

**AGREEMENT TO PURCHASE POWER AND ENERGY FROM
QUALIFYING COGENERATION OR SMALL POWER PRODUCTION FACILITIES
GREATER THAN 25 KW BUT LESS THAN 1 MW**

This Agreement (“Agreement”) dated as of _____, by and between Buckeye Power, Inc., an Ohio nonprofit corporation (“Buckeye”), and _____, a _____ (the “Operator” together with Buckeye, individually, a “Party”, and, collectively, the “Parties”);

WITNESSETH:

WHEREAS, the Operator has installed or will install on the Premises certain Operator-owned and/or controlled electric generating facilities greater than 25 kW but less than 1 MW in the aggregate, which electric generating facilities are more particularly described in Exhibit E to the Agreement for Interconnection and Parallel Operation; and

WHEREAS, the Facility is a certified qualifying cogeneration or small power production facility under PURPA; and

WHEREAS, the Operator desires to interconnect the Facility to the Power Company’s electric distribution system and use the output of the Facility to first meet the requirements of the Operator’s electric consuming facilities located on the Premises and then sell to Buckeye any such output in excess of the requirements of the Operator’s electric consuming facilities; and

WHEREAS, the Operator and Paulding-Putnam Electric Cooperative, Inc. (the “Power Company”) are parties to an Agreement for Back-Up and Supplementary Electric Service of even date herewith (“Agreement for Back-Up and Supplementary Electric Service”) relating to the supply by the Power Company of electric power and energy to the Operator’s electric consuming facilities located on the Premises and not served by the Facility; and

WHEREAS the Operator and the Power Company are parties to an Agreement for Interconnection and Parallel Operation of even date herewith (“Agreement for Interconnection and Parallel Operation”) relating to the interconnection and parallel operation of the Facility with the Power Company’s electric distribution system; and

WHEREAS, the Operator desires to sell, and Buckeye desires to purchase, the output of the Facility in excess of the requirements of the Operator’s electric consuming facilities located on the Premises, under the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of these premises and of the mutual covenants, representations, warranties and agreements hereinafter set forth, and intending to be legally bound hereby, the Parties agree as follows:

ARTICLE I: Definitions

Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Agreement for Back-Up and Supplementary Electric Service or the Agreement for Interconnection and Parallel Operation, as appropriate. Whenever the following terms appear in this Agreement, whether in the singular or in the plural, they shall have the applicable meanings stated below:

1.1 “Available Capacity” means that portion of the Facility’s Dependable Capacity designated by Operator and made available to Buckeye during a Scheduled Outage.

1.2 “Business Day” means Monday through Friday excluding holidays recognized by Buckeye. As of the date of this Agreement, these holidays include _____ . Such holidays may be changed by Buckeye upon ten (10) Days written notice to Operator.

1.3 “Calendar Day or Day” a Calendar Day shall be the 24-hour period beginning and ending at 12:00 midnight. The terms Day and Calendar Day may be used interchangeably and shall have the same definition.

1.4 “Calendar Month or Month” a Calendar Month shall begin at 12:00 midnight on the last Day of the preceding month and end at 12:00 midnight on the last Day of the current Month. The terms Month and Calendar Month may be used interchangeably and shall have the same definition.

1.5 “Calendar Year or Year” a Calendar Year shall be the 12-Month period beginning 12:00 midnight on December 31 and ending at 12:00 midnight on the subsequent December 31. The terms Year and Calendar Year may be used interchangeably and shall have the same definition.

1.6 “Capacity Purchase Price” means the price per kilowatt per month Buckeye will pay Operator for Dependable Capacity of the Facility as delivered from the Facility to Buckeye, in accordance with Section 10.3.

1.7 “Capacity Test Period” means, except for the Initial Capacity Test Period, the period commencing each November 1 and ending at the end of the Day the next October 31. Capacity Test Period includes the Initial Capacity Test Period.

1.8 “Commencement Date” means the first date upon which (a) energy is generated by the Facility and (b) such energy is metered by the Buckeye-owned metering equipment.

1.9 “Dependable Capacity” means the amount of electric generating capacity that the Facility is capable of producing (measured in kW) as determined pursuant to Article XI.

1.10 “Design Limits” means the Facility can change load at the rate of _____ kW per minute over a continuous range down to a minimum of zero (0) kW. Frequency tolerance is \pm _____ hertz. Voltage tolerance, without reactive power restrictions, is \pm _____ %.

1.11 “Dispatch” means the right of Operator to schedule and control, directly or indirectly, manually or automatically, the Facility within its Design Limits to a Dispatch Level.

1.12 “Dispatch Level” means either (a) the Facility’s Dependable Capacity, (b) Available Capacity, or (c) the Dispatch specified by Buckeye during an Emergency, Low Load Period, or pursuant to Section 7.4(a).

1.13 “Emergency” means a condition or situation which in the sole judgment of either Buckeye or NERC affects or will affect Buckeye’s or the Power Company’s ability to meet their obligations to maintain safe, adequate and continuous electric service to Buckeye’s or the Power Company’s customers and/or the customers of any member of NERC.

1.14 “Energy Purchase Price” means the price per kilowatt-hour Buckeye will pay Operator for Net Electric Output delivered to Buckeye in accordance with Section 10.1.

1.15 “Environmental Attributes” means the renewable attributes, including any emission reduction credits or emission allowances, of the Facility during the Term of this Agreement, subject to the representations, warranties, covenants and agreements of the Operator set forth in Section 6.6 of this Agreement.

1.16 “Environmental Attributes Purchase Price” means the price per kilowatt-hour Buckeye will pay Operator for the Environmental Attributes of the Facility delivered to Buckeye in accordance with Section 10.2.

1.17 “FERC” means the Federal Energy Regulatory Commission or any successor thereto.

1.18 “Facility” means Operator’s Qualifying Facility, including auxiliary equipment and equipment installed on Operator’s side of the Interconnection Point that is not Interconnection Facilities. The Facility is more particularly described in Exhibit E to the Agreement for Interconnection and Parallel Operation.

1.19 “Forced Outage” means an unplanned or uncontrolled event that causes a reduction or cessation in Net Electrical Output below 95% of the Dispatch Level.

1.20 “Initial Capacity Test Period” means the period commencing on the Commencement Date and ending on the last Day of October following the first full Summer Season completed after the Commencement Date.

1.21 “Interconnection Facilities” means all of the interconnection facilities and metering as described in the Agreement for Interconnection and Parallel Operation.

1.22 “Interconnection Point” means the physical point(s) where the Facility and the electric distribution system of the Power Company are connected.

1.23 “Interest” means the compensation for the accrual of monetary obligations under this Agreement computed monthly and prorated daily from the time each such obligation arises based on an annual interest rate equal to the Prime Rate plus two (2) percent. For purposes hereof, Prime Rate shall mean the rate of interest from time to time published in the “Money Rates” section of the Wall Street Journal as the prime rate, determined for each obligation to pay interest, at the time such obligation arises.

1.24 “Low Load Period” means periods of time when Buckeye, at its sole discretion, determines that the demand for energy on the Power Company’s electric distribution system is so low that Buckeye may Dispatch the Facility to a reduced level or off-line.

1.25 “Metering Facilities” means all the metering and telemetering equipment necessary for Buckeye to measure the Net Electrical Output and Dependable Capacity of the Facility, wherever located.

1.26 “NERC” means the North American Electric Reliability Council, including any successor thereto and subdivisions thereof.

1.27 “Net Electric Output” means the Facility’s electrical generating output (measured in KWHs by Buckeye-owned Metering Facilities) in excess of the requirements of the Operator’s electric consuming facilities located on the Premises.

1.28 “Prudent Electrical Practices” means the practices, methods and use of equipment required to protect Buckeye’s and the Power Company’s systems, employees, agents, and customers from malfunctions occurring at the Facility and to protect the Facility, and Operator’s employees and agents at the Facility, from malfunctions occurring on Buckeye’s or the Power Company’s systems or on any other electric utility with which Buckeye or the Power Company is directly or indirectly electrically connected.

1.29 “Prudent Utility Practices” means the practices generally followed by the electric utility industry, as changed from time to time, which generally include, but are not limited to, engineering and operating considerations.

1.30 “PURPA” means the Public Utility Regulatory Policies Act of 1978, as amended, and all governmental regulations lawfully promulgated thereunder.

1.31 “Qualifying Facility” or “QF” means a cogeneration facility or a small power production facility which is a Qualifying Facility under PURPA.

1.32 “Scheduled Outage” means a planned cessation or reduction of the Net Electrical Output below the Dependable Capacity of the Facility that (a) has been submitted in advance to Buckeye and the Power Company, and (b) is required for inspection, preventive maintenance and corrective maintenance.

1.33 “Summer Season” means the Months of June, July, August and September.

1.34 “Term” means the initial Term of this Agreement as specified in Section 5.1 plus any renewal Term determined pursuant to Section 5.2.

ARTICLE II: Sale and Purchase of Energy, Environmental Attributes, and Capacity

2.1 Subject to the terms and conditions of this Agreement, Operator agrees to sell, and Buckeye agrees to purchase, the Net Electrical Output of the Facility during the Term.

2.2 Subject to the terms and conditions of this Agreement, Operator agrees to sell, and Buckeye agrees to purchase, the Environment Attributes of the Facility during the Term. Buckeye shall have the sole and exclusive right to designate the Facility as a renewable resource during the Term to satisfy any federal, state or local renewable energy requirement, renewable energy procurement requirement, renewable energy portfolio standard, or other renewable energy mandate.

2.3 Subject to the terms and conditions of this Agreement, Operator agrees to sell, and Buckeye agrees to purchase, Dependable Capacity from the Facility during the Term.

2.4 Notwithstanding anything in this Agreement to the contrary, and without limiting any other obligations of Operator in this Agreement, Buckeye’s obligation to purchase Net Electric Output, Environmental Attributes, and Dependable Capacity from Operator at the rates specified in Article X is contingent upon Operator’s submittal to Buckeye of all the following:

(a) Evidence satisfactory to Buckeye that the Operator is and will be the owner of the Facility during the Term of this Agreement and/or that Operator has the right to operate and control and obtain the output of the Facility during the Term of this Agreement.

(b) A copy of the feasibility study regarding the Facility as prepared by a consultant nationally recognized as an expert in the preparation of such studies, which for the purpose of this Agreement demonstrates to the satisfaction of Buckeye that the Facility, if operated and maintained in accordance with Prudent Electrical and Utility Practices, can be reasonably expected to have a useful life at least equal to the Term.

(c) A copy of the certificate of a mutually acceptable independent engineering firm stating that the Facility has been constructed in compliance with the terms of this Agreement and the information submitted pursuant to Section 2.3(b).

(d) A copy of the Qualifying Facility certificate.

(e) Certificates of insurance coverages or insurance policies required by Article XII.

(f) Copies of all permits, licenses and approvals required under Section 4.1.

(g) Payment for Metering Facilities as described in Section 8.6, and evidence of payment for the Power Company's Interconnection Facilities as described in the Agreement for Interconnection and Parallel Operation.

(h) All documents required pursuant to Section 4.2.

(i) The licenses and grants of other access rights to be provided by Operator to Buckeye pursuant to Section 8.7 and evidence of the licenses and grants of other access rights to be provided by Operator to the Power Company pursuant to the Agreement for Interconnection and Parallel Operation.

(j) A copy of the fully executed and delivered Agreement for Interconnection and Parallel Operation, and Agreement for Back-Up and Supplementary Electric Service, with the Power Company.

ARTICLE III: Notices

3.1 Any notice or communication required to be in writing hereunder shall be given by any of the following means: registered, certified, or first class mail, telex, telecopy, by hand, or telegram. Such notice or communication shall be sent to the respective Parties at the address listed below. Except as expressly provided herein, any notice shall be deemed to have been given when sent. Any notice given by first class mail shall be considered sent at the time of posting. Communications by telex, telecopy, or telegram shall be confirmed by depositing a copy of the same in the post office for transmission by registered, certified or first class mail in an envelope properly addressed as follows:

In the case of Buckeye to:

In the case of Operator to:

Buckeye Power, Inc.
6677 Busch Boulevard
Columbus, Ohio 43229
Tel. (614) 846-5757
Fax. (614) 846-7108

3.2 Either Party may, by written notice to the other, change the representative or the address to which such notices and communications are to be sent.

ARTICLE IV: Pre-Operation Period

4.1 Operator shall, at its expense, acquire, and maintain in effect, from the FERC and from any and all other federal, state and local agencies, commissions and authorities with jurisdiction over Operator and/or the Facility, all permits, licenses, and approvals, and complete or have completed all environmental impact studies necessary (a) for the construction, operation and maintenance of the Facility, (b) for Operator to perform its obligations under this Agreement, and (c) to obtain or maintain certification as a Qualifying Facility.

4.2 Upon the execution of this Agreement, Operator shall submit for Buckeye's and the Power Company's review its construction, start-up and testing schedules for the Facility. Operator shall thereafter submit progress reports in a form reasonably satisfactory to Buckeye and the Power Company on the first Day of every Month until the Commencement Date and notify Buckeye of any changes to such schedules in a timely manner. Buckeye and the Power Company shall have the right to monitor the construction, start-up and testing of the Facility, and Operator shall cooperate with Buckeye and the Power Company to ensure that the Facility's Power generation equipment and switchgear are designed and installed so that the Facility can safely and successfully operate in parallel with the Power Company's system. Operator shall cooperate in such physical inspections of the Facility as may be reasonably required by Buckeye and the Power Company during and after completion of construction. Buckeye's and the Power Company's technical review and inspection of the Facility shall not be deemed as endorsing the design thereof nor as any warranty of the safety, durability or reliability of the Facility.

4.3 Operator, Buckeye and the Power Company shall endeavor to prepare a written operations procedure no later than sixty (60) Days prior to the Commencement Date. Such procedure shall include, without limitation, specific details of who is responsible for each area of operation of the Facility and the Interconnection Facilities.

4.4 Buckeye shall prepare and submit to Operator a written voltage schedule consistent with the Design Limits of the Facility no later than thirty (30) Days prior to the Commencement Date, except that Buckeye may change such voltage schedule within the Design Limits of the Facility upon thirty (30) Days prior written notice. Operator shall use such voltage schedule in the operation of its Facility. This voltage schedule shall be based on the normally expected operating conditions for the Facility and the reactive Power requirements of the Power Company's system.

4.5 Operator shall notify Buckeye and the Power Company of the Commencement Date in writing no less than two (2) weeks prior to that date. Buckeye, Operator and the Power Company shall cooperate in scheduling the Commencement Date, and Buckeye and the Power Company shall have the right to have representatives present at such time. Buckeye reserves the right to delay the Commencement Date due to problems with the Facility which could have a material adverse effect on Buckeye's or the Power Company's operations. In such event, Buckeye shall give Operator notice of such problems and Operator shall remedy any such problems with facilities or equipment which Operator installed or maintains.

ARTICLE V: Term and Termination

5.1 The Term of this Agreement shall begin on _____ and shall continue until the ten year anniversary of the commencement of the Term of this Agreement unless extended under this Article V, terminated, or canceled. If the Term is extended under this Article V, the word "Term" shall thereafter be deemed to mean the original Term so extended.

5.2 This Agreement shall automatically extend for successive periods of one (1) year each, unless either Party provides notice of termination at least ninety (90) days prior to the end

of the then current Term, in which case the Agreement shall terminate at the end of the then current Term.

5.3 If either Party defaults under this Agreement, then the defaulting Party shall be given sixty (60) Days from the receipt of written notice stating that such a default exists from the non-defaulting Party to cure such default, providing that if the default cannot be cured within sixty (60) Days with the exercise of reasonable diligence, the non-defaulting party shall grant an additional period of one hundred twenty (120) Days in which to cure such default. If the defaulting Party fails to cure such default within such prescribed period, then the non-defaulting Party may, in addition to any other rights or remedies available at law or in equity, immediately terminate this Agreement and consider defaulting Party in material breach of its obligations under this Agreement. Conditions which shall be considered defaults by Operator under this Section 5.3 include without limitation:

(a) abandonment of construction or operation of the Facility at any time, or failure to reach the Commencement Date within 30 months after the date of this Agreement unless excused by Force Majeure as specific in Article XIV, or failure of the Facility to produce Net Electrical Output during any period of six consecutive months during the Term of this Agreement; or

(b) Attempts by Operator, its employees, contractors or subcontractors of any tier, to operate, maintain, or tamper with the Power Company's Interconnection Facilities or Buckeye's Metering Facilities without the prior written consent of Buckeye or the Power Company, as applicable, except, however, where (i) such actions by Operator are performed solely to prevent immediate injury or death to persons or damage to property, and (ii) Operator uses its best efforts to notify Buckeye or the Power Company, as applicable, of the need for such actions in advance. The foregoing shall not be construed as relieving Operator from any other obligations under this Agreement or liabilities resulting from such actions; or

(c) Material breach by Operator of its obligations under this Agreement, the Agreement for Interconnection and Parallel Operation, or the Agreement for Back-Up and Supplementary Electric Service.

5.4 Operator may terminate this Agreement at any time by providing no less than 60 days prior written notice of termination to Buckeye.

5.5 Buckeye may terminate this Agreement if Operator shall: (a) admit in writing its inability to pay its debts as such debts become due; (b) make a general assignment or an arrangement or composition with or for the benefit of its creditors; (c) fail to controvert in a timely and appropriate manner, or acquiesce in writing to, any petition filed against Operator under any bankruptcy or similar law; (d) take any action for the purpose of effecting any of the foregoing, and shall fail to cure any of the actions or failures within sixty (60) days.

5.6 Buckeye may terminate this Agreement if a proceeding or case shall be commenced, without the application or consent of Operator, in any court of competent jurisdiction, seeking (a) its liquidation, reorganization of its debts, its dissolution or winding-up,

or the composition or readjustment of its debts, (b) the appointment of a receiver, custodian, liquidator or the like of Operator or of all or any substantial part of its assets, or (c) similar relief in respect of Operator under any law relating to bankruptcy, insolvency, reorganization of its debts, winding-up, composition or adjustment of debts, and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect, for a period of sixty (60) days.

5.7 This Agreement shall automatically terminate upon the termination of the Agreement for Interconnection and Parallel Operation or the Agreement for Back-Up and Supplementary Electric Service.

ARTICLE VI: Representation and Warranties

6.1 Operator warrants that the Facility will be operated and maintained in accordance with Prudent Electrical and Utility Practices, including without limitation, synchronizing, voltage and reactive Power control.

6.2 Operator warrants that the Facility will be operated in such a manner so as not to have an adverse effect on Buckeye's or the Power Company's voltage level or voltage waveform.

6.3 Operator warrants that the Facility will be operated at the voltage levels determined pursuant to Section 4.4 provided such levels are within the Design Limits of the Facility.

6.4 Each Party shall, at all times, conform to all applicable laws, ordinances, rules and regulations applicable to it. Each Party shall give all required notices, shall procure and maintain all governmental permits, licenses and inspections necessary for its performance of this Agreement, and shall pay all charges and fees in connection therewith.

6.5 (a) Any fines or other penalties incurred by Operator or its agents, employees or subcontractors for noncompliance by Operator, its employees, or subcontractors with laws, rules, regulations or ordinances shall not be reimbursed by Buckeye but shall be the sole responsibility of Operator. If fines, penalties or legal costs are assessed against Buckeye by any government agency or court due to noncompliance by Operator with any of the laws, rules, regulations or ordinances referred to in Section 6.4 above or any other laws, rules, regulations or ordinances with which compliance is required herein, or if the work of Operator or any part thereof is delayed or stopped by order of any government agency or court due to Operator's noncompliance with any such laws, rules, regulations or ordinances, Operator shall indemnify and hold harmless Buckeye against any and all losses, liabilities, damages, and claims suffered or incurred because of the failure of Operator to comply therewith. Operator shall also reimburse Buckeye for any and all legal or other expenses (including attorneys' fees) reasonably incurred by Buckeye in connection with such losses, liabilities, damages or claims.

(b) Any fines or other penalties incurred by Buckeye or its agents, employees or subcontractors for noncompliance by Buckeye with laws, rules, regulations or ordinances shall

not be reimbursed by Operator but shall be the sole responsibility of Buckeye. If fines, penalties or legal costs are assessed against Operator by any government agency or court due to noncompliance by Buckeye with any of the laws, rules, regulations or ordinances referred to in Section 6.4 above or any other laws, rules, regulations or ordinances with which compliance is required herein, or if the work of Buckeye or any part thereof is delayed or stopped by order of any government agency or court due to Buckeye's noncompliance with any such laws, rules, regulations or ordinances, Buckeye shall indemnify and hold harmless Operator against any and all losses, liabilities, damages, and claims suffered or incurred because of the failure of Buckeye to comply therewith. Buckeye shall also reimburse Operator for any and all legal or other expenses (including attorneys' fees) reasonably incurred by Operator in connection with such losses, liabilities, damages or claims.

6.6 The Operator represents and warrants to Buckeye that:

(a) The Operator is and will be the owner of the Facility during the Term of this Agreement and/or that Operator has or will have the right to operate and control and obtain the output of the of the Facility during the Term of this Agreement.

(b) The Facility's Energy Information Administration or Qualifying Facility identification number is _____.

(c) The fuel type used by the Facility to produce electric power and energy is _____.

(d) To the best of Operator's knowledge, the Environmental Attributes of the Facility during the Term have not been sold, marketed or otherwise claimed by a third party.

(e) Operator has not and will not sell the Environmental Attributes of the Facility during the Term to any person or entity other than Buckeye.

(f) The Environmental Attributes of the Facility during the Term have not been and will not be used by Operator, nor to the best knowledge of the Operator by any other person or entity, to meet any federal, state or local renewable energy requirement, renewable energy procurement requirement, renewable energy portfolio standard, or other renewable energy mandate.

(g) The Environmental Attributes produced at the Facility during the Term will be produced from the Net Electrical Output.

(h) Operator has not and will not use any emission allowances associated with the Environmental Attributes of the Facility during the Term for compliance with any applicable cap and trade or other emission control system or program.

(i) If required, applicable regulatory authorities have been notified of the intent of the Operator to sell the Environmental Attributes of the Facility during the Term, and Operator has also agreed to report the revenue associated with such sales to applicable regulatory authorities.

Appropriate documentation of this notification is attached to this Agreement.

(j) To the best knowledge of the Operator, no notification to any local environmental authority is required for Operator to sell the Environmental Attributes of the Facility during the Term.

ARTICLE VII: Control and Operation of the Facility; Dispatching

7.1 Operator shall, at least one hundred and eighty (180) Days prior to the Commencement Date submit a written operation and maintenance schedule for the first year of the Facility's operations. Thereafter, Operator shall submit to Buckeye, in writing, by _____ of each Year, its Scheduled Outage periods and operating plan for the next Calendar Year. Buckeye shall accept the Operator's Scheduled Outage periods and operating plan provided that Operator shall not plan Scheduled Outages of the Facility during the Summer Season. Upon at least two weeks notice to Buckeye, Operator may request Buckeye's approval to change any Scheduled Outage period and Buckeye shall not unreasonably withhold such approval.

7.2 Buckeye shall have the right, upon six (6) months prior written notice, to revise the Months during which Operator shall not, unless mutually agreed, schedule a maintenance shutdown.

7.3 Each Party shall keep complete and accurate records and all other data required by each of them for the purposes of proper administration of this Agreement.

(a) All such records shall be maintained for a minimum of five (5) Years after the creation of such record or data and for any additional length of time required by regulatory agencies with jurisdiction over the Parties. Operator shall not dispose of or destroy any such records even after the five (5) years without prior notice to Buckeye.

(b) Operator shall maintain an accurate and up-to-date operating log for the Facility with records of: real and reactive Power production for each clock hour, changes in operating status, Scheduled Outages and Forced Outages and any unusual conditions found during inspections.

(c) Either Party shall have the right from time to time, upon fourteen (14) Days written notice to the other Party to examine the records and data of the other Party relating to this Agreement any time during the period the records are required to be maintained.

7.4 Subject to Section 7.11, Operator shall control and operate the Facility, provided that Buckeye shall have the right to Dispatch the Facility to any level, including off-line, during the period specified in subsections (a) and (b) below:

(a) If it is necessary to modify the Dispatch Level in Buckeye's sole discretion in order to construct, install, maintain, repair, replace, remove, investigate, inspect or test any part of the Facility or the Interconnection Facilities, or any other affected part of

Buckeye's or the Power Company's system. Buckeye shall provide Operator with at least forty-eight (48) hours prior notice for any Dispatch associated with this Section 7.4(a). Any reduction required of Operator, or work to be performed by Buckeye, hereunder shall be implemented and completed as soon as possible consistent with Prudent Utility Practices.

(b) A Low Load Period or an Emergency exists.

7.5 If Buckeye Dispatches the Facility pursuant to Section 7.4, then Operator shall cause the Facility to respond to such Dispatch within its Design Limits.

7.6 Operator shall employ qualified personnel for monitoring the Facility and for coordinating operations of the Facility with Buckeye's and the Power Company's system.

7.7 The Parties recognize that Buckeye is a member of NERC and that, to ensure continuous and reliable electric service, Buckeye operates its system in accordance with the operating criteria and guidelines of NERC. If an Emergency is declared, Buckeye will notify Operator's personnel and, if requested by Buckeye, Operator's personnel shall place the Net Electrical Output within the exclusive control of Buckeye for the duration of such Emergency. Without limiting the generality of the foregoing, Buckeye may require Operator's personnel to raise or lower production of Net Electrical Output generated by the Facility to maintain safe and reliable load levels and voltages on the Power Company's distribution system; provided, however, any changes in the level of the Net Electrical Output required of Operator hereunder shall be implemented in a manner consistent with safe operating procedures and within the Facility's Design Limits.

7.8 Operator shall cooperate with Buckeye in establishing Emergency plans, including without limitation, recovery from a local or widespread electrical blackout; voltage reduction in order to effect load curtailment; and other plans which may arise. The Operator shall make technical references available concerning start-up times, black-start capabilities and minimum load-carrying ability.

7.9 Operator shall, during an Emergency supply such Net Electrical Output up to 1 MW as the Facility is able to generate and Buckeye is able to receive. If Operator has a Scheduled Outage, and such Schedule Outage occurs or would occur coincident with an Emergency, Operator shall make all good faith efforts to reschedule the outage or, if the outage has begun, expedite the completion thereof.

7.10 Operator shall operate the Facility with its speed governors and voltage regulators in-service whenever the Facility is connected to or operated in parallel with the Power Company distribution system.

7.11 Whenever Operator Dispatches the Facility to either the Dependable Capacity or the Available Capacity, the Facility may deliver Net Electrical Output in excess of either the Dependable Capacity or Available Capacity, but not to exceed 1 MW.

ARTICLE VIII: Interconnection and Metering Facilities

8.1 Operator shall be responsible for the design, construction, installation, operation, maintenance and ownership of the Facility and Operator's Interconnection Facilities under the Agreement for Interconnection and Parallel Operation.

8.2 Buckeye shall be responsible for the design, construction, installation, operation, maintenance and ownership of the Metering Facilities, except that Buckeye shall coordinate with Operator the design, construction, installation, operation and maintenance of any Metering Facilities installed on Operator's property.

8.3 Power Company shall be responsible for the design, construction, installation, operation, maintenance and ownership of its Interconnection Facilities under the Agreement for Interconnection and Parallel Operation.

8.4 Within sixty (60) Days of the execution of this Agreement, Operator shall provide to Buckeye (1) a functional one-line diagram of the Facility showing at least the generator(s), protective relay functions, step-up transformers and circuit breakers that they propose to install on Operator's side of the Interconnection Point and (2) a site plat showing the exact location of the proposed site.

8.5 If Buckeye determines that the Buckeye-owned Metering Facilities to be installed on each generating unit (which may include current and potential transformers and telemetering equipment) should be installed on Operator's property, Operator shall be responsible for the installation of, and payment for, such Metering Facilities. The installation of any Buckeye-owned Metering Facilities on Operator's side of the Interconnection Point shall be subject to Buckeye's approval, which approval shall not be unreasonably withheld.

8.6 Operator shall reimburse Buckeye for the cost of the Metering Facilities installed by Buckeye.

8.7 Operator agrees to grant or have granted to Buckeye all necessary rights of way, easements, and adequate continuing access rights on property of Operator or on the Facility site and sufficient to install, operate, maintain, replace and/or remove the Metering Facilities located on property of Operator or on the Facility site. Prior to the construction by Buckeye of the Metering Facilities, Operator agrees to execute such other grants, deeds or documents as Buckeye may require to record such rights of way, easements, or other grants. Consideration for such grants, deeds or documents shall be the execution of this Agreement and no other consideration shall be required. Operator agrees that all rights of way, easements, or other grants shall survive termination or expiration of this Agreement. If any part of Buckeye's equipment is to be installed on property outside the Facility site which is not owned by Operator, Buckeye shall obtain from the owners thereof all necessary rights of way and easements, for the construction, operation, maintenance, replacement, and/or removal of Buckeye's equipment upon such property in accordance with its usual practices at a cost to be paid by the Operator.

8.8 In the event it becomes necessary for Buckeye to alter, add to, relocate or rearrange the Metering Facilities, then Operator shall pay for such work.

8.9 The Operator shall interconnect the Facility to the Power Company's electric distribution system in accordance with the terms of the Interconnection and Parallel Operation Agreement.

8.10 The Operator shall purchase back-up and supplementary power and energy from the Power Company in accordance with the terms of the Agreement for Back-Up and Supplementary Electric Service.

ARTICLE IX: Metering

9.1 Buckeye shall own and maintain all meters and metering devices (including remote terminal units) used to measure the delivery and receipt of energy, or energy and Dependable Capacity, for payment purposes. Nothing in this Agreement shall prevent Operator from installing meters and metering devices for backup purposes.

9.2 Operator shall provide at its expense, for the purpose of telemetering, a telecommunication circuit to Buckeye. In addition, the Operator shall provide, at its expense, a voice telephone extension for the purpose of maintenance of the telemetering equipment. Such telecommunication circuit and voice telephone extension shall be subject to the approval of Buckeye, which approval shall not unreasonably be withheld.

9.3 All meters and metering equipment used to determine the electric energy, or energy and Dependable Capacity, delivered to Buckeye shall be sealed, and the seals broken only by Buckeye personnel when the meters are to be inspected, tested, or adjusted. Buckeye shall give Operator two (2) weeks prior written notice thereof and Operator shall have the right to be present.

9.4 On a regular schedule and, in addition, upon two (2) weeks prior written notice by Operator, Buckeye will test the meter(s). Operator may have a representative present during any metering inspection, test, or adjustment. When, as a result of such a test, a meter is found to be not more than two (2) percent fast or slow because of incorrect calibration or tampering, no adjustment will be made in the amount paid to Operator for energy and Environmental Attributes, or energy, Environmental Attributes, and Dependable Capacity, delivered to Buckeye. If the meter is found to be more than two (2) percent fast or slow, Buckeye will calculate the correct amount delivered to Buckeye for the actual period during which inaccurate measurements were made or, if the actual period cannot be determined to the mutual satisfaction of the Parties, for a period equal to one-half of the time elapsed since the most recent test, but in no case for a period in excess of twelve (12) Months. The previous payments by Buckeye for this period shall be subtracted from the amount of payments that are calculated to have been owned under this Agreement. The difference shall be offset against or added to the next payment to either Party as appropriate under this or other Agreements between the Parties. The percentage registration of a meter will be calculated by the "weighted average" of light load and full load, which is calculated by giving a value of one (1) to the light load and a value of four (4) to the full load.

9.5 Whenever it is found that, for any reason other than incorrect calibration or tampering, the metering apparatus has not registered the true amount of electricity which has been delivered by Operator to Buckeye, the electricity delivered during the entire period of incorrect registration shall be estimated, and the amount of electricity so estimated will be used in calculating the corrected amounts to be paid to Operator. The adjustment amount will be for the actual period during which inaccurate measurements were made or, if the actual period cannot be determined to the mutual satisfaction of the Parties, for a period equal to one-half of the time elapsed since the most recent test of the metering apparatus, but in no case for a period in excess of twelve (12) months. Any overpayments or under payments by Buckeye for energy and Environmental Attributes, or energy, Environmental Attributes, and Dependable Capacity, delivered by Operator to Buckeye shall be corrected in the manner described in Section 9.4.

ARTICLE X: Compensation, Payment and Billings

10.1 Beginning with the first billing period after the Commencement Date, Buckeye shall pay Operator the Energy Purchase Price for Net Electrical Output received by Buckeye from the Facility each Month as follows:

(a) The Energy Purchase Price shall be the sum of (i) the current excess energy fuel and emission allowances charge for such Month as determined by Buckeye, representing generally the cost of Buckeye's incremental fuel and emission allowances allocated by Buckeye to its excess energy sales and (ii) the current non-fuel energy charge for such Month as determined by Buckeye, representing generally the non-fuel variable cost of Buckeye's generation resources without margin (this is currently equal to the energy charge under Buckeye's interruptible rate schedule).

(b) The Energy Purchase Price shall be increased by _____ percent to adjust for the effect of the Facility on Buckeye's system losses. Buckeye shall redetermine such adjustment at least sixty (60) Days prior to a change in the transmission line voltage of the Interconnection Facilities.

(c) For each billing period, the hourly Energy Purchase Price shall be applied to the Net Electrical Output in the corresponding hour and the sum of the product of such hourly Energy Purchase Price times the corresponding hourly Net Electrical Output for each hour of the Month shall yield the total billing period payment for Net Electrical Output.

10.2 Beginning with the first billing period after the Commencement Date, Buckeye shall pay Operator the Environmental Attributes Purchase Price for the Environmental Attributes received by Buckeye from the Facility each Month as follows:

(a) The Environmental Attributes Purchase Price shall be \$ _____ per kilowatt-hour subject to adjustment as set forth in Section 10.2(b).

(b) The Environmental Attributes Purchase Price shall be adjusted on the first Day of each Capacity Test Period after the Initial Capacity Test Period. On such date the

Environmental Attributes Purchase Price shall be adjusted in accordance with the following formula:

Adjusted Environmental Attributes Purchase Price = the product of (i) \$0.002 per kilowatt-hour, multiplied by (ii) the ratio of the GDP-IP Index October Previous Year/GDP-IP Index _____.

Where:

“Adjusted Environmental Attributes Purchase Price” means the Environmental Attributes Purchase Price as adjusted in accordance with this Section 10.2(b).

“GDP-IP Index October Previous Year” equals the published GDP-IP Index value in October of the Capacity Test Period immediately preceding the Capacity Test Period for which the adjustment is due.

“GDP-IP Index _____” equals the published GDP-IP Index value for _____.

“GDP-IP Index” means the final published Implicit Price Deflator for Gross Domestic Product as determined quarterly and reported monthly by the Bureau of Economic Analysis of the U.S. Department of Commerce in the publication “Survey of Current Business”. In the event this index is discontinued or its basis is substantially modified, the Parties shall agree on a substitute index.

(c) For each billing period, the hourly Environmental Attributes Purchase Price shall be applied to the Net Electrical Output in the corresponding hour and the sum of the product of such hourly Environmental Attributes Purchase Price times the corresponding hourly Net Electrical Output for each hour of the Month shall yield the total billing period payment for Environmental Attributes.

10.3 Beginning with the first billing period after the Commencement Date, Buckeye shall pay Operator the Capacity Purchase Price for Dependable Capacity received by Buckeye from the Facility each Month as follows:

(a) The Capacity Purchase Price shall equal the current excess demand charge for such Month as determined by Buckeye, representing generally the fixed costs of Buckeye’s generation resources without margin (this is currently equal to the excess demand charge under Buckeye’s interruptible rate schedule).

(b) For each billing period, the monthly Capacity Purchase Price shall be applied to the Dependable Capacity for such month and the sum of the product of such monthly Capacity Purchase Price times the corresponding Dependable Capacity for such Month shall yield the total billing period payment for Dependable Capacity.

10.4 Buckeye shall receive a monthly credit to reflect all reasonable costs incurred by Buckeye for meter reading and billing. The monthly meter reading and billing credit is initially \$_____ per billing month.

10.5 Meters shall be read, and bills rendered, according to the meter reading and billing schedule established by Buckeye except that not more than forty-five (45) Days shall pass between readings and billing dates. Payment for the energy and Environmental Attributes, or energy, Environmental Attributes, and Dependable Capacity, delivered to Buckeye during the billing period shall be made within twenty-eight (28) Days of the billing date. Interest shall accrue on the outstanding payments due Operator commencing on the twenty-ninth (29) Day after the billing date. However, any amounts due Buckeye, or other amounts due Buckeye arising out of this Agreement, shall be offset against the amounts due to Operator and the net result shall be paid to the appropriate Party within twenty-eight (28) Days of the billing date.

Payment to Buckeye shall be made by wire transfer to the following account:

Payment to Operator shall be made by wire transfer to the following account:

Either Party may, by written notice to the other, change the account to which such checks should be sent.

ARTICLE XI: Testing and Capacity Ratings

11.1 During the Initial Capacity Test Period, the Dependable Capacity of the Facility during each Month of the Initial Capacity Test Period shall equal the following:

$$\frac{Y}{5}$$

where

Y= The sum of the hourly integrated kW output of the Facility at the hour of Buckeye's system peak demand during such Month and at the hour of each of the next four highest Buckeye system demands during such Month. In the event that any of such hours occurs during a Schedule Outage or a Forced Outage, including a Forced Outage caused by an event of Force Majeure, the Dependable Capacity of the Facility shall nevertheless be determined during such hours.

11.2 For each Capacity Test Period other than the Initial Capacity Test Period, the Facility shall be rerated as described below in this Section 11.2, and the Dependable Capacity of the Facility during each Month of the Capacity Test Period shall equal the following:

$$\frac{Z}{20}$$

where

Z = The sum of the hourly integrated kW output of the Facility at the hour of Buckeye's system peak demand during the immediately preceding Summer Season and at the hour of each of the next nineteen highest Buckeye system demands during such Summer Season. In the event that any of such hours occurs during a Schedule Outage or a Forced Outage, including a Forced Outage caused by an event of Force Majeure, the Dependable Capacity of the Facility shall nevertheless be determined during such hours.

Notwithstanding the above, the Dependable Capacity of the Facility shall not exceed 1 MW except by mutual agreement of the Parties.

ARTICLE XII: Insurance

12.1 Operator shall obtain and maintain the following policies of insurance during the term of this Agreement:

(a) Workers' Compensation Insurance which complies with the laws of the State of Ohio and Employers' Liability insurance with limits of at least \$ 1,000,000; and

(b) Comprehensive or Commercial General Liability insurance with bodily injury and property damage combined single limits of at least \$5,000,000 per occurrence. Such insurance shall include, but not necessarily be limited to specific coverage for contractual liability encompassing the indemnification provisions in Article XIII, broad form property damage liability, personal injury liability, explosion and collapse hazard coverage, products/completed operations liability, and, where applicable, watercraft protection and indemnity liability; and

(c) Excess Umbrella liability insurance with a single limit of at least \$5,000,000 per occurrence in excess of the limits of insurance provided in subparagraphs (a), (b), and (c) above.

12.2 The amounts of insurance required in Section 12.1 above may be satisfied by the Operator purchasing primary coverage in the amounts specified or by buying a separate excess Umbrella Liability policy together with lower limit primary underlying coverage. The structure of the coverage is the Operator's option, so long as the total amount of insurance meets Buckeye's requirements.

12.3 The coverages requested in Section 12.1(b) above and any Umbrella or Excess coverage should be "occurrence" form policies. In the event Operator has "claims-made" form coverage, Operator must obtain prior approval of all "claims-made" policies from Buckeye.

12.4 Operator shall cause its insurers to amend its Comprehensive or Commercial General Liability and, if applicable, Umbrella or Excess Liability policies with the following endorsement items (a) through (e); and to amend Operator's Workers' Compensation, and Auto Liability policies with endorsement item (e):

(a) Buckeye, and its directors, officers, and employees are additional Insureds under this Policy; and

(b) This insurance is primary with respect to the interest of Buckeye, and its directors, officers, and employees and any other insurance maintained by them is excess and not contributory with this insurance; and

(c) The following cross liability clause is made a part of the policy: “In the event of claims being made by reasons of (i) personal and/or bodily injuries suffered by any employee or employees of one insured hereunder for which another insured hereunder is or may be liable, or (ii) damage to property belonging to any insured hereunder for which another insured is or may be liable, then this policy shall cover such insured against whom a claim is made or may be made in the same manner as if separate policies have been issued to each insured hereunder, except with respect to the limits of insurance; and

(d) Insurer hereby waives all rights of subrogation against Buckeye, and its officers, directors and employees; and

(e) Notwithstanding any provision of the policy, this policy may not be canceled, non-renewed or materially changed by the insurer without giving thirty (30) Days prior written notice to Buckeye. All other terms and conditions of the policy remain unchanged.

12.5 Operator shall cause its insurers or agents to provide Buckeye with certificates of insurance evidencing the policies and endorsements listed above. Failure of Buckeye to obtain certificates of insurance does not relieve Operator of the insurance requirements set forth herein. Failure to obtain the insurance coverage required by this Article XII shall in no way relieve or limit Operator’s obligations and liabilities under other provisions of this Agreement.

ARTICLE XIII: Liability and Noncompliance

13.1 Neither Party shall hold the other Party (including its corporate affiliates, parent, subsidiaries, directors, officers, employees and agents) liable for any claims, losses, costs and expenses of any kind or character (including, without limitation, loss of earnings and attorneys’ fees) on account of damage to property of Buckeye or Operator in any way occurring incident to, arising out of, or in connection with a Party’s performance under this Agreement, except as provided in Section 13.2 below.

13.2 Operator and Buckeye agree to indemnify and hold each other harmless from and against all claims, demands, losses, liabilities and expenses (including reasonable attorneys’ fees) for personal injury or death to persons and damage to each other’s property or facilities or the property of any other person or corporation to the extent arising out of, resulting from or caused by their negligent or intentional acts, errors or omissions or breach of this Agreement.

13.3 Should Operator or any of its affiliates ever desire to dispose of its right, title, or interest in the Facility (hereinafter called “Transfer Interest”) except in connection with the sale and leaseback of the Facility to provide financing for the Facility, the exercise of remedies in

connection with the debt financing of the Facility, or the transfer of the Facility to an affiliate or subsidiary of the Operator to whom Operator is assigning this Agreement, Operator will offer to sell such Transfer Interest to Buckeye at its fair market value. If Buckeye agrees to purchase the Transfer Interest and there is disagreement as to the fair market value of the Transfer Interest, then either Party shall be entitled to submit the dispute to a panel of three arbitrators in accordance with the Rules of the American Arbitration Association. Each of the Parties would pick one arbitrator and the two arbitrators would pick the third arbitrator. The decision of the arbitrators would be binding upon the Parties. The expenses of such arbitration, excluding attorneys' fees, shall be equally divided among the Parties. The arbitration shall be held in Columbus, Ohio, or such other place as the Parties may mutually agree. The arbitrators shall initiate the hearing as promptly and expeditiously as possible after their selections (and both Parties shall cooperate to this end) and shall conclude the hearings within thirty (30) Days of their commencement unless the arbitrators expressly find that additional time is necessary for completion of the hearings for reasons in the best interest of the Parties. The award of the arbitrators shall be made no later than thirty (30) Days from the date of the closing of the hearings.

13.4 Neither Party shall be liable to the other Party for indirect, incidental, or consequential damages arising out of its failure to meet its obligations under this Agreement, irrespective of the causes thereof, including fault or negligence. Except as otherwise limited by the terms hereof and notwithstanding the above waiver of indirect, incidental or consequential damages, each Party to this Agreement shall be liable for direct damages to the other Party caused by its negligence or willful misconduct in connection with or arising out of this Agreement, and for any other obligations to pay damages to, or to reimburse or indemnify the other Party as expressly set forth in this Agreement.

ARTICLE XIV: Force Majeure

14.1 Neither Party shall be responsible or liable for, or deemed in breach hereof because of any delay in the performance of their respective obligations hereunder due solely to circumstances beyond the reasonable control of the Party experiencing such delay, including but not limited to acts of God; unusually severe weather conditions; strikes or other labor difficulties; war; riots; requirements, actions or failures to act on the part of governmental authorities preventing performance; inability despite due diligence to obtain required licenses; accident; fire; damage to or breakdown of necessary facilities; or transportation delays or accidents (such causes hereinafter called "Force Majeure"); provided that:

- (a) The non performing Party gives the other Party within forty-eight (48) hours written notice describing the particulars of the occurrence;
- (b) The suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure;
- (c) The non-performing Party uses its best efforts to remedy its inability to perform;
- (d) When the non-performing Party is able to resume performance of its obligations

under this Agreement, that Party shall give the other Party written notice to that effect; and

(e) The Force Majeure was not caused by or connected with any negligent or intentional acts, errors, or omissions, or failure to comply with any law, rule, regulation, order or ordinance or for any breach or default of this Agreement.

14.2 The term Force Majeure does not include changes in market conditions or governmental action that affect the cost or availability of Operator's supply of fuel or any alternate supplies of fuel or the demand for Operator's products.

14.3 Notwithstanding the above, a Forced Outage that is caused by an event of Force Majeure under this Article XIV shall not excuse the determination of the Facility's Dependable Capacity in accordance with Article XI.

14.4 Except as otherwise provided, in no event will any condition of Force Majeure extend this Agreement beyond its stated Term. If any condition of Force Majeure delays a Party's performance for a time period greater than one hundred eighty (180) Days, the Party not delayed by such Force Majeure may terminate this Agreement without further obligation; provided, however, that if the Force Majeure cannot be overcome within such one hundred eighty (180) Days with the exercise of reasonable diligence, the Party not delayed shall grant a reasonable additional period of time in which to overcome such Force Majeure.

ARTICLE XV: Taxes

All present or future federal, state, municipal or other lawful taxes payable by reason of the sale or purchase of Net Electrical Output, Environmental Attributes, or Dependable Capacity under this Agreement shall be paid by Operator.

ARTICLE XVI: Choice of Law

This Agreement shall be interpreted, construed and governed by the laws of the State of Ohio, except for any such laws that would cause the laws of another state to govern the interpretation and construction of this Agreement. The Parties hereby submit to the jurisdiction of courts located in, and venue is hereby stipulated to be in the State of Ohio.

ARTICLE XVII: Miscellaneous Provisions

17.1 Buckeye recognizes that Operator may be required to assign certain rights under this Agreement to a financing institution or entity providing funding for the Facility as a condition of financing. Notwithstanding the foregoing, neither Party shall assign this Agreement or any portion thereof without the prior written consent of other Party which consent shall not be unreasonably withheld; provided, however, such consent shall not be required prior to an assignment to a parent, subsidiary or affiliated corporation; but provided, further that: (i) any assignee other than a financing institution providing funding for the Facility shall expressly assume assignor's obligations hereunder; (ii) no such assignment shall impair any security given by Operator hereunder; and (iii) unless expressly agreed by the other Party, no assignment,

whether or not consented to, shall relieve the assignor of its obligations hereunder in the event its assignee fails to perform.

17.2 This Agreement can be amended only by agreement between the Parties in writing.

17.3 The failure of either Party to insist in any one or more instances upon strict performance of any provisions of this Agreement, or to take advantage of any of its rights hereunder, shall not be construed as a waiver of any such provisions or the relinquishment of any such right or any other right hereunder, which shall remain in full force and effect.

17.4 The headings contained in this Agreement are used solely for convenience and do not constitute a part of the Agreement between the Parties hereto, nor should they be used to aid in any manner in the construction of this Agreement.

17.5 This Agreement is intended solely for the benefit of the Parties hereto. Nothing in this Agreement shall be construed to create any duty to, or standard of care with reference to, or any liability to, any person not a Party to this Agreement.

17.6 This Agreement shall not be interpreted or construed to create an association, joint venture, or partnership between the Parties or to impose any partnership obligation or liability upon either Party. Neither 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, the other Party.

17.7 Cancellation, expiration or earlier termination of this Agreement shall not relieve the Parties of obligations that by their nature should survive such cancellation, expiration or termination, including without limitation, warranties, remedies, promises of indemnity and confidentiality.

ARTICLE XVIII: Entirety

This Agreement is intended by the Parties as the final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their agreement with respect to the Net Electrical Output, Environmental Attributes, and Dependable Capacity sold and purchased hereunder. All prior written or oral understandings, offers or other communications of every kind pertaining to the sale of Net Electrical Output, Environmental Attributes, and Dependable Capacity hereunder to Buckeye by Operator are hereby abrogated and withdrawn.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date first written above.

BUCKEYE POWER, INC.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____