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P.S.C. RATES & RESEARCH DIV. EKPC Standard Form - Modified

INDUSTRIAL POWER AGREEMENT

THIS AGREEMENT, made and entered into this 30 day of September, 19 93, by and between SHELBY RURAL ELECTRIC COOPERATIVE CORPORATION, a Kentucky corporation with its principal offices at Post Office Box 309, Shelbyville, Kentucky 40065-0309, hereinafter referred to as the #Cooperative", and ATGTBT, INC., a Delaware corporation with its principal offices at 2101 Production Drive, Suite 2, Louisville, Kentucky 40299, hereinafter referred to as "Customer".

WITNESSETH:

WHEREAS, Cooperative is a rural electric cooperative providing retail electric service in Shelby County, Kentucky. and

WHEREAS, Cooperative is a member of East Kentucky Power Cooperative, Inc., hereinafter referred to as "EKPC", and purchases all of its wholesale electric power and energy from EKPC, and

WHEREAS, Customer is a member of Cooperative and desires to purchase all of its retail electric power and energy needs from Cooperative, under the terms and conditions contained herein, to serve its Shelby County plant (hereinafter referred to as its "plant").

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PURSUANT TO 807 KAR 5:011. SECTION 9 (1)

BY: [Signature] PUBLIC SERVICE COMMISSION MANAGER

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions contained herein, the parties agree as follows:

May 1, 1994  
B J.W.

1. Term. This Agreement shall become effective as of ~~December 1, 1993~~, subject to the provisions of Section 13. This Agreement shall continue in affect for a term of five (5) years from said data and shall continue thereafter unless terminated by either party by providing written notice of such termination at least one year prior to ths desired termination date.

a. Availability of Power. Subject to the other provisions of this Agreement, Cooperative shall mike available to Customer, and the Customer shall take and purchase from Cooperative, all of Customer's requiremets for firm power and energy for the operation of Customer's said plant. The minimum "contract demand" under this Agreement shall be 1250 kW. customer may, upon cne month's advance written notice to cooperative, increase the contract demand up to a maximum of 4,999 kW. Customer shall have tha right to reduce said contract demand, in increments not to exceed 1000 kW, upon three months\* advance written notice to Cooperative, except that contract demand shall not be reduced below the minimum of 1250 kW.

The power and energy made available to Customer hereunder shall be delivered, taken, and paid for in accordance with the term8 hereof and the tariff of the Cooperative, Schedule B1, as approved by the Kentucky Public Service Commission (the "P.S.C.") and as modified from time to time by appropriate authority, a copy of which is attached hereto and hereby made a part hereof.

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PUBLIC SERVICE COMMISSION MANAGER

In the event of **any** conflict between the provisions of this Agreement and said tariff, the latter shall **control**.

3. **Conditions of Delivery.** The point of delivery for **firm** power and energy made available hereunder shall **be** the point at which **Customer's** facilities **connect** to **Cooperative's** facilities. The **power** and energy made available hereunder shall **be in the form** of **3-phase** alternating **current** at a **frequency** of **approximately 60** hertz **and** at a **nominal** voltage of **277/480 V.** Regulation of **voltage** shall be within **such limits as** prescribed by the applicable **rules** and regulations of the **P.S.C.** Maintenance by Cooperative at said point of delivery of the **above-stated frequency** and voltage within the above-stated **limits** shall constitute availability of power for purposes of this **Agreement.** **The power and energy taken by Customer hereunder shall be measured** by **meters** and **associated metering** equipment to **be** or **cause to be** installed, operated, and maintained by **Cooperative** or **EKPC.** None of **such electric** power and energy shall **be** resold to third parties.

Neither Cooperative nor **EKPC** shall be obligated to provide or **be** responsible for **providing** protective equipment for **Customer's** lines, **facilities,** and equipment to protect against **single phasing,** low voltage, **short circuits or any other abnormal system** conditions, but Cooperative or **EKPC,** as the **case** may be, **My provide such** protective equipment as it **deems necessary** for the **protection** of its own property and **operations.** **electrical** equipment **installed** by **Customer** shall be **capable of**

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satisfactory coordination with any protective equipment installed by Cooperative or EKPC.

4. Electric Disturbances. Customer shall not use the energy delivered under this Agreement in such manner as to cause electric disturbances which may be reasonably expected to (a) cause damage or interfere with cooperative's system, systems connected with Cooperative's system, or facilities or other property in proximity to Cooperative's system, or (b) prevent Cooperative from serving purchasers satisfactorily.

Cooperative may, at any time during the term of this Agreement, notify Customer of any such electrical disturbances and, before attempting to take any other action, shall afford Customer a reasonable time and opportunity, under the circumstances involved, to correct or suppress the disturbances. If Customer does not so correct or suppress the disturbances, then Cooperative may suspend or discontinue service.

Any interruption of service which may become necessary by reason of this Section shall not relieve Customer from its obligation to pay Cooperative the monthly charge as specified in the attached rate schedule.

5. Right of Access. Duly authorized representatives of the Cooperative and/or EKPC shall be permitted to enter the Customer's premises at all reasonable times in order to carry out the provisions hereof.

6. Right of Removal. Any and all equipment, apparatus, devices or facilities placed or installed, or caused to be placed or installed, by either of the parties hereto or by EKPC on or in

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the premises of the other party shall be and **remain** the property of the party awning and installing such equipment, **apparatus**, devices or facilities regardless of the **mode or manner** of annexation or attachment to real property of the **other**. **Upon the** termination of this Agreement, or any **extension thereof**, the **owner** thereof shall have the right to enter upon **the** premises of **the other and shall** within a reasonable time remove all or any portion of such equipment, apparatus, devices **or facilities**, unless **otherwise** agreed by the **parties, or** either party **and EKPC**, as applicable, at **the time** of such **termination**.

7. ~~Rates and Charges~~ all pay cooperative **monthly** for power and energy made available under this Agreement **in accordance** with the **rates, charges, and** provisions of **Cooperative's effective standard tariff** applicable to **consumers** of the same class as Customer, **Schedule B1, as** approved by the **P.S.C.** and **an modified, replaced or adjusted from time to time** and approved by the **P.S.C.**

8. **Payment of Bills.** payment for **electric** power and **energy** furnished hereunder shall be due and payable at the office of **Cooperative** monthly in **accordance** with the applicable provisions of **said** Schedule **B1**. If Customer shall **fail** to pay **any** such bill as provided in **Schedule B1**, Cooperative **may discontinue delivery** of **electric power** and energy hereunder **upon fifteen (15) days'** written **notice** to Customer of its intention to do **so**. such **discontinuance** for non-payment shall **not** in any way **affect the** obligations of Customer to **pay** the minimum monthly charge provided **in the attached** rate schedule. **All amounts unpaid when**

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due shall be subject to a charge for late payment as provided in the attached rate schedule.

9. Reduction in Cost of Service. cooperative is a non-profit Kentucky corporation and Customer will benefit from any savings or reductions in cost of service in the same manner as any comparable customer as authorized by the Kentucky Revised Statutes, and by Cooperative's Articles of Incorporation and Bylaws as new in effect; provided, however, the Cooperative's board of directors may defer retirement of so much of the capital credited to patrons for any year which reflects capital credited to the Cooperative by EKPC until EKPC shall have retired such capital credited to the Cooperative. Customer shall participate in capital credits in accordance with the Kentucky Revised Statutes and Cooperative's Articles of Incorporation and Bylaws.

10. Notices. Any written notice, demand or request required or authorized under this Agreement shall be deemed properly given to or served on Cooperative if mailed to:

Mr. Ton Barker  
President and General Manager  
Shelby Rural Electric Cooperative Corporation  
P.O. Box 309  
Shelbyville, Kentucky 40066-0309

Any such notice, demand or request shall be deemed properly given to or served on Customer if mailed to:

Mr. John Wiedersatz  
ATGTBT, Inc.  
2101 Production Drive, Suite 2  
Louisville, Kentucky 40299

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BY: Sharon Keller  
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Each party shall have the right to change the ~~name~~ of the person to whom, or the location where the notices are to be given or served by **notifying** the other party, in writing, of such change.

11. **Successors in Interest.** The terms and conditions of this Agreement shall inure to and be binding upon the **parties, together** with their respective **successors** in interest. Neither party may assign this Agreement to any other party without the express **written** consent of the **other** party, **except** that Cooperative may assign the Agreement to the Rural Electrification Administration and/or any other lenders to Cooperative **without such** consent.

12. **Force Majeure.** The obligations of **either** party to this Agreement shall be suspended during the continuance of any **occurrence**, beyond **the affected** party's control (a "force majeure"), which wholly or **partially prevents** the **affected party** from fulfilling such obligations, provided that **the** affected party gives **notice to the other party** of **the** reasons for its inability to perform within a reasonable time **from** such occurrence. As used in this **section**, the **term** force majeure shall include, but **is not limited** to: acts of God; **strikes;** wars; acts of a public **enemy;** riots; **storms;** floods; civil **disturbances;** **explosions;** failures of machinery or equipment; interruptions in power deliveries **from** cooperative's power supplier; or actions of federal, **state** or **local government authorities**, which are not reasonably within the **control of** the party claiming relief.

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Notwithstanding the above provisions, no event of force majeure, except as provided hereinbelow, shall relieve Customer of the obligation to pay the minimum monthly charge provided herein or in any applicable rate schedules attached hereto. In the event that cooperative shall declare an event of force majeure which results in an interruption of all electric service to Customer for a continuous period exceeding 24 hours, hereinafter called an "extended interruption", the minimum monthly energy charge under rate Schedule B1 shall be reduced on a pro rata basis for the total number of hours of the extended interruption as compared to the total number of hours in the month the extended interruption occurs. Should such an extended interruption continue into a subsequent month, the minimum monthly energy charge for that month shall be adjusted as provided above only if the extended interruption continues for more than 24 hours into the subsequent month. Events of force majeure declared by Cooperative which do not exceed 24 continuous hours in duration during a given month shall not be a basis for any adjustment of the minimum monthly energy charge for that month.

**13. Approvals.** This Agreement is subject to any necessary approvals of the Rural Electrification Administration, any other lenders to cooperative and the P.S.C.

**14. Modifications.** Any future revisions or modifications of this Agreement shall require the advance approval of EKPC, and any necessary approvals by the Rural Electrification

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Administration, any other lenders to the Cooperative, and the P.S.C.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed, in six original counterparts, by their respective officers, thereunto duly authorized, a4 of the day and year first abovewritten.

ATTEST:

SHELBY RURAL ELECTRIC COOPERATIVE CORPORATION

[Signature] BY: Joe Butler

ATTEST:

ATGTBT, INC.

Kelly D D BY: John Weeden

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