

INDUSTRIAL POWER AGREEMENT

THIS AGREEMENT, made and entered into this 1ST day of SEPTEMBER, 1999, by and between **SHELBY ENERGY COOPERATIVE, INC.**, a Kentucky corporation with its principal offices at 620 Old Finchville Road, Shelbyville, Kentucky 400651714, hereinafter referred to as the "Cooperative", and **THE BUDD COMPANY**, a Pennsylvania corporation with its principal offices at 2573 South Rochester Road, Box 1600, Rochester, Michigan 48063, hereinafter referred to as "Customer".

STATE OF KENTUCKY
PUBLIC SERVICE COMMISSION

WITNESSETH:

SEP 01 1999

WHEREAS, Cooperative is an electric energy cooperative providing retail electric service in Shelby County, Kentucky, and

STATE OF KENTUCKY
PUBLIC SERVICE COMMISSION

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 Shelbyville plant (hereinafter referred to as its "plant"), and

WHEREAS, The Parties wish to enter this Agreement as a replacement to their existing contract for retail electric service dated May 28, 1987, as amended on January 19, 1990 (the "Contract");

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

1. **Term.** This Agreement shall become effective as of September 1, 1999, subject to the provisions of Section 13 and shall supersede and replace the Parties' existing Contract,

which is hereby terminated on said effective date. This Agreement shall continue in effect for a term of four (4) years from said date and shall continue thereafter unless terminated by either party by providing written notice of such termination at least six (6) months prior to the desired termination date,

2. **Availability of Power.** Subject to the other provisions of this Agreement, Cooperative shall make available to Customer, and the Customer shall take and purchase from Cooperative, all of Customer's requirements for power and energy for the operation of Customer's said plant, The "contract demand" under this Contract shall be 5000 kW, subject to adjustment by Customer as provided hereinbelow.

Customer shall have the right to increase said contract demand to a maximum of 20,000 kW, upon one month advance written notice to Cooperative. Contract demand may thereafter be decreased, upon three months advance written notice to Cooperative, except that contract demand shall not be decreased below a minimum of 5000 kW.

The power and energy made available to Customer hereunder shall be delivered, taken, and paid for in accordance with the terms hereof and the tariff of the Cooperative, Schedules (B2) or (B3), as appropriate, as approved by the Kentucky Public Service Commission (the "P.S.C.") and as modified from time to time by appropriate authority, copies of which are attached hereto and hereby made a part hereof. In the event of any conflict between the provisions of this Contract and said tariffs, 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 7620/13200Y. 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-styled 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 caused 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, may provide such protective equipment as it deems necessary for the protection of its own property and operations.

The electrical equipment installed by Customer shall be capable of 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 to or interference 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 other 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 minimum 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 the premises of the other party shall be and remain the property of the party owning 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.** Customer shall 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, Schedules (B2) or (B3), as appropriate, as approved by the Kentucky P.S.C. and as modified, replaced, or adjusted from time to time and approved by the Kentucky P.S.C. Customer shall be served under rate Schedule (B2) for six months after the effective date provided in Section 1, hereinabove. After that time, Customer may choose to be served under either rate Schedule (B2) or (B3), and may subsequently change from either rate schedule to the other, so long as Customer is still qualified for the chosen rate, gives Cooperative at least three (3) months advance written notice of its intent to move to the other rate Schedule, and remains on the chosen rate schedule for at least one (1) year.
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 the rate Schedule in effect. If Customer shall fail to pay any such bill as provided in such Schedule, 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 due shall be subject to a 5% charge for late payment.

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 now 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. Dudley Bottom, Jr.
Shelby Energy Cooperative
620 Old Finchville Road
Shelbyville KY 40065- 17 14

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Any such notice, demand or request shall be deemed properly given or served **on**

Customer if mailed to:

Mr. Robert Rainey
Plant Manager
The Budd Company
1000 Brunerstown Road
Shelbyville, KY 40065

RECEIVED 10 20 1999
BY: [Signature]
SECRETARY OF THE BOARD OF DIRECTORS

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 Utilities Service 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, is diligently seeking to cure said force majeure, and gives notice to the other party within a reasonable time of such cure. 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 governmental authorities, which are not reasonably within the control of the party claiming relief.

Notwithstanding the above provisions, no event of force majeure, **except as** provided hereinbelow, shall relieve Customer of its obligation to pay the **minimum** monthly charge provided herein. 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 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 more than 24

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ARTICLE 3
BY: [Signature]

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 the approval of EKPC and any necessary approvals of the Rural Utilities Service, 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 Utilities Service, 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, as of the day and year first above written.

SHELBY ENERGY COOPERATIVE, INC.

ATTEST:

Nanette A. McCarty

NY COMMISSION EXPIRES 4.17.2000

By Dudley Bottom J.

PUBLIC SERVICE OF NEW JERSEY
OFFICE OF ENERGY
EFFECTIVE

THE BUDD COMPANY

DEC 01 1999

ATTEST:

Nancy J. Justice 10/27/99

(ipa-budd)

My commission expires Nov. 16, 1998

By R. Linsley

PURSUANT TO 237 N.J.A.C.11,
SECTION 9 (1)
BY: Sharon D. Blum
COORDINATOR OF THE BOARD