’s facilities and equipment used to distribute electricity to end users directly from nearby generators or from interconnection with EKPC’s transmission system which support bulk power.

1.18 “Notice of Early Termination” shall have the meaning given in Section 9.03(a)

1.19 “Operating Requirements” shall mean any operating and technical requirements that may be imposed by a regional transmission organization, independent system operator, control area coordinator, balancing authority, FME or EKPC.

1.20 “Proprietary Information” shall have the meaning set forth



1.21 “Qualifying Facility” shall mean the small power producing facility satisfying the definition of same as set forth in 807 KAR 5:054, Section 1(8) that is located at Seller’s facilities at 1658 Elizaville Rd, Flemingsburg, Kentucky, within the service territory of FME; having a nameplate rating of 138.4 kWac; using solar power as a fuel or energy source; and, unless the context requires otherwise, including all interconnection and safety equipment owned by the Seller (as designated on Schedule A) and used in connection with its electric generation facilities.

1.22 “Seller’s System” shall mean the Qualifying Facility and any Interconnection Facilities owned by Seller.

ARTICLE II – SALE OF CAPACITY AND ENERGY

2.01 Sale of Capacity and Energy. As soon as is reasonably practicable after all requirements set forth herein are met following the Authorization Date of this Agreement, the Seller will sell, and EKPC will purchase, electric capacity and energy from the Seller’s Qualifying Facility at the Delivery Point, on a non-dispatchable basis for periods when power and energy generated by the Seller is in excess of the Seller's own needs. The electric power delivered by the Seller and purchased by EKPC shall be metered and paid for as set forth on the attached Schedule C.

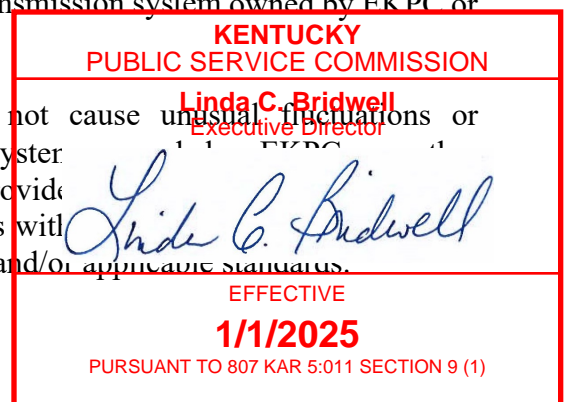
2.02 Exclusivity. The Seller agrees that its Qualifying Facility will be installed and, except for sales of power and energy to EKPC, will be used at all times for the sole purpose of the Seller's benefit, and energy generated by said Qualifying Facility shall not be otherwise transmitted, shared, or resold by the Seller to any person other than EKPC, throughout the term(s) of this Agreement.

2.03 Delivery of Electricity. Seller shall interconnect with FME’s System and shall deliver electricity to FME’s side of the Delivery Point consistent with the terms of the Interconnection Manual, which is adopted and incorporated herein in full by reference. As set forth hereinafter, Seller must provide good quality electric power within a reasonable range of voltage, frequency, flicker, harmonic currents, and power factor, including, but not limited to:

a. The electricity delivered hereunder shall be in the form of three-phase at a frequency of 60-hertz, alternating current and within three percent (3%) above or below a nominal voltage of 277/480 volts or a nominal operating voltage to be determined by FME from actual operating experience.

b. Seller shall provide for proper synchronization of the Qualifying Facility with FME's System such that synchronism is accomplished without causing undesirable harmful currents, surges, or voltage dips on FME’s System or the transmission system owned by EKPC or other interconnected utilities.

c. The electricity delivered by Seller shall not cause unusual fluctuations or disturbances on FME’s System or the transmission system interconnected utilities. Accordingly, the Seller shall provide apparatus which will keep such fluctuations or disturbances within the limits specified by FME and EKPC in accordance with IEEE Standard 519 and/or applicable standards.



d. The Seller shall install a safety switch that will fully disconnect the generation circuit of its Qualifying Facility from FME's System. The switch shall be of the visible break type which can be secured by a padlock by FME. The disconnect switch shall be accessible to FME and EKPC personnel at all times.

2.04 Environmental Attributes. During the Initial Term of this Agreement and any subsequent term(s), Seller shall own, and may assign or sell at its sole discretion, all right, title and interest associated with or resulting from any Environmental Attributes associated with the Qualifying Facility and associated power and shall have the exclusive right to claim that Seller is responsible for: (i) generating electricity from a renewable resource; and (ii) the reductions in emissions of pollution and greenhouse gases resulting from the power produced from a renewable resource.

ARTICLE III – RIGHTS AND OBLIGATIONS

3.01 Rights and Obligations of Seller.

a. Design and Construction of the Qualifying Facility. The Seller shall design, construct and interconnect the Qualifying Facility at its own expense and in accordance with the Interconnection Manual, Good Utility Practices, Operating Requirements and all Applicable Laws and Regulations. Plans, specifications, and operating characteristics for the Qualifying Facility must be approved by EKPC and FME before the Qualifying Facility is connected to FME's System, and may not be materially revised or modified without EKPC's and FME's approval. Prior to completion and energization of the interconnection between the Qualifying Facility and FME's System, EKPC and FME shall have the right to inspect the Qualifying Facility and Interconnection Facilities to determine that the Qualifying Facility and Interconnection Facilities are in compliance with the Interconnection Manual, Operating Requirements, Good Utility Practice and all Applicable Laws and Regulations, and to comply with Article IV of the Interconnection Manual. Any deficiencies noted must be corrected prior to energization. The Seller shall not, after energization, modify or change in any way the design or operating characteristics of the Qualifying Facility without EKPC's and FME's express approval.

b. Design and Construction of the Interconnection Facilities. The Interconnection Facilities shall be designed, acquired, constructed and interconnected at Seller's expense and shall be respectively owned by EKPC, FME and Seller as designated in Schedule A. The Interconnection Facilities shall be constructed in accordance with the Interconnection Manual, Operating Requirements, Good Utility Practices, and all Applicable Laws and Regulations. The Seller shall not, after energization, modify or change in any way the design or operating characteristics of the Interconnection Facilities without EKPC's and FME's express approval.

i. Estimated Payment for Interconnection Costs. EKPC and FME shall be reimbursed for their respective Interconnection Costs associated with designing, acquiring, constructing and installing the Interconnection Facilities as follows: Seller shall pay estimated Interconnection Cost payments of \$0 to FME. Said payments shall be made no later than thirty (30) days after the Authorization Date. Unless expressly waived in writing by both EKPC and FME, Seller shall provide security to EKPC and FME for the pay of the Interconnection Facilities by the furnishing of an irrevocable letter of credit or other form of security that satisfies the criteria set forth in Section 7.04 of the Interconnection Manual.

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ii. Final Payment for Interconnection Costs. The final Interconnection Costs payments shall be adjusted to reflect the actual amounts of said Interconnection Costs through an additional payment by the Seller, or partial refund by EKPC and/or FME within sixty (60) days after completion of the Interconnection Facilities. EKPC and FME will invoice Seller for the final and actual Interconnection Costs within thirty (30) days after the completion of the Interconnection Facilities, and Seller shall pay such costs within thirty (30) days of the date of said invoice(s). Any refunds due to Seller shall be paid within sixty (60) days after completion of the Interconnection Facilities.

c. Operation and Maintenance of the Qualifying Facility. At all times during the Initial Term of this Agreement and any subsequent term(s), the Seller has the sole duty and responsibility for operation and maintenance of the Seller's System, and neither EKPC nor FME shall furnish service personnel or material and equipment to the Seller for the maintenance or operation of the Seller's System, unless separately agreed to and invoiced by EKPC or FME. Seller shall operate and maintain the Qualifying Facility in accordance with the Interconnection Manual, Operating Requirements, Good Utility Practices, and all Applicable Laws and Regulations.

i. Protection of the Qualifying Facility. The Seller shall protect the Qualifying Facility from disturbances occurring on FME's System or the transmission system owned by EKPC or other interconnected utilities and shall have the sole responsibility for the safety and electrical protection of its facilities, irrespective of the condition of FME's or EKPC's Interconnection Facilities. This protection shall include automatic sensing and immediate disconnection from a faulted or de-energized FME line, and shall prevent the Seller from energizing a de-energized FME line.

ii. Parallel Operation. Switching to place the generator in Seller's Qualifying Facility in or out of service and parallel operation with EKPC's or FME's system shall be coordinated with the EKPC system operator and designated FME operating personnel as set forth in Article IV and Article VI of the Interconnection Manual.

iii. Reactive Power. The Seller shall operate its Qualifying Facility to furnish its own reactive power (kvar) requirements, consistent with Section 6.01 of the Interconnection Manual, within the following parameters:

A. Under the condition wherein the Seller generates all of its own power requirements and/or supplies excess power and energy to EKPC, reactive power (kvar) flow from FME toward the Seller shall be subject to the Reactive Power Service charge specified in Schedule D.

B. Under the conditions wherein FME supplies all or a portion of Seller's power and energy requirements, FME shall supply reactive power (kvar) without charge up to an amount based on 0.33 times the kW demand supplied by Seller. Additional kvar amounts shall be provided subject to the provisions specified in Schedule D. The provisions of this subparagraph shall not apply during any month in which the k power flow from FME toward Seller under the preceding subpara of reactive power flow provided pursuant to this subparagraph.

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C. A maximum of 1,000 kvar reactive power flow toward FME from the Seller is permitted without charge. Reactive power flows in excess of 1,000 kvar will be subject to the Reactive Power Service charge specified in Schedule D.

d. Operation and Maintenance of the Interconnection Facilities. Each part of the Interconnection Facilities owned by the Seller, as designated in Schedule A, shall be maintained by Seller or by owner's agent or representative in accordance with the Interconnection Manual, Operating Requirements, Good Utility Practices, and all Applicable Laws and Regulations. Seller shall pay a Monthly Interconnection Service Charge as specified in Schedule E in order to reimburse EKPC and FME for any transmission, operational, maintenance and administrative costs related to the ongoing usage, operation and maintenance of the Interconnection Facilities that would not have been incurred by either of them if EKPC and FME did not engage in interconnected operation with the Seller. These monthly charges shall be determined on the basis of utility cost recovery concepts and may be adjusted by EKPC and FME on an annual basis.

e. Modifications and Upgrades of Interconnection Facilities. Seller is responsible for all costs in relation to changes in its interconnection and protective equipment as may be required from time to time to meet changing conditions and requirements on FME's System or the transmission system owned by EKPC or other interconnected utilities. In the event that load growth or other needs on the EKPC's transmission system or FME's Systems require the construction of new facilities in the future to replace or supplement the Interconnection Facilities identified in Schedule A, EKPC or FME, as applicable, shall give Seller six (6) months advance notice, including a cost estimate for the new facilities and a date when costs for said facilities are anticipated to be incurred. Seller shall pay such estimated costs or provide EKPC and/or FME with acceptable security for payment, as described hereinabove, by the date specified in such notice. Consistent with Section 3.01(b), Seller shall pay all actual costs incurred for such new interconnection facilities prior to the in-service date for such facilities.

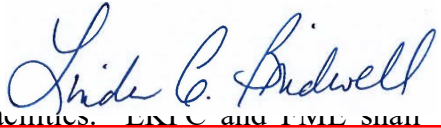
f. Records Retention. The Seller shall maintain records regarding all maintenance of the QF and Interconnection Facilities, and upon reasonable prior notice, Seller shall make those records available for inspection by EKPC and FME during regular business hours.

g. Laws and Authorizations. Seller shall comply with all Applicable Laws and Regulations and Authorizations applicable to its performance of its obligations under this Agreement, except where non-compliance will not have an adverse effect on EKPC, FME, their rights under this Agreement or Seller's ability to perform its obligations under this Agreement.

h. Relationship to Interconnection Manual. The Parties acknowledge and agree that the cost recovery provisions set forth in Section 7.01 through Section 7.03 and Section 8.01 through Section 8.04 of the Interconnection Manual are either inapplicable or are superseded by the cost recovery provisions set forth in this Section 3.01. EKPC's and FME's recovery of Interconnection Costs shall be governed exclusively by the terms of this Section 3.01 and not by the terms of the Interconnection Manual.

3.02 Rights and Obligations of EKPC and FME.

a. Design and Construction of Interconnection Facilities. EKPC and FME shall design, construct and install the Interconnection Facilities that they respectively own in accordance

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with the Interconnection Manual, Operating Requirements, Good Utility Practices, and all Applicable Laws and Regulations. EKPC and FME shall be under no obligation to design, order or install equipment or incur any other costs or expenses relating to the subject Interconnection Facilities until payment of the estimated Interconnection Costs has been received, or security for said payment, in a form acceptable to EKPC and FME, is provided by Seller.

b. Operation and Maintenance of the Interconnection Facilities. EKPC and FME shall operate and maintain the Interconnection Facilities that they respectively own, as set forth in Schedule A, in accordance with the Interconnection Manual, Operating Requirements, Good Utility Practices, and all Applicable Laws and Regulations.

c. Disconnection. EKPC shall have the same rights and obligations regarding disconnection of the Qualifying Facility as already granted to FME in Section 6.02 of the Interconnection Manual.

d. Laws and Authorizations. EKPC and FME shall comply with all Applicable Laws and Regulations and Authorizations applicable to their respective performance of obligations under this Agreement, except where non-compliance will not have an adverse effect on any other Party, any other Party's rights under this Agreement or, as applicable, EKPC's or FME's ability to perform its obligations under this Agreement.

3.03 Disclaimer. EKPC's and FME's acceptance of the plans specifications, and operating characteristics for the Seller's System, or any revisions or modification thereof, and EKPC's and FME's inspection of the Seller's System and subsequent authorization to energize the interconnection, or later consent to any change or modification of the design or operating characteristics of the Seller's System, shall not be construed as confirming or endorsing the design, or as warranting the safety, durability, or reliability of the Seller's System. Neither EKPC nor FME assumes any duty to review or inspect the Seller's System to assess its safety, durability, or reliability. EKPC and FME shall not, by reason of any review, acceptance, inspection, or failure to review or inspect, be responsible for any aspect of the Seller's System, including, but not limited to its safety, details of design, adequacy, or capacity thereof, nor shall EKPC's or FME's acceptance or approval be deemed to be an endorsement of the safe condition of the Seller's System.

ARTICLE IV – METERS

4.01 Meters. EKPC and FME shall specify, own, install, operate and maintain the metering equipment, which is specified in Schedule A and which EKPC and FME deem appropriate, based on the size and other characteristics of the Qualifying Facility. EKPC and FME shall use such metering equipment to measure the power and energy sold by the Seller to EKPC, measure backup service provided to the Seller by FME, and monitor voltage and reactive power flows on the interconnection. The metering equipment for FME and the metering equipment for EKPC are designated by the reference "utility meter." If EKPC or FME is required to install utility meter communication equipment to enhance communication signal strength for remote meter readings, EKPC and FME shall provide to the Seller information pertaining to the equipment that EKPC and FME will install and the method of installation. The Seller shall provide unrestricted access to the meter and all metering equipment at all times, and shall grant EKPC and FME unrestricted access to the meter and all metering equipment at all times, as well as collecting any readings necessary for billing. If said meters and equipment are located in a controlled room with an exterior door, then such access shall be granted

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in the form of a key, which shall remain onsite in a controlled lockbox owned and maintained by FME and EKPC.

4.02 Readings. FME shall read the meter at the Delivery Point following the end of each month. The amount of power delivered to EKPC during the preceding month shall be determined from such readings, as such readings may be adjusted pursuant to Section 4.05. FME shall read its meter in accordance with its normal business practice and the regulations of the Kentucky Public Service Commission.

4.03 Metering Modifications. Any modifications that the Seller may request with respect to the metering equipment may be made at the sole discretion of EKPC or FME, as applicable. Any additional costs incurred in making such modifications shall be borne by the Seller.

4.04 Inspection and Testing. EKPC and FME shall each inspect and test its respective meter as frequently as deemed appropriate by EKPC and FME, or at the request of the Seller, and shall, at a minimum, comply with requirements as set forth by the Kentucky Public Service Commission.

4.05 Accuracy. In addition to the obligations set forth in Section 5.02 of the Interconnection Manual, EKPC and FME shall each calibrate its meter to maintain accuracy within plus or minus one (1) percent as far as is reasonably practical and in accordance with Good Utility Practice. EKPC and FME will give Seller notice of all meter tests at least forty-eight (48) hours in advance thereof and Seller may have its representative present for such tests. If, at any test, a meter shall be found to be inaccurate by more than two (2) percent, fast or slow, an adjustment shall be made through mutual agreement among EKPC, FME, and the Seller to compensate for the effects of such inaccuracy over the period of inaccuracy that may be established. Any corrections in billings resulting from inaccurate metering shall be made in the next monthly bill rendered, and such corrections, when made, shall constitute full adjustment. Notwithstanding the provisions of Section 5.01(b) of the Interconnection Manual, if at any time a meter shall fail to register, EKPC and Seller or FME and Seller, as applicable, shall determine through mutual agreement the meter registrations to be used for billing purposes by using an appropriate methodology.

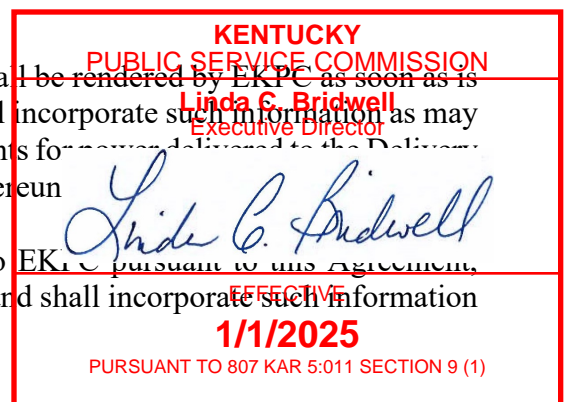
ARTICLE V – PURCHASES AND BILLING

5.01 Power Purchases. Any power and energy purchased by EKPC from Seller shall be metered and accounted for separately from power and energy delivered and sold hereunder to Seller by FME and shall be purchased in accordance with the tariffs, rules, and regulations established by EKPC and approved by the Kentucky Public Service Commission for qualifying cogeneration and small power production facilities.

5.02 Billing.

a. An accounting for amounts due hereunder shall be rendered by EKPC as soon as is reasonably practicable following the meter reading, and shall incorporate such information as may be reasonably necessary or desirable to determine the payments for power delivered to the Delivery Point during the preceding month, and other amounts due hereun

b. In the event that Seller owes any amount to EKPC pursuant to this Agreement, EKPC shall send Seller a statement of the amount then due and shall incorporate such information



as may be reasonably necessary or desirable to determine the payments and other amounts due hereunder.

c. In the event of the termination or expiration of this Agreement, EKPC shall, within twenty (20) business days of the date of termination or expiration, provide a final billing statement to Seller that indicates any amounts owed by Seller or to be paid by EKPC.

5.03 Payment and Interest.

a. Payments. All payments shown to be due to Seller by EKPC on a billing statement shall be tendered to Seller along with the billing statement no later than the fifteenth day of each month. Any payments owed by Seller to EKPC shall be paid by the last day of each month in which the billing statement was tendered by EKPC. If the paying party, in good faith, disputes a portion of any billing statement, the paying party shall render payment for the undisputed portion of such bill to the billing party. Upon resolution of the dispute, any amount found to be due and payable to the billing party shall be paid to the billing party. The paying party shall render payment by wire transfer, or such other payment method as the Parties mutually agree.

b. Interest. If the paying party fails to pay all or a portion of the undisputed amounts billed within the time stated in the preceding paragraph, the paying party shall owe interest on the unpaid portion of the bill, which interest shall accrue daily at the lesser of: (i) the Prime Rate (as published in the Wall Street Journal) plus two percent (2%); or (ii) the maximum rate permitted by applicable law, from and including the due date of such amount, but excluding the date the delinquent amount is paid. If any portion of a disputed amount is ultimately determined to be due to the billing party, such amount shall be due and payable not later than ten (10) days after resolution of the Dispute, and the paying party shall owe interest on such portion of such disputed amount to the extent that such portion is determined to be due and owing to the billing party, which interest shall accrue daily at the lesser of: (i) the Prime Rate (as published in the Wall Street Journal) plus two percent (2%); or (ii) the maximum rate permitted by applicable law, from and including the original due date of such amount, but excluding the date the disputed amount is paid.

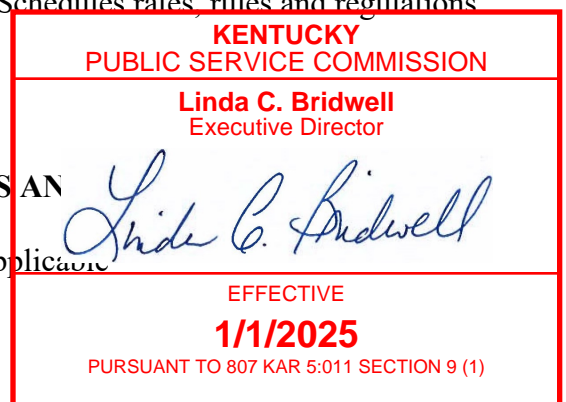
c. Offsets. Any Party may at any time offset any amounts owed by it against any and all amounts that may be due and owed to another Party under this Agreement.

5.04 FME's Services. Any delivery of electric power and energy and reactive support supplied to the Seller by FME shall be metered and accounted for separately from the power and energy delivered and sold hereunder by the Seller to EKPC and shall be provided in accordance with the Schedules attached hereto or the rates, rules and regulations established by FME and approved by the Kentucky Public Service Commission for Supplementary, Backup, Maintenance or Interruptible power, as applicable, and any changes in such Schedules rates, rules and regulations as may become effective in the future.

5.05 Monthly Backup Service Charge. Not applicable

ARTICLE VI – PROPERTY RIGHTS AND

6.01 Communications and Data Logging Systems. Not applicable



6.02 Right of Access. EKPC shall have the same right of access to Seller's Qualifying Facility, Seller's Interconnection Facilities and EKPC's meter as set forth in Section 4.03 of the Interconnection Manual. Such inspections shall not relieve the Seller from its obligations to maintain the facilities in satisfactory operating conditions and shall, in no way, be deemed an endorsement of the safe condition of the Qualifying Facility. While present on the property of Seller, EKPC personnel shall observe such safety precautions as may be reasonably required by Seller and communicated to EKPC in writing.

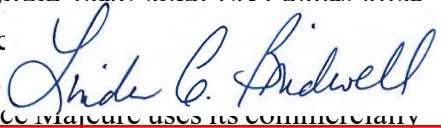
6.03 Removal of Equipment. Upon termination of this Agreement for any reason, any part or all of the Interconnection Facilities then owned by EKPC or FME may be removed by such owner at such owner's cost and expense. Any portion of the Interconnection Facilities owned by the Seller at the termination of this Agreement shall remain the Seller's property.

ARTICLE VII – FORCE MAJEURE

7.01 Force Majeure Defined. "Force Majeure" shall mean an event or circumstance beyond the reasonable control of and without the fault or negligence of the Party claiming Force Majeure, which, despite the exercise of reasonable diligence, cannot be or be caused to be prevented, avoided or removed by such Party. Force Majeure shall include, to the extent consistent with the preceding sentence: an act of God; war (declared or undeclared); sabotage; riot; insurrection; civil unrest or disturbance; military or guerilla action; banditry; terrorist activity or a threat of terrorist activity which, under the circumstances, would be considered a precursor to actual terrorist activity; economic sanction or embargo; civil strike, work stoppage, slow-down, or lock-out that are of an industry or sector-wide nature and that are not directed solely or specifically at the affected Party; explosion; fire; earthquake or seaquake; abnormal weather condition; hurricane; flood; lightning; high winds; drought; peril of the sea; the binding order of any Governmental Authority (provided that the affected Party has in good faith considered reasonably contesting such order); the failure to act on the part of any Governmental Authority (provided that such action has been timely requested and diligently pursued); unavailability of equipment, supplies or products, but only to the extent caused by an event of circumstance of Force Majeure; and failure of equipment. With respect to the Seller, Force Majeure shall also include (to the extent beyond the reasonable control of and without the fault or negligence of Seller) any interruption in distribution service on FME's side of the Delivery Point. No Party shall be deemed to have suffered an event of Force Majeure due to the failure of equipment which that Party is responsible for operating or maintaining unless the equipment has been operated and maintained in accordance with Good Utility Practice. Neither the lack of money nor changes in market conditions shall constitute an event of Force Majeure.

7.02 Effect of Force Majeure. If any Party is rendered wholly or partly unable to perform its obligations under this Agreement or its performance is delayed because of Force Majeure, that Party shall be excused from whatever performance it is unable to perform or delayed in performing due to the Force Majeure to the extent so affected, provided that: a) the Party affected by such Force Majeure, as soon as reasonably practical after the commencement of such affect, gives the other Parties prompt oral notice, followed by a written notice within forty-eight (48) hours after such oral notice, fully describing the particulars of the occurrence; b) the Party whose performance is of no greater scope and of no longer duration than the event; and c) the Party whose performance is affected by such Force Majeure uses its commercially reasonable efforts to overcome and remedy its inability to perform as soon as possible.

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7.03 Affect on Payment Obligations. Notwithstanding any other provision of this Agreement, a Party suffering a Force Majeure event is not relieved from tendering payment(s) that are obligated to be paid pursuant to this Agreement. Force Majeure shall not be a defense to any payment that is lawfully owed.

7.04 Deadlines Extended; Termination. Whenever a Party is required to commence or complete any action within a specified period and is prevented or delayed by Force Majeure from commencing or completing such action within the specified period, such period shall be extended by an amount equal to the duration of such event of Force Majeure occurring or continuing during such period except as otherwise specifically provided in this Agreement; provided, however, that in no event shall a Force Majeure extend any term of this Agreement. If any Force Majeure prevents the Seller from delivering power for more than thirty (30) consecutive days, then EKPC or FME may terminate this Agreement upon written notice to Seller and no Party shall have any liability arising out of such termination.

ARTICLE VIII – RISK OF LOSS AND INDEMNIFICATION

8.01 Risk of Loss.

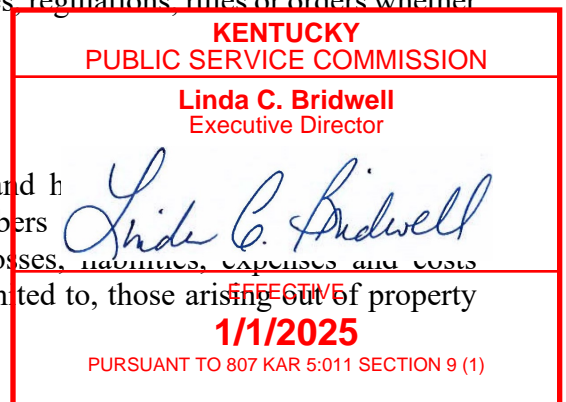
a. Seller. As between EKPC and Seller, Seller shall be responsible for and shall bear the full risk of loss: (i) with respect to any loss of or damage to any property located on Seller's side of the Delivery Point; and (ii) with respect to any personal injury or death, or loss of or damage to any other property arising out of the ownership or leasing, operation or maintenance of any property of Seller on Seller's side of the Delivery Point; provided, however, that Seller shall not be responsible for any loss, damage, or injury to the extent that such loss, damage, or injury arises out of the negligence or willful misconduct of EKPC or FME

b. EKPC. As between EKPC and Seller, EKPC shall be responsible for and shall bear the full risk of loss: (i) with respect to any loss of or damage to any property located on EKPC's side of the Delivery Point, and (ii) with respect to any personal injury or death, or loss of or damage to any other property arising out of the ownership, operation or maintenance of any property of EKPC on EKPC's side of the Delivery Point, provided, however, that EKPC shall not be responsible for any loss, damage, or injury to the extent that such loss, damage, or injury arises out of the negligence or willful misconduct of Seller or FME

8.02 Environmental Claims. The Seller assumes liability for any and all claims, demands, actions, violations, notices or causes of action of any kind arising from or relating to the design, construction, installation, operation, maintenance or dismantling of the Qualifying Facility that arise from or relate to violations of any environmental statutes, regulations, rules or orders whether federal, state or local in nature.

8.03 Indemnification.

a. By Seller. Seller shall indemnify, defend and hold harmless the Buyer, its respective employees, directors, officers, managers, members and agents against any and all third party claims, suits, damages, losses, ~~injuries, expenses and costs~~ (including reasonable attorneys' fees) including, but not limited to, those arising out of property



damage to the property of EKPC, FME or others, environmental claims, and personal injury and bodily injury (including death, sickness and disease) to the extent caused by Seller's: (i) material breach of any obligation, representation or warranty contained in this Agreement; or (ii) negligence or willful misconduct.

b. By EKPC. EKPC shall indemnify, defend and hold Seller and FME and their respective employees, directors, officers, managers, members, shareholders and agents, harmless from and against any and all third party claims, suits, damages, losses, liabilities, expenses and costs (including reasonable attorneys' fees) including, but not limited to, those arising out of property damage, environmental claims, and personal injury and bodily injury (including death, sickness and disease) to the extent caused by EKPC's: (i) material breach of any obligation, representation or warranty contained in this Agreement; or (ii) negligence or willful misconduct.

c. By FME. FME shall indemnify, defend and hold Seller and EKPC and their respective employees, directors, officers, managers, members, shareholders and agents, harmless from and against any and all third party claims, suits, damages, losses, liabilities, expenses and costs (including reasonable attorneys' fees) including, but not limited to, those arising out of property damage, environmental claims, and personal injury and bodily injury (including death, sickness and disease) to the extent caused by FME's: (i) material breach of any obligation, representation or warranty contained in this Agreement; or (ii) negligence or willful misconduct.

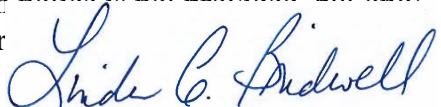
d. Apportionment. If, due to the joint, concurring, comparative or contributory negligence or willful misconduct of the Parties, any Party incurs any cost or expense arising out of any claim, cause or demand, such cost or expense shall be allocated between the Parties in proportion to their respective degrees of negligence or willful misconduct contributing to such claim, cause or demand.

e. Employees. No Party shall be deemed an employee of the other Party. No Party shall bring any claim against another Party with respect to any liability for compensation under any applicable state or federal worker's compensation act, including worker's compensation and/or employer's liability claims of employees. Each Party shall be liable for all claims of the Party's own employees arising out of any provision of any workers' compensation law.

f. Notice and Participation.

i. If any Party entitled to indemnification hereunder (the "Indemnified Party") intends to seek indemnification under this Article from another Party (the "Indemnifying Party") with respect to any claim, cause or demand, the Indemnified Party shall give the Indemnifying Party notice of such claim, cause or demand upon the receipt of actual knowledge or information by the Indemnified Party of any possible claim, cause or demand or of the commencement of such claim, which notice shall in no event be later than the later of (A) fifteen (15) business days prior to the last day for responding to such claim, cause or demand; or (B) one-half of the period allowed for responding to such claim, cause or demand. The Indemnifying Party shall have no liability under this Article for any claim, cause or demand for which such notice is not provided, but only to the extent that the failure to give such notice materially impairs the ability of the Indemnifying Party to respond to or to defend the claim, cause or demand.

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ii. The Indemnifying Party shall have the right to assume the defense of any claim, cause or demand, at its sole cost and expense, with counsel designated by the Indemnifying Party and reasonably satisfactory to the Indemnified Party; provided, however, that if the defendants in any such proceeding include both the Indemnified Party and the Indemnifying Party, and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to those available to the Indemnifying Party, the Indemnified Party shall have the right to select separate counsel, at the Indemnifying Party's expense, to assert such legal defenses and to otherwise participate in the defense of such claim, cause or demand on behalf of such Indemnified Party, and the Indemnifying Party shall be responsible for the reasonable fees and expenses of such separate counsel.

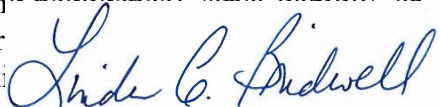
iii. Should any Indemnified Party be entitled to indemnification under this Section as a result of a claim, cause or demand by a third party, and should the Indemnifying Party fail to assume the defense of such claim, cause or demand within a reasonable period of time, the Indemnified Party may, at the expense of the Indemnifying Party, contest (or, with or without the prior consent of the Indemnifying Party), settle such claim, cause or demand.

iv. Except to the extent expressly provided herein, no Indemnified Party shall settle any claim, cause or demand with respect to which it has sought or is entitled to seek indemnification pursuant to this Section unless: (A) it has obtained the prior written consent of the Indemnifying Party; or (B) the Indemnifying Party has failed to provide, within a reasonable period of time, security, in a form reasonably satisfactory to the Indemnified Party, securing the payment of any cost or expense, up to the amount of the proposed settlement.

v. Except to the extent expressly provided otherwise herein, no Indemnifying Party shall settle any claim, cause or demand with respect to which it may be liable to provide indemnification pursuant to this Section without the prior written consent of the Indemnified Party, provided, however, that if the Indemnifying Party has reached a bona fide settlement agreement with the plaintiff(s) in any such proceeding, which settlement includes a full release of the Indemnified Party for any and all liability with respect to such claim, cause or demand, and the Indemnified Party does not consent to such settlement agreement, then the dollar amount specified in the settlement agreement, plus the Indemnified Party's reasonable legal fees and other costs related to the defense of the claim, cause or demand paid or incurred prior to the date of such settlement agreement, shall act as an absolute maximum limit on the indemnification obligation of the Indemnifying Party with respect to the claim, cause or demand, or portion thereof, that is the subject of such settlement agreement.

g. Net Amount. In the event that an Indemnifying Party is obligated to indemnify and hold any Indemnified Party harmless under this Article, the amount owing to the Indemnified Party shall be the amount of such Indemnified Party's actual cost and expense, net of any insurance or other recovery actually received by the Indemnified Party.

h. Assertion of Claims. No claim, cause or demand of any kind shall be asserted against any Party, whether arising out of contract, tort (including negligence), strict liability, or any other cause of or form of action, unless it is filed in a court of law, and a demand for arbitration is made, within the applicable statute of limitations, of the claim, cause or demand.

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i. No Release of Insurers. The provisions of this Article shall not be deemed or construed to release any insurer from its obligation to pay any insurance proceeds in accordance with the terms and conditions of valid and collectible insurance policies.

j. Survival of Obligation. The duty to indemnify under this Article shall continue in full force and effect notwithstanding the expiration or termination of this Agreement, with respect to any cost or expense arising out of an event or condition which occurred or existed prior to such expiration or termination.

8.04 Limitation of Liability. For a breach of any provision of this Agreement for which an express remedy or measure of damages is provided, such express remedy or measure of damages shall be the sole and exclusive remedy. Unless expressly herein provided, no Party shall be liable for consequential, incidental, punitive exemplary or indirect damages, lost profits or other business interruption damages, by statute (to the extent permitted by law), in tort or contract or otherwise (except to the extent that an Indemnifying Party is obligated under Section 8.02 to indemnify against third party claims for consequential, incidental, punitive, exemplary or indirect damages or lost profits or business interruption damages). The limitations herein imposed on remedies and the measure of damages is without regard to the cause or causes related thereto, including the negligence of any Party, whether such negligence be sole, joint or concurrent, or active or passive. To the extent any damages required to be paid hereunder for a breach are liquidated, the Parties acknowledge that the liquidated damages are reasonable in light of the anticipated harm that would be caused by the breach, the difficulties of proof of loss, and the inconvenience or non-feasibility of otherwise obtaining an adequate remedy. EXCEPT AS SET FORTH IN THIS AGREEMENT, THERE ARE NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT.

ARTICLE IX - EVENTS OF DEFAULT AND REMEDIES

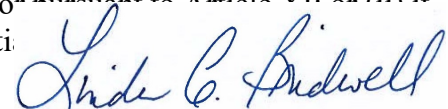
9.01 Events of Default by EKPC or FME. EKPC or FME, respectively, shall be in default under this Agreement upon the happening or occurrence of any of the following events or conditions, each of which shall be an "Event of Default" for purposes of this Agreement:

a. EKPC or FME breaches or fails to observe or perform any of its material obligations under this Agreement, other than the obligations described in Section 9.01(c), unless within thirty (30) days after written notice from Seller specifying the nature of such breach or failure, EKPC or FME either cures such breach or failure or, if such cure cannot reasonably be effected by the payment of money and cannot reasonably be completed within thirty (30) days, commences such cure during the initial thirty (30) day period and thereafter diligently pursues such cure during such additional period of time as is reasonably necessary to cure such breach or failure.

b. EKPC or FME is dissolved, or its existence is terminated or its business is discontinued, unless: (i) this Agreement is assigned to a successor pursuant to Article VI, or (ii) it is merged into a successor corporation which continues substanti

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c. EKPC or FME fails to pay, when due, any amount due hereunder, and such failure continues for a period of seven (7) business days following the receipt by it of a written notice of such failure from Seller.

d. Any representation or warranty of EKPC or FME set forth in this Agreement was false or misleading in any material respect when made, unless: (i) the fact, circumstance or condition that is the subject of such representation or warranty is made true within thirty (30) days after Seller has given notice thereof to it; provided, however, that if the fact, circumstance or condition that is the subject of such representation or warranty cannot be corrected within such thirty (30) day period and if it commences to correct the fact, circumstance or condition that is the subject of such representation during the initial thirty (30) day period, and thereafter proceeds with all due diligence, to correct the fact, circumstance or condition that is the subject of such representation or warranty, such period shall be extended for such further period as shall be reasonably necessary for it to correct the same with all due diligence; and (ii) such cure removes any adverse effect on Seller of such fact, circumstance or condition being otherwise than as first represented, or such fact, circumstance or condition being otherwise than as first represented does not materially adversely affect Seller.

e. EKPC or FME shall: (i) file a voluntary petition in bankruptcy or file a voluntary petition or otherwise commence any action or proceeding seeking reorganization, liquidation, arrangement or readjustment of its debts or for any other relief under the any Bankruptcy Law, or consent to, approve of, or acquiesce in, any such petition, action or proceeding; (ii) apply for or acquiesce in the appointment of a receiver, liquidator, sequestrator, custodian, trustee or similar officer for it or for all or any part of its property; (iii) make an assignment of this Agreement for the benefit of creditors; or (iv) be insolvent or be unable generally to pay its debts as they become due.

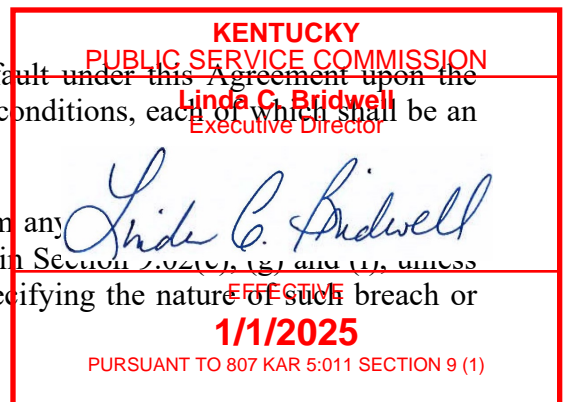
f. A proceeding or case is commenced, without the application or consent of EKPC or FME, in any court of competent jurisdiction, seeking: (i) the liquidation, reorganization, dissolution, winding-up, or composition or adjustment of its debts; (ii) the appointment of a trustee, receiver, custodian, liquidator or the like, of it or of all or any substantial part of its assets; or (iii) similar relief in respect of it under any bankruptcy law, and such proceeding or case shall continue un-dismissed, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue un-stayed and in effect, for a period of ninety (90) days from commencement of such proceeding or case or the date of such order, judgment or decree.

g. EKPC or FME makes an assignment of this Agreement in violation of Article XI.

h. In no circumstance shall EKPC be liable for an Event of Default by FME nor shall FME be liable for an Event of Default by EKPC.

9.02 Events of Default By Seller. Seller shall be in default under this Agreement upon the happening or occurrence of any of the following events or conditions, each of which shall be an "Event of Default" for purposes of this Agreement:

a. Seller breaches or fails to observe or perform any obligations under this Agreement, other than the obligations described in Section 9.02(c), (d) and (f), unless Seller cures such breach or condition within thirty (30) days after written notice from EKPC specifying the nature of such breach or condition.



failure, Seller either cures such breach or failure or, if such cure cannot reasonably be effected by the payment of money and cannot reasonably be completed within thirty (30) days, commences such cure during the initial thirty (30) day period and thereafter diligently pursues such cure during such additional period of time as is reasonably necessary to cure such breach or failure.

b. Seller is dissolved, or Seller's existence is terminated or its business is discontinued, unless this Agreement is assigned to a successor pursuant to Article XI.

c. Seller fails to pay, when due, any amount due hereunder, and such failure continues for a period of seven (7) business days following the receipt by Seller of a written notice of such failure from EKPC.

d. Any representation or warranty of Seller set forth in this Agreement was false or misleading in any material respect when made, unless: (i) the fact, circumstance or condition that is the subject of such representation or warranty is made true within thirty (30) days after EKPC has given notice thereof to Seller; provided, however, that if the fact, circumstance or condition that is the subject of such representation or warranty cannot be corrected within such thirty (30) day period and if Seller commences to correct the fact, circumstance or condition that is the subject of such representation during the initial thirty (30) day period, and thereafter proceeds with all due diligence, to correct the fact, circumstance or condition that is the subject of such representation or warranty, such period shall be extended for such further period as shall be reasonably necessary for Seller to correct the same with all due diligence; and (ii) such cure removes any adverse effect on EKPC of such fact, circumstance or condition being otherwise than as first represented, or such fact, circumstance or condition being otherwise than as first represented does not materially adversely affect EKPC.

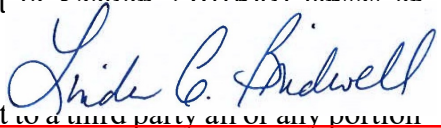
e. Seller shall: (i) file a voluntary petition in bankruptcy or file a voluntary petition or otherwise commence any action or proceeding seeking reorganization, liquidation, arrangement or readjustment of its debts or for any other relief under any Bankruptcy Law, or consent to, approve of, or acquiesce in, any such petition, action or proceeding; (ii) apply for or acquiesce in the appointment of a receiver, liquidator, sequestrator, custodian, trustee or similar officer for it or for all or any part of its property; (iii) make an assignment of this Agreement for the benefit of creditors; or (iv) be insolvent or be unable generally to pay its debts as they become due.

f. A proceeding or case is commenced, without the application or consent of Seller in any court of competent jurisdiction, seeking: (i) the liquidation, reorganization, dissolution, winding-up, or composition or adjustment of debts of Seller; (ii) the appointment of a trustee, receiver, custodian, liquidator or the like, of Seller or of all or any substantial part of its assets; or (iii) similar relief in respect of Seller under any bankruptcy law, and such proceeding or case shall continue un-dismissed, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue un-stayed and in effect, for a period of ninety (90) days from commencement of such proceeding or case or the date of such order, judgment or decree.

g. Any letter of credit provided by Seller pursuant to Section 2.01(b)(2) lapses on defaults.

h. Seller shall sell, assign, transfer or otherwise divert to a third party all or any portion of the power produced from the Qualifying Facility.

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i. Seller shall relinquish all possession and control of the Qualifying Facility, except for as permitted pursuant to Article XI or to a contractor of Seller in accordance with Good Utility Practice, if such relinquishment of possession and control is not cured within thirty (30) days following the receipt by Seller of a written notice thereof from EKPC.

j. Seller makes an assignment of this Agreement in violation of Article XI.

9.03 Remedies.

a. General. Upon an Event of Default by a Party, another Party shall have the right, but not the obligation, to terminate this Agreement with respect to all obligations arising after the date a notice identifying the applicable Event(s) of Default and terminating the Agreement is delivered to the defaulting Party (“Notice of Early Termination”). A Notice of Early Termination is effective on the date it is delivered to the defaulting Party (“Early Termination Date”). Delivery of a Notice of Early Termination shall not relieve the non-defaulting Party of making timely payment for any amounts owed relating to obligations arising prior to the delivery of the Notice of Early Termination. If an Event of Default by a Party under this Agreement leads to termination of this Agreement, the non-defaulting Party may pursue all remedies available to it in law or equity and the defaulting Party’s liability hereunder shall be determined as follows:

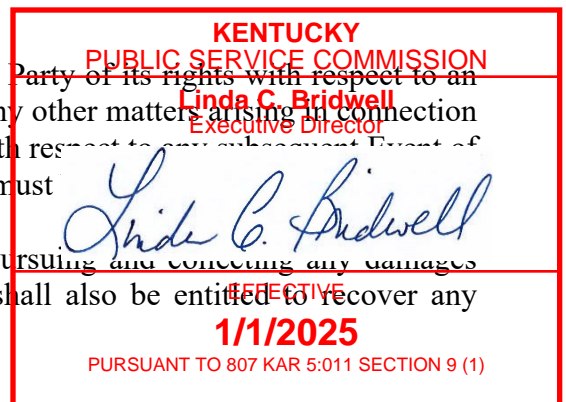
i. For a termination arising from an Event of Default by Seller, the Seller shall be liable for a Termination Payment equal to the sum of: (A) all Interconnection Costs actually expended by EKPC or FME from the effective date of this Agreement through the date the Notice of Early Termination is delivered to the defaulting Party, both dates inclusive; and which have not yet been paid by Seller; and (B) any amounts due for services or obligations covered by Schedule C, Schedule D or Schedule E. For purposes of the preceding sentence, “sums actually expended” shall include all payments and obligations to make future payments by EKPC or FME arising from or in any way relating to the terms of this Agreement, whether incurred in the planning, designing, permitting, seeking of regulatory approval, development, construction or interconnection of the Qualifying Facility and associated power and energy.

ii. For a termination arising from an Event of Default by EKPC, EKPC shall be liable for a Termination Payment equal to the sum of: (A) the amount of all unpaid billing statements for power delivered by Seller; and (B) any refund due to Seller for overpayment of Interconnection Costs.

iii. For a termination arising from an Event of Default by FME, FME shall be liable for a Termination Payment equal to the amount of any refund due to Seller for overpayment of Interconnection Costs.

b. No Waiver. Any waiver at any time by any Party of its rights with respect to an Event of Default under this Agreement, or with respect to any other matters arising in connection with this Agreement, shall not be deemed to be a waiver with respect to any subsequent Event of Default or other matter. Any waiver under this Agreement must

c. Costs, Expenses and Attorneys’ Fees. In pursuing and collecting any damages pursuant to this Section 9.03, the non-defaulting Parties shall also be entitled to recover any



reasonable costs, expenses or attorneys' fees arising from or relating to the pursuit of remedies set forth above.

9.04 Suspension of Performance. Notwithstanding any other provision of this Agreement, if an Event of Default shall have occurred and be continuing, the non-defaulting Parties, upon notice to the defaulting Party, shall have the right, but not the obligation: (i) to suspend performance under this Agreement with respect to such defaulting Party pending the exercise of other remedies provided hereunder (provided, however, that Seller may suspend performance immediately upon the delivery of a notice to EKPC when EKPC has committed an Event of Default pursuant to Section 9.01(e)), which suspension may continue for a period not to exceed sixty (60) days; and (ii) to exercise any remedy available at law or in equity; provided, however, that the collection of the Termination Payment shall be the non-defaulting Party's sole and exclusive remedy for any damages due hereunder.

9.05 Election of Remedies

a. Except as specifically limited in this Agreement, each and every right, power and remedy of a Party, whether specifically stated in this Agreement, or otherwise existing, may be exercised concurrently or separately, from time to time, and so often and in such order as may be deemed expedient by the exercising Party, and the exercise or the beginning of the exercise of any such right, power or remedy shall not be deemed a waiver of the right to exercise, at the same time or thereafter, any other right, power or remedy. No delay or omission of a Party in the exercise of any right, power or remedy shall impair or operate as a waiver thereof or of any other right, power or remedy then or thereafter existing.

b. Notwithstanding any other provision of this Article, neither Party shall terminate this Agreement following the occurrence of an Event of Default by another Party if, prior to the defaulting Party's receipt of a notice of such termination, and notwithstanding the expiration or unavailability of any cure period provided under this Agreement, the defaulting Party shall have cured the Event of Default.

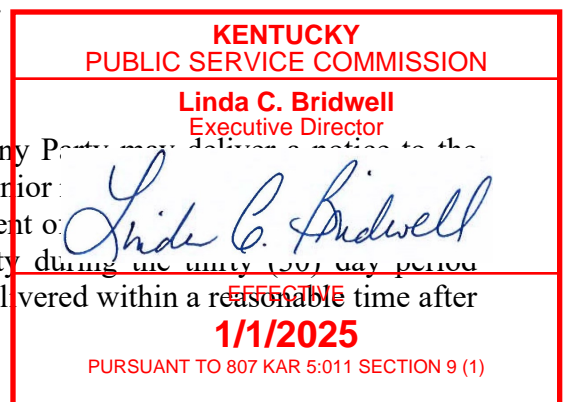
c. Each Party agrees that it has a duty to mitigate damages and covenants that it will use commercially reasonable efforts to minimize damages it may incur as a result of another Party's performance or non-performance of this Agreement.

9.06 Dispute Resolution.

a. General Provisions. Every dispute of any kind or nature between EKPC, FME and Seller arising out of or in connection with this Agreement (each a "Dispute") shall be resolved in accordance with this Section, to the extent permitted by law.

b. Referral to Senior Management.

i. Upon the occurrence of a Dispute, any Party may deliver a notice to the other Parties requesting that the Dispute be referred to the senior management of such Party. Such notice shall include the names of the senior management of such Party to resolve the Dispute, and a schedule of their availability during the thirty (30) day period following the date of the notice. Any such notice shall be delivered within a reasonable time after



the Dispute arises, but in no event shall it be delivered less than thirty (30) days before the institution of legal or equitable proceedings based on such Dispute would be barred by any applicable statute of limitations.

ii. Within seven (7) days after receipt of a notice pursuant to the preceding paragraph, the other Parties shall provide a notice to the requesting Party indicating the names of the senior management of the Party nominated to attempt to resolve the Dispute, and a schedule of their availability during the remainder of the thirty (30) day period following the date of the notice.

iii. During the remainder of the thirty (30) day period following delivery of the original notice, the nominated members of the senior management of the Parties shall meet as frequently as possible, and shall attempt in good faith to resolve the Dispute. Unless the Parties agree otherwise in writing prior to the commencement of such thirty (30) day period, neither Party shall be entitled to invoke or rely on any admissions, settlement offers or other statements made during the course of such discussions in any subsequent arbitration or legal proceedings.

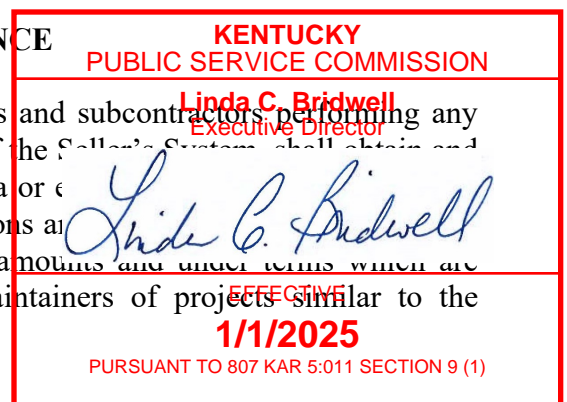
c. Commission Proceeding. Any Dispute that has not been resolved within thirty (30) days of the delivery of a notice in accordance with Section 9.06(b) shall be resolved by: (i) the filing of an appropriate pleading before the Kentucky Public Service Commission to the extent that the subject matter of the Dispute is within the jurisdiction of the Commission; or (ii) the filing of an appropriate action in the Circuit Court of Clark County, Kentucky.

d. Continued Performance. During the conduct of Dispute resolution procedures pursuant to this Section: (i) the Parties shall continue to perform their respective obligations under this Agreement; and (ii) no Party shall exercise any other remedies hereunder arising by virtue of the matters in dispute; provided, however, that nothing in this Section shall be construed: (A) to prevent Seller from suspending performance in the event that EKPC has not paid undisputed amounts due and owing to Seller under this Agreement; or (B) to prevent EKPC from suspending performance hereunder (other than payments for power previously provided to EKPC) in the event that Seller ceases providing power hereunder.

9.07 Effect of Termination. No termination of this Agreement following an Event of Default shall relieve the defaulting Party of its liability and obligations hereunder, and a non-defaulting Party may take whatever action at law or in equity may appear necessary or desirable to enforce performance and observance of any obligations under this Agreement, and the rights given hereunder shall be in addition to all other remedies available to the Parties, either, at law, in equity, or otherwise, for the breach of this Agreement, provided, however, that any damages for the termination of this Agreement shall be as provided in Section 9.03.

ARTICLE X – INSURANCE

10.01 Coverage and Amounts. Seller, and all contractors and subcontractors performing any services in connection with the operation or maintenance of the Seller's System, shall obtain and maintain in force commercial general liability and umbrella or excess liability coverage and property insurance for injury to persons and property, and workers' compensation insurance and workman's compensation insurance, all in amounts and under terms which are generally carried by owners or lessees, operators or maintainers of projects similar to the



Qualifying Facility, but in no case less than \$2,000,000.00 for public liability for bodily injury and \$1,000,000.00 for property damage. Seller's liability under this Agreement is not limited to the amount of insurance coverage required herein.

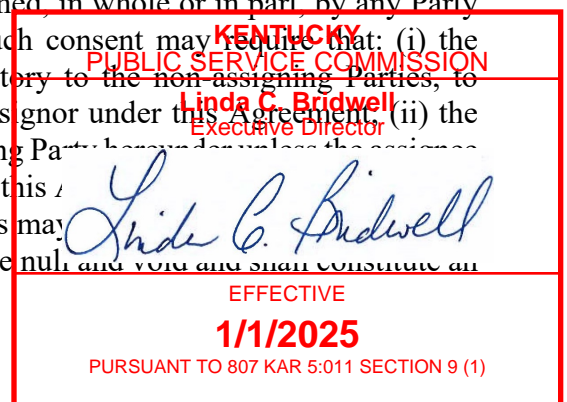
10.02 Evidence of Insurance. Upon request made on or after the Authorization Date, Seller shall provide EKPC and FME with insurance certificates reasonably acceptable to EKPC and FME evidencing that insurance coverages for the Qualifying Facility are in compliance with the specifications for insurance coverage set forth in this Article X. Such insurance and certificates shall: (a) include EKPC and FME as additional insured beneficiaries under the commercial general liability and umbrella liability policies; (b) provide a waiver of any rights of subrogation against EKPC, its affiliates and subsidiaries; and (c) indicate that the commercial general liability and umbrella liability policies have been extended as described above. All policies shall be written with insurers with A.M. Best Company ratings of at least A-. All policies shall be written on an occurrence basis, except as provided in Section 10.04. The commercial general liability and umbrella liability policies shall: (i) provide that Seller's policy shall be primary in all instances regardless of like coverages, if any, carried by EKPC or FME; and (ii) provide for claims by one insured against another such that, except for the limits of insurance, the insurance shall apply separately to each insured against whom a claim is made or suit is brought.

10.03 Modification of Insurance. If any insurance required to be maintained by Seller hereunder ceases to be available on commercially reasonable terms in the commercial insurance market, Seller shall provide written notice of such fact to EKPC and FME, accompanied by a certificate from an independent insurance advisor of recognized national standing, certifying that such insurance is not available on commercially reasonable terms in the commercial insurance market for electric generating plants of similar type, geographic location and design. Upon delivery of such notice, Seller shall be relieved of the affected obligation, and Seller shall use commercially reasonable efforts to obtain other insurance that would provide comparable protection against the risk to be insured.

10.04 Term Insurance. All insurance required under this Agreement shall cover occurrences during the term(s) of this Agreement. In the event that any insurance as required herein is commercially available only on a "claims-made" basis, such insurance shall provide for a retroactive date not later than the Authorization Date and such insurance shall be maintained by Seller, with a retroactive date not later than the retroactive date required above, for a minimum of three (3) years after the expiration of the final term of this Agreement.

ARTICLE XI - SALE, TRANSFER OR ASSIGNMENT

11.01 Assignment to Non-Affiliates. With the exception of EKPC's right, title and interest in Environmental Attributes, this Agreement may not be assigned, in whole or in part, by any Party without the prior written consent of the other Parties. Such consent may be given that: (i) the assignee agrees in writing, in form and substance satisfactory to the non-assigning Parties, to assume and to perform each and every obligation of the assignor under this Agreement; (ii) the assignment does not impair any security given by the assigning Party; and (iii) the assignee posts replacement security which meets the requirements of this Agreement. If the assignee has obtained, prior to the assignment, such Authorizations as may be required by Rules and Regulations. Any assignment in violation hereof shall be null and void and shall constitute an Event of Default by the assigning Party.



11.02 Assignment to Affiliates. Notwithstanding Section 11.01, any Party may assign this Agreement to an affiliate of such Party without the consent of the other Parties, provided, however, that the assigning Party shall remain liable for all of its obligations under this Agreement unless and until the consent of the non-assigning Parties is secured in accordance with Section 11.01. The assigning Party shall notify the other Parties of the occurrence of any event described in this paragraph.

ARTICLE XII - MISCELLANEOUS

12.01 Representations and Warranties.

a. Representations and Warranties of EKPC and FME. EKPC and FME, solely as applied to each of them in their individual capacity, make the following representations and warranties to Seller:

i. It is a corporation duly organized and in good standing under the laws of the Commonwealth of Kentucky, and is duly qualified to conduct business in Kentucky.

ii. It possesses all requisite legal power and authority to enter into and perform its obligations under this Agreement and to carry out the transaction(s) contemplated herein. It has all legal power and authority to transact the business in which it engages or proposes to engage, and holds or reasonably expects to obtain all Authorizations necessary and required therefore.

iii. Its execution, delivery and performance of this Agreement have been duly authorized by, and are in accordance with, its articles of incorporation or other organization documents; this Agreement has been duly executed and delivered for it by the signatories so authorized; and this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms thereof.

iv. Its execution and delivery of this Agreement: (A) will not result in a material breach or violation of, or constitute a material default under, any applicable law or Authorization, or any contract, lease or other agreement or instrument to which it is a party, or by which it or its properties may be bound or affected; and (B) does not require any Authorization, or the consent, authorization or notification of any other person, or any other action by or with respect to any other person.

v. Its performance of this Agreement: (A) will not result in a material breach or violation of, or constitute a material default under, any applicable law or Authorization, or any contract, lease or other agreement or instrument to which it is a party, or by which it or its properties may be bound or affected; and (B) does not require any Authorization, or the consent, authorization or notification of any other person, or any other actions by or with respect to any other person, other than: (I) Kentucky Public Service Commission approval; (II) such Authorizations, consents, authorizations, notifications, and other actions as have already been obtained, made, or taken, as applicable; and (III) such Authorizations, consents, approvals, not are not required to have been obtained, made, or taken, as applicable to the representation and warranty is made, and which are reasonably expected to be obtained, made, or taken on a timely basis and in due course.

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vi. No suit, action or arbitration, or legal, administrative or other proceeding is pending, or to its knowledge, has been threatened against it that would affect the validity or enforceability of this Agreement or the ability of such buyer to perform its obligations hereunder in any material respect, or that would, if adversely determined, have a material adverse effect on its business or financial condition. There are no bankruptcy, insolvency, reorganization, receivership or other arrangements proceedings, pending against or being contemplated by it, or, to its knowledge, threatened against it.

vii. It is not in breach of, in default under, or in violation of, any applicable law, or the provisions of any Authorization, or in breach of, in default under, or in violation of, any provision of any promissory note, indenture or any evidence of indebtedness or security therefore, lease, contract or other agreement by which it is bound, except for any such breaches, defaults or violations which, individually or in the aggregate, could not reasonably be expected to have a material adverse effect on its business or financial condition or its ability to perform any obligations hereunder.

b. Representations and Warranties of Seller. Seller makes the following representations and warranties to EKPC and FME:

i. Seller is a corporation duly organized and in good standing under the laws of the Commonwealth of Kentucky, and is duly qualified to conduct business in Kentucky.

ii. Seller possesses all requisite legal power and authority to enter into and perform its obligations under this Agreement and to carry out the transaction(s) contemplated herein. Seller has all legal power and authority to transact the business in which it engages or proposes to engage, and holds or reasonably expects to obtain all Authorizations necessary and required therefore.

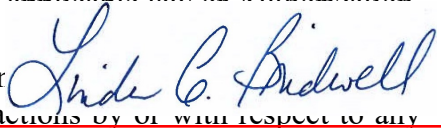
iii. Seller's execution, delivery and performance of this Agreement have been duly authorized by, and are in accordance with, its articles of incorporation or other organization documents; this Agreement has been duly executed and delivered for it by the signatories so authorized; and this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms thereof.

iv. Seller's execution and delivery of this Agreement: (A) will not result in a material breach or violation of, or constitute a material default under, any applicable law or Authorization, or any contract, lease or other agreement or instrument to which it is a party, or by which it or its properties may be bound or affected; and (B) does not require any Authorization, or the consent, authorization or notification of any other person, or any other action by or with respect to any other person.

v. Seller's performance of this Agreement: (A) will not result in a material breach or violation of, or constitute a material default under, any applicable law or Authorization, or any contract, lease or other agreement or instrument to which it or its properties may be bound or affected; and (B) does not require any Authorization, or the consent, authorization or notification of any other person, or any other action by or with respect to any other person, other than: (I) such Authorizations, consents, authorizations, notifications, and other

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actions as have already been obtained, made, or taken, as applicable; and (II) such Authorizations, consents, approvals, notifications, or other actions which are not required to have been obtained, made, or taken, as applicable, prior to the date one which the representation and warranty is made, and which are reasonably expected to be obtained, made or taken on a timely basis and in due course.

vi. No suit, action or arbitration, or legal, administrative or other proceeding is pending, or to Seller's knowledge, has been threatened against Seller that would affect the validity or enforceability of this Agreement or the ability of such buyer to perform its obligations hereunder in any material respect, or that would, if adversely determined, have a material adverse effect on the business or financial condition of Seller. There are no bankruptcy, insolvency, reorganization, receivership or other arrangements proceedings, pending against or being contemplated by Seller, or, to Seller's knowledge, threatened against it.

vii. Seller is not in breach of, in default under, or in violation of, any applicable law, or the provisions of any Authorization, or in breach of, in default under, or in violation of, any provision of any promissory note, indenture or any evidence of indebtedness or security therefore, lease, contract or other agreement by which it is bound, except for any such breaches, defaults or violations which, individually or in the aggregate, could not reasonably be expected to have a material adverse effect on the business or financial condition of Seller or its ability to perform its obligations hereunder.

12.02 Term. This Agreement, and any amendments hereto, shall have an Initial Term commencing on the effective date and expiring five (5) years after the date that the last required Authorization was granted by the Kentucky Public Service Commission, the Administrator of the Rural Utilities Service or any other applicable Governmental Authority ("Authorization Date"). Upon the expiration of the Initial Term, the Agreement shall automatically renew on a year to year basis until terminated, unless terminated as provided in Section 9.03(a) or Section 12.03.

12.03 Termination. In addition to an early termination pursuant to Section 9.03, any party may terminate this Agreement at the expiration of the Initial Term or during any subsequent one-year term thereafter by giving the other parties at least ninety (90) days advance notice in writing prior to the end of such Initial Term or any subsequent one-year term. Termination shall not affect any obligation accrued prior to such termination or any other obligation which, pursuant to the terms of this Agreement, survives termination.

12.04 Notices. Any notice required by this Agreement to be given in writing shall be deemed properly given if and when delivered in person, or sent by registered or certified mail, postage prepaid to the person specified below:

If to EKPC:

President & Chief Executive Officer
East Kentucky Power Cooperative, Inc.
4755 Lexington Road
P.O. Box 707
Winchester, Kentucky 40392-0707



If to FME:

President & Chief Executive Officer
Fleming-Mason Energy Cooperative
1449 Elizaville Road
Flemingsburg, Kentucky 41041

If to Seller:

Tim Short
Morehead Automotive Group, LLC.
99 Tim Short Drive
Morehead, Kentucky 40351

Notice may also be delivered to such other person or address as a Party may have been designated in a written notice given by or on behalf of the Party entitled to receive notice to the other Parties.

12.05 Confidentiality.


a. Duty of Confidentiality. Any Proprietary Information of a Party (the "Transferor") which is disclosed to or otherwise received or obtained by another Party (the "Transferee") incident to this Agreement is disclosed, and shall be held, in confidence, and the Transferee shall not (subject to paragraphs (b) and (c) below) publish or otherwise disclose any Proprietary Information of the Transferor to any person for any reason or purpose whatsoever, or use any Proprietary Information for any purpose other than performance under this Agreement, without the prior written approval of the Transferor, which approval may be granted or withheld by the Transferor in its sole discretion. Without limiting the generality of the foregoing, each Party shall observe at a minimum the same safeguards and precautions with regard to the Transferor's Proprietary Information which such Party observes with respect to its own information of the same or similar kind.

b. Disclosures to Employees, Contractors and Affiliates. Each Party agrees that it will make available Proprietary Information received from another Party to its employees, contractors and affiliates only on a need-to-know basis, and that all persons to whom such Proprietary Information is made available will be made aware of the confidential nature of such Proprietary Information, and will be required to agree to hold such Proprietary Information in confidence under terms substantially identical to the terms hereof.

c. Disclosures to Governmental Authorities. Notwithstanding the foregoing:

i. A Transferee may provide any Proprietary Information to any Governmental Authority having jurisdiction over or asserting a right to obtain such information, provided that: (A) such Governmental Authority orders that such Proprietary Information be provided; and (B) unless prohibited from so doing by applicable law, the Transferee promptly advises the Transferor of any request for such information by such Governmental Authority and cooperates in giving the Transferor an opportunity to present objections to such disclosure or access, to such Governmental Authority.

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ii. Each Party may, to the extent required, disclose Proprietary Information to any Governmental Authority in connection with the application for any required Authorization, provided that, unless prohibited from so doing by applicable law, the Transferee shall advise the Transferor of any Proprietary Information that Transferee will disclose to the Governmental Authority prior thereto and shall cooperate in giving the Transferor an opportunity to present objections, requests for limitation, and/or requests for confidentiality or other restrictions on disclosure or access, to such Governmental Authority.

iii. Either Party may disclose such Proprietary Information regarding the terms of this Agreement as such Party deems necessary to enable it to comply with the Securities Exchange Act of 1934, or the rules, regulations and forms of the Securities and Exchange Commission, issued thereunder or the applicable rules of any stock exchange.

d. Injunctive Relief. In the event of a breach or threatened breach of the provisions of paragraph (a) above by any Transferee, the Transferor shall be entitled to an injunction restraining such Party from such breach. Nothing contained herein shall be construed as prohibiting the Transferor from pursuing any other remedies available at law or equity for such breach or threatened breach of this Agreement.

e. Continuing Obligation. The obligation to retain Proprietary Information in confidence shall continue in full force and effect during the term of the Agreement and for a period of two (2) years thereafter, notwithstanding the expiration or termination of this Agreement, with respect to any information obtained by any Party prior to such expiration or termination.

f. Definition of Proprietary Information:

i. The term "Proprietary Information" means all information, written or oral, which has been or is disclosed by the Transferor, or by any person on behalf of the Transferor, or which otherwise becomes known to the Transferee, or to any person associated with such Transferee, or any other person in a confidential relationship with, the Transferee, and which: (A) relates to matters such as patents, trade secrets, research and development activities, draft or final contracts or other business arrangements, books and records, resource data and analysis, generation data and analysis, budgets, cost estimates, pro forma calculations, engineering work product, environmental compliance, vendor lists, suppliers, manufacturing processes, energy consumption, pricing information, private processes, and other similar information, as they may exist from time to time; (B) relates to the existence or the terms, including pricing, of this Agreement; or (C) the Transferor expressly designates in writing to be confidential.

ii. Notwithstanding anything to the contrary in the preceding paragraph, Proprietary Information shall exclude information falling into any of the following categories: A) information that, at the time of disclosure hereunder, is in the public domain, other than information that entered the public domain by breach of this Agreement by Transferee; B) information that, after disclosure hereunder, enters the public domain, other than information that enters the public domain by breach of this Agreement by Transferee; C) information that enters the public domain by breach of this Agreement by Transferee, other than that obtained from third parties, that prior to disclosure hereunder, was in the possession, either without limitation on disclosure to others or subsequently becoming free of such limitation; D) information obtained by Transferee from a third party having an independent right

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to disclose the information; or E) information that is available through independent research without use of or access to the Proprietary Information.

12.06 No Partnership. Notwithstanding any provision of this Agreement to the contrary, Seller, EKPC and FME do not intend to create hereby any lease, joint venture, partnership, association taxable as a corporation, or other entity for the conduct of any business for profit. No Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, another Party. The Parties agree to take, on a timely basis, all voluntary action as may be necessary to be excluded from treatment as a partnership under the Internal Revenue Code, and, if it should appear that one or more changes to this Agreement would be required in order to prevent the creation of such a business entity, the Parties agree to negotiate promptly in good faith with respect to such changes.

12.07 No Duty To Third Parties. Except as provided in Article X and Article XI, this Agreement is for the sole benefit of the Parties hereto, and nothing in this Agreement nor any action taken hereunder shall be construed to create any duty, liability or standard of care to any person not a party to this Agreement. Except as specifically provided herein, no person shall have any rights or interest, direct or indirect, in this Agreement or the services to be provided hereunder, or both, except the Parties hereto. Except as provided in Article X and Article XI, the Parties specifically disclaim any intent to create any rights in any person as a third-party beneficiary to this Agreement or the services to be provided hereunder, or both.

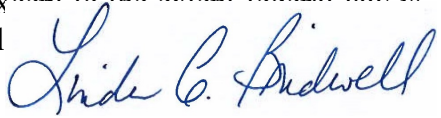
12.08 Dedication. No undertaking by one Party to the other under this Agreement shall constitute the dedication of that Party's system or any portion thereof to another Party or to the public or affect the status of Seller as an independent entity and not a public utility or public service company.

12.09 Duplicative Terms. The Parties acknowledge and agree that the following portions of the Interconnection Manual are superseded by the corresponding provisions set forth herein above: Section 9.01 (Assignment), Section 9.02 (Indemnification), Section 9.03 (Limitation of Liability and Damages), Section 9.04 (Force Majeure) and Section 9.06 (Confidentiality).

12.10 Entire Agreement. This Agreement contains the entire agreement among the Parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings relating to such subject matter. Except for any modification which this Agreement expressly authorizes a party to make unilaterally, no modification or waiver of any term or provision of this Agreement shall be effective unless it is in writing and signed by all of the Parties.

12.11 Interpretation. The headings of the Articles in this Agreement have been inserted for convenience only and shall in no way affect the interpretation of any of the terms or provisions hereof.

12.12 Applicable Law and Venue. This Agreement shall be construed and interpreted in accordance with the laws of the Commonwealth of Kentucky except to the extent federal law is applicable. Any action, case, proceeding, matter or dispute shall be brought in the Circuit Court of Clark County, Kentucky.

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12.13 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid, but if any provision of this Agreement or the application thereof shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provisions or the application of any other provision which can be given without the invalid provision or application, and to this end the provisions of this Agreement are declared to be severable.

12.14 Counterparts. This Agreement may be executed simultaneously in three (3) or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

[The remainder of this page intentionally left blank.]



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

EAST KENTUCKY POWER COOPERATIVE, INC.

BY: Anthony S Campbell

ITS: Pres. / CEO

FLEMING-MASON ENERGY COOPERATIVE

BY: Brandon Hunt

ITS: President/CEO

MOREHEAD AUTOMOTIVE GROUP, LLC.

BY: Jim Short

ITS: President

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Schedule A – Interconnection Facilities

See Attached PDFs:

Tim Short One-line.pdf



Schedule B – Interconnection Manual

Provided by EKPC to Seller

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Schedule C – Power Purchase Rates

I. Initial Rates

- A. Capacity will equal EKPC’s non-dispatchable rate as set forth in its Cogeneration and Small Power Production Power Purchase Rate Schedule Over 100 kW from Non-Dispatchable Generation Sources. Seller chooses not to receive capacity payments. For the current year, said rate is \$0 per kW.
- B. QF will be paid monthly for the electric power produced by non-dispatchable generation facilities and purchased by EKPC at the value of the real-time locational marginal price for energy set by PJM at the EKPC zonal node during each hour of the day at the time of delivery. The payment will be offset by a market administration fee of \$0.00011 per kWh to cover EKPC's market participation costs.

II. Subsequent Rate Changes

Upon the one-year anniversary date of the Authorization Date of the Agreement, and on each anniversary date thereafter, the rates for Capacity and Energy set forth above shall be reset based upon the rates set forth in EKPC’s Cogeneration and Small Power Production Power Purchase Rate Schedule Over 100 kW as it is then in effect on each such anniversary date that the Agreement remains in effect.



Schedule D – Monthly Backup Service and Reactive Support Charges

Not applicable.



Schedule E – Interconnection Service Charges

I. Monthly Interconnection Service Charge

NOT APPLICABLE

II. Distribution Cooperative Transmission Service Charges

\$0 charges for providing transmission service shall be recovered in accordance with Section 6.06 of the Interconnection Manual and Attachment 6 thereto.

NOT APPLICABLE

