

RENEWABLE ENERGY
PURCHASE AGREEMENT

This Renewable Energy Purchase Agreement (“Agreement”) is made and entered into this ___ day of _____, 20___, by and between East Kentucky Power Cooperative, Inc., 4775 Lexington Road, Winchester, Kentucky 40391 (“EKPC”); Grayson Rural Electric Cooperative Corporation, with its principal place of business at 109 Bagby Park Street, Grayson, KY 41143 (“Cooperative”); and the following identified person (“Customer”), who is a Member of Cooperative:

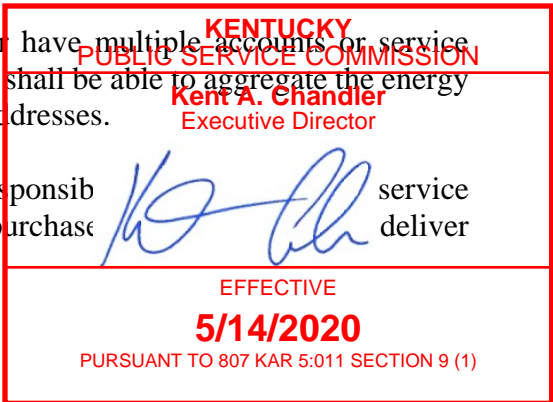
Customer: _____
Mailing Address: _____
Service Address(es): _____
Telephone Number: _____ Email: _____
Account Number(s): _____



WHEREAS, Customer desires and agrees to purchase, and EKPC and Cooperative are both willing and agree to sell, energy from a renewable resource(s) to offset a portion or all of the energy consumed by the Customer at the above-listed service address(es);

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

- Purchase and Sale of Renewable Energy.** The Customer may purchase renewable energy from Cooperative up to an amount equal to the Customer’s average annual energy consumption over the previous three (3) calendar years. In the event Customer has not yet consumed power provided by Cooperative for at least three years, the Customer’s actual usage shall be used to calculate an average annual energy consumption amount. The amount of energy purchased hereunder shall be equivalent to at least one (1) megawatt (MW) of installed renewable capacity. Cooperative shall acquire the renewable power sold to Customer from EKPC. The calculations and elections necessary to fulfill the obligation to purchase and sell renewable energy are set forth in Appendix A, which is adopted and incorporated by reference as if set forth herein in full.
- Account Aggregation.** Should the Customer have multiple accounts or service addresses with the Cooperative, the Customer shall be able to aggregate the energy consumption across all accounts or services addresses.
- Transmission.** EKPC shall arrange and be responsible for the renewable energy contemplated to be purchased and service delivered.



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or cause to be delivered such renewable energy to the point(s) of delivery of all current and future non-renewable energy sales to the Cooperative and from which the Cooperative's electric distribution system currently delivers energy to the Customer. EKPC shall schedule or arrange for scheduling services with its transmission providers to deliver the renewable energy to said point(s) of delivery.

4. **Distribution.** The Cooperative shall arrange and be responsible for all distribution service for the renewable energy contemplated to be purchased hereunder and shall deliver or cause to be delivered such renewable energy to the Customer's meter(s).
5. **Title and Risk of Loss.** Title to and risk of loss related to the renewable energy acquired herein shall transfer: (a) from EKPC to the Cooperative at the delivery point(s) for all energy delivered to the Cooperative currently and in the future; and (b) from the Cooperative to the Customer at the Customer's meter. EKPC and Cooperative both warrant that they will deliver the renewable energy to the Customer free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person arising prior to the Customer's meter.
6. **Renewable Resources.** The Customer may choose the type(s) of renewable resource from which the renewable energy sold hereunder shall be generated. The choices available include: solar, wind, hydro, landfill methane gas or biomass. The Customer may not request or designate that the renewable energy purchased hereunder be acquired from any particular generation facility. EKPC retains the sole and exclusive right to select the resource(s) from which the renewable energy purchases contemplated herein are acquired.
7. **Pricing.** [TO BE NEGOTIATED ON A CASE BY CASE BASIS BASED UPON APPLICABLE RATE SCHEDULES.]
8. **Wholesale Credits.** The Cooperative shall receive a monthly credit on its wholesale power bill in an amount equal to the lesser of: (1) the avoided cost of: (a) base fuel and fuel adjustment clause per MWh of renewable energy delivered and capacity credits; and (b) variable environmental surcharge equal to the delivered renewable energy monthly; or (2) the PJM Localized Marginal Cost. At no time shall EKPC be required to convert any credit accruing hereunder to cash. Any excess credit(s) can be carried forward to offset a later billed amount.
9. **Retail Credits.** The Customer shall receive a monthly credit on its retail power bill in an amount equal to the lesser of: (1) the avoided cost of: (a) base fuel and fuel adjustment clause per MWh of renewable energy delivered and capacity credits; and (b) variable environmental surcharge equal to the delivered renewable energy monthly; or (2) the PJM Localized Marginal Cost. At no time shall Cooperative be required to convert any credit accruing hereunder to cash. Any excess credit(s) can be carried forward to offset a later billed amount.

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Executive Director



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10. **Billing.** EKPC shall invoice the Cooperative for all renewable energy delivered to the Cooperative as part of the invoice it sends to the Cooperative for all non-renewable energy purchases by the Cooperative. The Cooperative shall then invoice the Customer for all renewable energy delivered to the Customer as part of the invoice it sends to the Customer for all non-renewable energy purchases by the Customer. In both cases, the invoice shall provide sufficient information to demonstrate the manner in which the charges for renewable energy sales were calculated.
11. **Failure to Take Delivery.** If Customer fails to accept all or part of the renewable energy sold hereunder and such failure is not excused by EKPC's or the Cooperative's failure to perform, then the Customer shall pay to the Cooperative, on the date payment would otherwise be due in respect of the month in which the failure occurred an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the amount for which the renewable energy is actually sold by EKPC or Cooperative to another buyer from the price set forth herein. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.
12. **Term.** Subject to paragraph twenty-four (24) below, this Agreement shall be effective beginning on the date set forth above and will continue for a period of ____ years (the "Term"), subject to early termination as provided herein.
13. **Obligation to Customer.** EKPC and Cooperative agree to provide Customer with reasonable updates in the event of any changes in the availability of renewable energy purchased pursuant to this Agreement.
14. **Non-Transferrable.** The Customer may not transfer or assign any obligation, right, liability, or credit arising under this Agreement from one account or service address to another account or service address that is not listed above. The Customer may not transfer, assign, convey, sell or donate this Agreement to any other person unless EKPC and the Cooperative have both provided their express written consent to such action. Such consent may be granted or withheld in the sole discretion of EKPC and the Cooperative.
15. **Effect on other Rates.** Nothing in this Agreement shall be construed to effect, limit, alter, amend or change the terms or conditions of Customer's receipt of service from the Cooperative under any other tariff or rate schedule then in effect or subsequently approved by the Kentucky Public Service Commission ("Commission") which applies to the Customer. Likewise, nothing in this Agreement shall be construed to effect, limit, alter, amend or change the terms or conditions of the Cooperative's receipt of service from EKPC under any other tariff or rate schedule then in effect or subsequently approved by the Commission which applies to the Cooperative.

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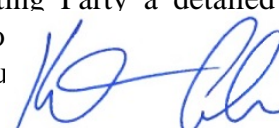
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16. **Events of Default.** An “Event of Default” shall mean, with respect to a Party (a Defaulting Party”), the occurrence of any of the following:

- (a) the failure to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within three (3) Business Days after written notice;
- (b) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated;
- (c) the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default, and except for such Party’s obligations to receive the renewable energy, the exclusive remedy for which is provided in paragraph <eleven (11)> above) if such failure is not remedied within three (3) Business Days after written notice;
- (d) such Party becomes bankrupt; or
- (e) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other Party.

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

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to the Non-Defaulting Party an amount equal to the Termination Payment to be held in escrow pending the outcome of the dispute.

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

19. **Resolution of Disputes.** Any dispute or need of interpretation between the Parties involving or arising under this Agreement first shall be referred for resolution to a senior representative of each Party. Upon receipt of a notice describing the dispute and designating the notifying Party's senior representative and that the dispute is to be resolved by the Parties' senior representatives under this Agreement, the other Parties shall promptly designate its senior representatives to the notifying Party. The senior representatives so designated shall attempt to resolve the dispute on an informal basis as promptly as practicable. If the dispute has not been resolved within thirty (30) days after the notifying Party's notice was received by the other Parties, or within such other period as the Parties may jointly agree, the Parties may pursue any remedies available at law or in equity to enforce its rights provided in the Agreement. Notwithstanding any inconsistent provision herein, any Party may be entitled to injunctive or other equitable relief without resort to the settlement or resolution procedures set forth herein.

20. **Representations and Warranties.** Each Party represents and warrants to the other Parties that:
a. it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
b. it has all regulatory authorizations necessary to perform its obligations under this Agreement;

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- c. the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it, except as set forth herein;
- d. this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms;
- e. it is not bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt;
- f. there is not pending or, to its knowledge, threatened against it or any of its affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement;
- g. no Event of Default or Potential Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement;
- h. it is acting for its own account, has made its own independent decision to enter into this Agreement and, as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of any other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement;
- i. it has entered into this Agreement in connection with the conduct of its business and it has the capacity or ability to make or take delivery of all renewable energy referred to herein; and
- j. the material economic terms of this Agreement were and are subject to individual negotiation by the Parties.

21. **Disclaimer and Force Majeure.** Customer understands and acknowledges that the generation of renewable energy and the sale of renewable energy is dependent upon numerous factors, including many which are beyond the control of EKPC and the Cooperative. EKPC and the Cooperative shall not be responsible or liable for any disruption or prevention of the production of renewable energy from any generation resource that is attributable to: (a) natural events such as acts of God, landslides, lightning, eclipses, weather patterns, earthquakes, fires, storms or the like; (b) interruption and/or curtailment of transmission facilities of third-parties; (c) acts of others such as strikes, lockouts or other industrial disturbances, riots, sabotage, insurrections or wars, or acts of terror; and (d) governmental actions such as necessity for compliance with any court or administrative order, law, statute, ordinance, regulation, order, or policy having the effect of law promulgated by a governmental authority having jurisdiction. In the event of any inability by EKPC or the Cooperative to acquire or deliver the renewable energy contemplated to be purchased herein, the Customer agrees to accept no

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Cooperative under the terms and conditions of the Cooperative's tariffs and rate schedules in effect at such time(s).

22. **Limitation of Liability.** EXCEPT AS MAY BE SET FORTH EXPRESSLY HEREIN, CUSTOMER UNDERSTANDS AND ACKNOWLEDGES THAT EKPC AND THE COOPERATIVE HAVE MADE NO SPECIFIC OR GENERAL REPRESENTATIONS OR WARRANTIES REGARDING THE RENEWABLE ENERGY TO BE PURCHASED HEREBY OR ANY FACILITIES ASSOCIATED WITH GENERATING, TRANSMITTING OR DISTRIBUTING SAME, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. TO THE EXTENT ANY REPRESENTATIONS AND WARRANTIES HAVE BEEN MADE, UNLESS EXPRESSLY SET FORTH HEREIN, CUSTOMER UNDERSTANDS AND ACKNOWLEDGES THAT THEY ARE HEREBY EXPRESSLY DISCLAIMED. CUSTOMER ALSO UNDERSTANDS AND AGREES THAT HIS OR HER SOLE AND EXCLUSIVE REMEDY IN THE EVENT OF A BREACH OF THIS AGREEMENT BY EKPC OR THE COOPERATIVE IS EXPRESSLY LIMITED TO PURCHASING REPLACEMENT POWER FROM THE COOPERATIVE AT PREVAILING TARIFFED RATES.

23. **Notice.** All notices, requests, consents, and other communications required under this Agreement shall be in writing and will be mailed to the mailing address for each Party as set forth above. Notices will be deemed delivered upon the earlier of: (a) the date of actual receipt, with a copy thereof being sent concurrently by certified or registered mail, return receipt requested; (b) three business days after being deposited in certified or registered mail, return receipt requested, postage prepaid; or (c) the following business day after being delivered to a reputable overnight courier service. If for any reason, a Party's mailing address should change, that Party must notify the other Parties in writing of the change of address for notices to be sent.

24. **Regulatory Approvals.** The Agreement is subject to approval by the Commission. This Agreement shall be filed with the Commission by EKPC within twenty (20) days of its full and final execution and EKPC and Cooperative agree to use reasonable efforts to obtain said approval from the Commission. However, in the event that Commission approval is not obtained within one hundred twenty (120) days, the Agreement shall be null and void. This Agreement may also be filed with the United States Rural Utilities Service, however, such a filing would be for informational purposes only.

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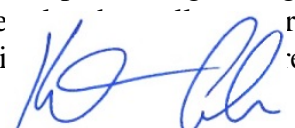
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- 25. **No Agency.** In performing their respective obligations hereunder, no Party is acting, or is authorized to act, as agent of any other Party.
- 26. **Forward Contract.** The Parties acknowledge and agree that all sales of renewable power hereunder constitute “forward contracts” within the meaning of the United States Bankruptcy Code.
- 27. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all previous proposals, both oral and written, negotiations, representations, commitments, writings and all other communications between the parties. This Agreement may not be released, discharged, or modified except by an instrument in writing signed by a duly authorized representative of each of the parties.
- 28. **Waiver of Trial by Jury. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THE AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THE AGREEMENT. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (B) SUCH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THE AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.**
- 29. **Jurisdiction.** Each party agrees that any suit, action, dispute or other proceeding arising out of the Agreement or any transaction contemplated by the Agreement shall be heard in, and hereby irrevocably submits to the exclusive jurisdictions of the Circuit Court of Clark County, and the United States District Court for the Eastern District of Kentucky, Lexington Division, and the related appellate courts. Each party further agrees that service of any process, summons, notice or document by U.S. registered mail to such Party’s respective address set forth in the Agreement shall be effective service of process for any actions, suit, dispute or other proceeding described herein. Each Party irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement in the aforementioned courts and the respective courts, and hereby and thereby further irrevocably and unconditionally agrees that the

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 Proceeding arising out of this Agreement in the aforementioned courts and the respective courts, and hereby and thereby further irrevocably and unconditionally agrees that the



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to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

30. **Governing Law.** This Agreement shall be deemed to have been made in, and shall be construed under, the internal laws of the State of Kentucky, without regard to the principles of conflicts of laws thereof.

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

CUSTOMER

**GRAYSON RURAL ELECTRIC
COOPERATIVE CORPORATION**

CUSTOMER NAME (please print)

<TITLE>GRAYSON RURAL ELECTRIC
COOPERATIVE CORPORATION (please
print)

CUSTOMER SIGNATURE

SIGNATURE

**EAST KENTUCKY POWER
COOPERATIVE, INC.**

<TITLE>, EAST KENTUCKY POWER
COOPERATIVE, INC. (please print)

SIGNATURE



APPENDIX A

ORDER SUMMARY

Customer's Average Annual Energy Consumption = _____ MWhs per year

Amount of Renewable Energy to be Purchased = _____ MWhs per year

Equivalent MWs of Capacity to be Purchased = _____ MWs

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

Solar Wind Hydro
 Landfill Methane Gas Biomass

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