

**TERRITORIAL AND EXCHANGE AGREEMENT**

**Between**

**UNION ELECTRIC COMPANY  
d/b/a AMERENUE**

**and**

**THREE RIVERS ELECTRIC COOPERATIVE, INC.**

## **TERRITORIAL AND EXCHANGE AGREEMENT**

This Agreement is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2020 (hereinafter “Signing Date”), by and between UNION ELECTRIC COMPANY d/b/a/ AmerenUE (hereinafter “Company”) and THREE RIVERS ELECTRIC COOPERATIVE (hereinafter “Cooperative”).

### **RECITALS**

- A. Company is authorized by law to provide electric service within the State of Missouri, including all or portions of Cole and Osage Counties.
- B. Cooperative is authorized by law to provide electric service within the State of Missouri, including all or portions of Cole and Osage Counties.
- C. The Missouri Legislature by RSMo. Section 394.312 (2016) has authorized electrical corporations and rural electric cooperatives to enter into written territorial agreements;
- D. Company and Cooperative desire to promote the orderly development of the retail electric service within portions of the above referenced counties in Missouri, and to minimize disputes which may result in higher costs in serving the public; and
- E. Company and Cooperative desire to reduce the wasteful duplication of Customer Service Equipment and offer improved level of service to their Customers.
- F. In order to reach these desired goals, Company and Cooperative have entered into this Agreement.

### **AGREEMENT**

For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

**ARTICLE 1.**  
**DEFINITIONS**

In addition to terms defined elsewhere herein, when used in this Agreement the following terms shall have the definitions set forth below. Words importing persons include corporations or other entities, as applicable, and words importing on the singular include the plural and vice versa when the context requires.

- 1.1 **Agreement** shall mean this document including any appendices or exhibits hereto.
- 1.2 **Customer** shall mean any person, partnership, corporation, limited liability company, political subdivision, or any agency, board, department or bureau of the state or federal government, or any other legal entity that has requested or is receiving electric service. Any Customer who has requested or is receiving electric service at one structure shall be a new and different Customer at each structure at which electric service has been requested.
- 1.3 **Customer Service Equipment** shall mean all lines or conductors with nominal voltage of 15,000 volts or less, phase to phase; all transformers, regulators, capacitors, poles, meters, equipment and installations connected thereto necessary for the distribution of electricity through said lines or necessary for the support of said lines; and all rights, privileges, easements, appurtenances and immunities in land on which such lines, conductors, poles, equipment and installations are located; provided, however, "Customer Service Equipment" shall not include poles and any structures supporting lines and conductors with nominal voltage of more than 15,000 volts regardless of whether such poles or structures also support lines and conductors with nominal voltage of 15,000 volts or less.
- 1.4 **Distribution Equipment and Facilities** shall mean the distribution equipment and facilities used by the Transferor to provide service not already included in the definition of Customer Service Equipment (including equipment and facilities necessary for the provision of power to street lights) that must be transferred to Transferee in order for the Transferee to provide service to affected customers, structures, and street lights and which the Transferor does not need to retain for the purposes of providing service outside of the transfers anticipated by this Agreement.

- 1.5 **Effective Date** of this Agreement shall be the effective date of the Order issued by the Missouri Public Service Commission ("Commission"), pursuant to RSMo. Section 394.312, approving this Agreement.
- 1.6 **Electric Power Provider** shall mean any non-party electric corporation, rural electric cooperative, and/or municipal corporation.
- 1.7 **End Date** shall mean (i) the transfer date for the last Structure listed on Exhibit A or Exhibit C or (ii) the date the Parties agree in writing to end transfers of Structures.
- 1.8 **Existing Customer** shall mean defined as a Customer occupying an Existing Structure on the Signing Date.
- 1.9 **Existing Structure** shall mean any structure that receives electric energy from either party prior to or on the effective date of this Agreement. "Existing Structure" shall also mean:
- 1.9.1 Any replacement of an Existing Structure ("Replacement Structure"), provided said Replacement Structure is (1) located completely within the boundary of the property on which the Existing Structure is located, (2) used for the same purpose as the Existing Structure it is replacing, and (3) that the Existing Structure is totally removed from the property within six months of completion of the Replacement Structure.
- 1.9.2 Any maintenance, repair, or remodeling, or partial replacement of an Existing Structure.
- 1.9.3 Any contiguous expansion of an Existing Structure.
- 1.10 **Laws and Regulations** shall mean all applicable statutes, regulations, codes, laws, licenses, decisions, interpretations, policy statements, regulatory guides, rules, criteria, all license requirements enforced or issued by any government, federal, state, or local, or any governmental agency, authority, or body, and industry-recognized guidelines and professional standards.
- 1.11 **New Outbuilding** shall mean, if the Existing Structure's purpose is residential, a New Structure that is a detached garage, detached storage building, gazebo, detached porch, or similar structure that is not attached to the Existing Structure in question and is not a residence. If the Existing Structure's purpose is agricultural, a "New Outbuilding" is a New

Structure that is a detached garage, barn, well, silo, grain bin, or similar structure that is not attached to an Existing Structure in question and is not a residence.

- 1.12 **New Structure** shall mean (i) any structure that did not receive electric energy from either party prior to or on the Effective Date of this Agreement and (ii) the replacement of an Existing Structure with a structure that does not satisfy the definition of Existing Structure set forth herein.
- 1.13 **Party or Parties** means Company, Cooperative or both, as the context may require.
- 1.14 **Period of Implementation** shall mean that time period that begins on the Effective Date of this Agreement and ends on the date when all transfers allowed under this Agreement have been completed. The Period of Implementation shall include the beginning and ending dates.
- 1.15 **Structure** shall mean an agricultural, residential, commercial, industrial or other building or a mechanical installation, machinery or apparatus, including an original structure and any contiguous addition or expansion thereto. Structure shall not include a metering device or customer-owned meter wiring.
- 1.16 **Transferee** shall mean the party receiving any and all interests in the Structures listed in Exhibits A and C, the associated Customer Service Equipment and any and all rights to serve Customers. Any reference herein to Transferee shall apply to both parties in their capacity accepting such transfer.
- 1.12 **Transferor** shall mean the party granting, conveying, or assigning any and all interests in Customer Service Equipment and any and all rights to serve Customers. Any reference herein to Transferor shall apply to both parties in their capacity in effecting such transfer.
- 1.13 **Laws and Regulations** shall mean all applicable statutes, regulations, codes, laws, licenses, decisions, interpretations, policy statements, regulatory guides, rules, criteria, all license requirements enforced or issued by any government, federal, state, or local, or any governmental agency, authority, or body and industry-recognized guidelines and professional standards.

**ARTICLE 2.**  
**EXCLUSIVE RIGHT TO SERVE**

- 2.1 Pursuant to Section 394.312 RSMo (2016), this Agreement designates the boundaries of exclusive electric service areas of Company and Cooperative only for purposes of this Agreement. In this Agreement, Company agrees not to serve New Structures in any area described in Article 3, hereinafter referred to as the "Exclusive Service Area of Cooperative." Likewise, Cooperative agrees not to serve New Structures in an area described in Article 4, hereinafter referred to as the "Exclusive Service Area of Company." The parties recognize and agree that this Agreement shall not apply to any service area not designated as an exclusive service area in Article 3 or Article 4 and the Exhibits incorporated therein.
- 2.2 Pursuant to this Agreement and in accordance with the procedures set forth herein, Company will transfer to Cooperative over a mutually agreeable and reasonable amount of time, the Structures identified in Exhibit A (hereinafter "Affected Structures") and the Customer Service Equipment and/or Distribution Facilities and Equipment used by Company to distribute electric energy to the Affected Structures or street lights (hereinafter "Affected Facilities"), any Company-owned street lights within the affected areas, and all rights, privileges, and obligations pursuant to Company's existing easements associated with the Affected Facilities and Affected Street Lights and Facilities unless otherwise expressly excluded, excepted, and/or reserved. Said transfers shall be implemented piece meal. The Cooperative shall initiate a transfer by sending Company a written notice listing the Affected Structures, to which it is ready to render electric service, and the associated Affected Facilities. Upon receipt of such notice, Company shall transfer to Cooperative the listed Affected Structures and associated Affective Facilities. Further Company agrees not to institute any legal proceedings to block, delay, or in any way hinder these transfers. There will be no charge to the Customer for a transfer of an Affected Structure done pursuant to this section. After the transfer, Cooperative shall have the exclusive right to furnish electric service to the Affected Structures, regardless of the size of the load or the characteristics of the Customer's requirements. Except as provided in the foregoing, both Company and Cooperative retain the right to furnish electric service to all other Existing

Structures that it is serving on the Effective Date of this Agreement, regardless of their location.

- 2.3. Pursuant to this Agreement and in accordance with the procedures set forth herein, Cooperative will transfer to Company over a mutually agreeable and reasonable amount of time the Structures identified in Exhibit C (hereinafter "Affected Structures"), the Customer Service Equipment and/or Distribution Equipment and Facilities used by Cooperative to distribute electric energy to the Affected Structures or street lights (hereinafter "Affected Facilities"), any Cooperative-owned street lights contained within the affected areas, and all rights, privileges, and obligations pursuant to Cooperative's existing easements associated with the Affected Facilities and street lights unless otherwise expressly excluded, excepted, and/or reserved. Said transfers shall be implemented piece meal. The Cooperative shall initiate a transfer by sending Company a written notice listing the Affected Structures and/or street lights, to which it is ready to render electric service, and the associated Affected Facilities. Upon receipt of such notice, Cooperative shall transfer to Company the listed Affected Structures and/or street lights and associated Affected Facilities. Further, Cooperative agrees not to institute any legal proceedings to block, delay, or in any way hinder these transfers. There will be no charge to the Customer for a transfer of an Affected Structure done pursuant to this section. After the transfer, Company shall have the exclusive right to furnish electric service to the Affected Structures, regardless of the size of the load or the characteristics of the Customer's requirements. Except as provided in the foregoing, Cooperative retains the right to furnish electric service to all other Existing Structures that it is serving on the Effective Date of this Agreement, regardless of their location.
- 2.4. Until an Affective Facility is transferred to the Transferee, Transferor shall own and maintain said Affected Facilities. At no time will there be joint ownership of Affected Facilities in order to serve an individual customer. As stated hereinabove, Affected Facilities shall be transferred with their associated Affected Structures. Transferor agrees to maintain the Affected Facilities in the Transferee's exclusive service area forever or until such time as the Transferee decides to execute a transfer. Company and Cooperative agree to work together in good faith as practical to transfer the Affective Facilities in a manner that maximizes the benefits of this Agreement. Notwithstanding the foregoing, the

Parties agree that Affected Facilities will be transferred individually without leaving “islands” on the Transferor’s system within the Transferee’s exclusive service area. If the transfer of Affective Facilities within the Transferee’s exclusive service area creates an “island” on the Transferor’s system outside the Transferee’s exclusive service area, then it is the Transferor’s responsibility to resolve that service issue.

- 2.5 Transferee is responsible for extending facilities to connect and hookup the Affected Facilities on their existing system. For each Affected Structure received, the Transferee takes on responsibility for any and all future maintenance, relocations, and upgrades of the corresponding facilities that served those Structures. Transferor shall be responsible to install deadend structures and guying needed to cut their lines open in order to transfer Affected Facilities to Transferee.
- 2.5 All Existing Customers at Affected Structures will be notified of the Parties intention to transfer their electric service over time when this Agreement is filed with the Commission. Notice that the Commission has approved the transfer of their electric service shall also be given to new Customers at Affected Structures when they apply for service. After the Commission approves this agreement no further Commission action will be require to transfer the Affected Structures, Affected Facilities and associated customers.
- 2.6 Each Party shall maintain ownership of the 3-phase sections of line identified in Exhibit F, even after transfers are made.
- 2.7 During the time period between the execution of this Agreement and the Effective Date of this Agreement, neither party shall construct primary or secondary electric facilities within the territory assigned exclusively to the other pursuant to this Agreement (1) unless ordered to do so by the Commission or a court of competent jurisdiction, or (2) unless it is a necessary part of the provision of service to its customers in the other areas; provided, however, that any such construction is within a previously established easement obtained for the purpose of providing service in other areas, or (3) in any manner intended to circumvent or manipulate the tended effect of this agreement by attempting to add territory.
- 2.8 In the event that a new structure is located on the territorial boundary between the Cooperative's and the Company's service territory as described in this Agreement and



supporting Exhibits, the New Structure shall be served by the party whose territory includes the point at which the electric service enters the New Structure.

- 2.9 A party may provide electric service to a New Outbuilding located in the exclusive service area of the other party, so long as (i) the New Outbuilding is located within the contiguous tract of land on which that party's Customer's Structure is located, and the New Outbuilding shall not be used for commercial or industrial purposes or (ii) the other party consents in writing. This section shall not apply to a Customer who receives electric service from both Company and Cooperative on the same tract of land, and requests additional electric service. The New Outbuildings for these customers shall be served by the designated exclusive service provider, unless the Customer, Company, and Cooperative agree otherwise and follow the procedures set out in Article 6.
- 2.10 When the parties cannot agree on the boundaries of the service area as described within this Agreement, they may, by mutual consent of all parties involved, petition the Commission to determine the boundaries and such determination will be binding on all parties.
- 2.11 This Agreement does not purport to affect the rights of any other Electric Power Provider.

**ARTICLE 3.**  
**EXCLUSIVE SERVICE AREA OF COOPERATIVE**

This Agreement concerns only the properties identified herein by the Cooperative and the Company. For the purposes of this Agreement, the Exclusive Service Area of Cooperative, as between the parties under this Agreement, shall be all property located within Cole and Osage Counties, Missouri, as previously granted by the Commission, as well as the Structures described in Exhibit A and the geographic area described in Exhibit B, except and less the Structures described in Exhibit C and the geographic area described in Exhibit D. Exhibit E is a map depicting the geographic areas assigned to Cooperative and Company. Exhibits A, B, C, D, and E are attached hereto and incorporated herein.

**ARTICLE 4.**  
**EXCLUSIVE SERVICE AREA OF COMPANY**

This Agreement concerns only the properties identified herein by the Cooperative and the Company. For the purposes of this Agreement, the Exclusive Service Area of Company, as between the parties under this Agreement, shall be all property located within Cole and Osage Counties, Missouri, as previously granted by the Commission as well as the the Structures described in Exhibit C and the geograhic area described in Exhibit D, except and less the Structures described in Exhibit A and the geographic area described in Exhibit B. Exhibit E is a map depicting the geographic areas assigned to Cooperative and Company.

**ARTICLE 5.**  
**OTHER ELECTRIC SYSTEMS**

This Agreement shall in no way impair or affect either party's right to construct such electric generation, distribution, and transmission facilities within the designated exclusive service area of the other as that party deems necessary, appropriate, or convenient to provide electric service to its customers and not inconsistent with the terms of this Agreement and as otherwise allowed by Laws and Regulations.

**ARTICLE 6**  
**EXCEPTION PROCEDURE**

- 6.1 The parties may, from time to time, agree to allow a New Structure or Existing Structure to receive service from one party even though the Structure is located in the exclusive service territory of another party. Any such agreement shall be made in the form of a mutually agreeable addendum hereto ("Addendum") and conform to all applicable legal and regulatory requirements, including but not limited to Section 394.312 RSMo (2016). The parties may agree to exceptions on a case-by-case basis or as part of a combined agreement, and shall make best efforts to advice Commission staff ("Staff") of any Addendum prior to filing with the Commission, to the extent such a filing is required. Upon filing of any Addendum for approval with the Commission, the parties shall file a service copy with the Staff and the Office of the Public Counsel.
- 6.2 Each party, pursuant to an executed Addendum, shall have the right to provide temporary service, as defined in Section 394.315 RSMo (2016), until the Commission approves or disapproves the Addendum. No party shall be required to remove any facilities installed

pursuant to an agreement until the effective date of an order of the Commission or a court regarding removal of the same.

- 6.3 Each Addendum shall consist of a statement identifying the Structure or Structures implicated, the party to serve the Structure or Structures, the justification for the Addendum, and indicating that the parties support the Addendum. If the Staff, Office of the Public Counsel, or other intervenor party does not submit a pleading objecting to the Addendum within forty-five (45) days of the filing thereof, the Addendum shall be deemed approved by the aforesaid parties. Each Addendum shall contain a statement in bold uppercase typeface indicating that the Staff or the Office of the Public Counsel have forty-five (45) days to oppose the Addendum or else the Addendum shall be deemed approved by the aforesaid parties.
- 6.4 In the event that a municipal electric utility authorized to provide power pursuant to Section 91.010 RSMo (2016) shall abandon or otherwise seek to release any Structure from within its municipal boundaries that could be or was previously serviced by such municipal electric utility, either party may provide service to such Structure irrespective of the location of the affected Structure within the exclusive service area of the other party, so long as such arrangement is effectuated by the execution of a mutually acceptable Addendum between the parties in compliance with this Article 6. Nothing in this Agreement shall be construed as requiring either party to serve customers released by a municipality. In the event of municipal annexation of areas where either party to this Agreement serves customers, nothing in this Agreement shall be construed to prevent either party from negotiating and executing any otherwise lawful agreement with the annexing municipality with respect to the customers affected by municipal annexation pursuant to Section 386.800 (2016), so long as such arrangement is effectuated by execution of a mutually acceptable Addendum between the parties in compliance with this Article 6.

#### **ARTICLE 7.**

##### **TERMS AND CONDITIONS OR PERFORMANCE**

- 7.1 This Agreement shall continue in perpetuity from the Effective Date unless terminated as set forth in Article 8 of this Agreement.
- 7.2 Performance of the parties is contingent upon all of the following having occurred, unless

such condition is waived, extended, or modified by agreement, in writing, signed by an officer of each party hereto:

- 7.2.1 All required approvals of Company and Cooperative; and
- 7.2.2 Approval of this Agreement by the Commission, which shall, as a minimum, consist of an order (i) approving this Agreement and (ii) a finding that this Agreement does not impair the Company's certificates of convenience and necessity, except as specifically limited by the Agreement.
- 7.3 Company and Cooperative agree to undertake all actions reasonably necessary to implement this Agreement. Company and Cooperative will cooperate in presenting a joint application to the Commission showing this Agreement, in total, not to be detrimental to the public interest. Company and Cooperative will share equally in the costs assessed by the Commission for seeking administrative approval of this Agreement and any surveying contractor or other professional engaged to prepare any exhibits to this Agreement. All other costs will be born by the respective party incurring the costs.

## **ARTICLE 8 TAXES**

- 8.1 **Taxes Upon Transfer.** Transferee shall be responsible for taxes coincident with and subsequent to the transfer of its Affected Facilities to Transferee hereunder including, without any limitations, any sales tax imposed on the sale or transfer.
- 8.2 **Property Taxes.** Transferee and Transferor shall prorate the property taxes associated with their respective facilities for the calendar year of the closing, based upon the Closing Date.
- 8.3 **Other Taxes.** Transferor shall be responsible for paying all license, gross receipts, and franchise taxes owed to the appropriate governmental agency based on service to a Customer until said Customer is transferred to Transferee. The Transferee shall be responsible for paying all such taxes thereafter.
- 8.4 **Penalties and Interest.** Each party shall be solely responsible for any interest and/or penalties assessed as a result of that party failing to pay when due any tax the party is responsible for paying, as provided herein.

**ARTICLE 9**  
**CLOSING AND TRANSFER OF FACILITIES AND CUSTOMERS**

- 9.1 **Closing.** Closing shall be on a business day that falls within a period that commences with the effective date of the Commission's order approving the Agreement and ends no later than three hundred and sixty-five (365) days after that date ("Closing Date"), and at such time and place as the parties mutually agree following the Period of Implementation. If no agreement is reached, the Closing Date shall be on the last business day before expiration of said 365-day period during business hours at a location of which Transferor gives Transferee advanced notices.
- 9.2 **Title and Risk of Loss.** The parties may implement the transfer of Customers, Affected Structures, and Affected Facilities in phases. The exact timing of such transfers shall be in accordance with future agreement by the parties. Title and risk of loss shall pass at the time the facilities are de-energized by the Transferor following transfer to the Transferee.
- 9.3 **Duties.** At closing, Transferor shall deliver the documents of title, including a bill of sale from each Transferee the facilities, all necessary assignment agreements and consents applicable to the easements, each free and clear from all liens created by Transferor which are of a definite or ascertainable in an amount and which may be removed by the payment of money, and shall have made a good faith effort to release the easements from all such liens. Notwithstanding the foregoing, Transferor shall have no obligation to secure releases from the following liens and encumbrances: (1) private and public utility and drainage easements; (2) rights-of-way for roads, alleys, street, and highways; (3) zoning regulations; and (4) building, lines, and use or occupancy restrictions, conditions, and covenants.
- 9.4 **Recording Fees.** Each party shall bear the costs for recording fees for the instruments that it desires to record.
- 9.5 **Possession.** Cooperative shall have the right of possession of the Company's Affected Facilities, and Company shall have the right of possession of the Cooperative's Affected Facilities, upon transfer in accordance with this Agreement.
- 9.6 **Customers.** The Customers to be transferred are located in, within, and around the communities of Wardsville and Jefferson City. The Customers shall be transferred simultaneously with the transfer of the Affected Facilities from Transferor's system and subsequent connection to Transferee's system. A list of customers to be transferred to

Cooperative from the Company is set forth in Exhibit A and a list of customers to be transferred to Company from Cooperative is set forth in Exhibit C.

- 9.7 **Accounts Receivable.** Transferor shall retain all accounts receivable related to Transferor's electric business up to the date each Customer is transferred from Transferor to Transferee. Transferor shall be entitled to receive all money paid to each Transferor or Transferee on said account for service received up to the transfer date.
- 9.8 **Time and Method of Transfers of Easements.** Transferor shall transfer all easements to Transferee on the date of closing by executing an Assignment of Easements in a form reasonably acceptable to Transferee. The Transferor shall cooperate with Transferee to obtain the consent for such transfer from the granting party, if required.
- 9.9 **Final Bill.** As each Customer is transferred from Transferor to Transferee, Transferor shall read Customers' meters and provide a final bill to them for service received. Security deposits and accrued interest at the time of transfer shall be transferred to the Transferee.

#### **ARTICLE 10 INTERIM OPERATIONS**

- 10.1 **Responsibilities of Transferee or Transferor.** After Commission approval and until all Customers are physically removed from Transferor's system and connected to Transferee's system (hereinafter, the "Interim Period"), Transferor will continue to provide maintenance of the facilities, electricity, read meters, and bill the Customers. Upon connection to Transferee's system, the Transferee shall take over these responsibilities. Transferor and Transferee agree to cooperate during this transition period in order to minimize any adverse impact on the Customers.
- 10.2 **Emergency Calls.** Transferor shall respond to emergency service calls during the Interim Period. Once facilities are transferred, Transferee shall respond to all emergency service calls associated with the transferred facilities.

#### **ARTICLE 11 REPRESENTATIONS AND WARRANTIES**

- 11.1 **Transferor.** Transferor represents and warrants to Transferee and agrees with Transferee as follows:
- 11.1.1 **Title.** Transferor warrants to Transferee that Transferor will transfer to Transferee good and marketable title to facilities transferred under this Agreement, free and

clear of any security interest, liens, encumbrances, or adverse claim of any third party.

11.1.2 **Licenses, Permits, and Approvals.** Transferor will have applied for and/or obtained in due time before the Closing Date, all necessary authorizations, licenses, permits, approvals, and other official consents as may be required under law and regulation for the Transferor's performance of its obligations hereunder.

11.1.3 **Fitness of property.** The facilities sold and transferred pursuant to this Agreement are sold by Transferor and purchased by Transferee "AS IS," and **TRANSFEROR DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER STATUTORY, WRITTEN, ORAL, EXPRESSED, OR IMPLIED WITH REGARD TO THE FACILITIES, INCLUDING ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE.** In no event shall Transferor be liable for any damages including, but not limited to, special, direct, indirect, or consequential damages arising out of, or in connection with, the use or performance of the facilities. Any description of the facilities contained in this Agreement is for the sole purpose of identifying the facilities, is not part of the basis of the bargain, does not constitute a warranty that the facilities shall conform to that description, and does not constitute a warranty that the facilities will be fit for a particular purpose. No affirmation of fact or promise made by Transferor not contained in this agreement shall constitute a warranty that the facilities will conform to the affirmation or promise.

11.1 **Transferee.** Transferee represents and warrants to Transferor that Transferee will have applied for and/or obtained, before the Closing Date, all necessary authorizations, licenses, permits, approvals, and other official consents as may be required under law and regulation for Transferor's performance of its obligations hereunder.

## **ARTICLE 12 RECORDS**

Transferor shall give to Transferee, Transferee's accountants, counsel, and other representatives, during normal business hours from the date hereof to the Closing Date, access to books, records, contracts, and commitments of the Transferor related to this transaction and shall furnish

Transferee during such period with information concerning Transferor's affairs as Transferee may reasonably request with respect to the various transactions contemplated hereby. In the event that, after closing, any controversy or claim by or against either party arises out of this transaction or the subject matter thereof, either party shall make available to the other copies of such relevant records as may be reasonably requested pertaining thereto.

**ARTICLE 13**  
**FITNESS OF PROPERTY**

Transferor shall repair and maintain its facilities in good state of repair through the date of transfer of facilities, ordinary wear and tear excepted, and Transferor shall not dispose of any of such items, except in the normal course of business, without the consent of Transferee. If, between the time this Agreement is executed and the Closing Date, a significant portion of the facilities is damaged or destroyed beyond normal wear and tear, Transferee and Transferor shall attempt in good faith to achieve a mutually satisfactory agreement for the repair and restoration of such facilities. In the event that Transferee and Transferor cannot agree upon terms for the repair and restoration of such facilities, the parties can agree to exclude the facilities at issue from this Agreement. If any portion of the facilities or easements is taken through condemnation during the period between execution of this Agreement and the Closing Date, Transferee shall be entitled to the condemnation award(s).

**ARTICLE 14**  
**INDEMNITY AND RELEASE**

**14.1 Transferee's Environmental Indemnification and Release.**

14.1.1 Transferor shall indemnify, defend, and save harmless Transferee from and against any suits, actions, legal or administrative proceedings, demands, or against any suits, actions, legal or administrative proceedings, demands, claims, liabilities, finds, penalties, losses, injuries, damages, expenses or costs, including interest and attorney's fees, in any way connected with any injury to any person or damage to any property (including cost of studies, surveys, clean-up, and any other environmental claims expenses) which arise out of the condition, operation, or use of the facilities or easements or any loss occasioned in any way by hazardous substances (as defined under any federal or Missouri law) on the property or by the negligent or intentional activities of Transferor prior to Transferee's acquisition of the facilities. This indemnity specifically includes the direct obligation of



Transferor to perform any remedial or other activities required, ordered, recommended, or requested by any agency, governmental official, or third party, or otherwise necessary to avoid injury or liability to any person, or to prevent the spread of pollution, however it came to be located on the property (hereinafter, the "Remedial Work").

14.1.2 Following the transfer of each increment of facilities, and without limiting its obligations under any other paragraph of this Agreement, Transferee shall be solely and completely responsible for responding to and complying with any administrative notice, order, request, or demand, or any third-party claim or demand, relating to potential or actual contamination of the premises. Transferee shall assume, pursuant to Paragraph 14.1 above, any liabilities or responsibilities which are assessed against Transferor in any action described under this Paragraph 14.2.

14.1.3 Following the transfer of each increment of facilities, Transferee hereby waives, releases, and discharges forever Transferor from all claims, demands, suits, legal and administrative proceedings, and from all liability for damages, losses, costs, liabilities, fees, and expenses arising out of or in any way connected with the condition, operation, or use of the facilities and easements, any condition of environmental contamination on the property and/or the existence of hazardous substances (as defined under federal or Missouri law) in any state on the property, however they came to be placed there during or after Transferee's acquisition of property.

14.2 **Indemnity and Release – Prior to Closing.** The parties desire to permit Transferee to have access to the Transferor's facilities prior to closing to aid in the transfer of the facilities. The parties also agree that Transferee shall assume the risks of loss and liability with respect to the facilities attributable to Transferee's access and use of the facilities prior to closing. Accordingly:

14.2.1 Transferor hereby gives Transferee permission to access and use Facilities as required to assist Transferee in planning and implementing the transfer of the facilities contemplated by this Agreement;

14.2.2 Transferee hereby agrees to reimburse Transferor for any loss of or damage to any of the facilities caused by Transferee's access and use prior to closing; and

14.2.3 Transferee shall indemnify and hold harmless Transferor, the directors, officerse, employees, attorneys, and agents of Transferor from and against all liabilities, costs, and expenses including, without limitation, reasonable attorney's fees, incurred by Transferor by reason of any injury to or death of any employee or Transferor, employee of Transferee, or third party; or damage to the property of Transferor, Transferee, or third party arising out of or involving Transferee's access or use of the facilities prior to closing. The foregoing release and indemnity shall apply irrespective of whether said loss, damage, personal injury, or death **WAS ALLEGEDLY CAUSED BY THE FACILITIES OR THE NEGLIGENCE OF TRANSFEROR OR ITS EMPLOYEES**. For purposes of the foregoing indemnification, neither party thereto shall be deemed the agent of the other party.

14.3 **Estoppel.** The foregoing provisions of this Article may be pled as full and complete defense to, and may be used as a basis for, enjoining any action, suit, or other proceeding that may be instituted, prosecuted, or attempted in breach of the foregoing provisions, except for an action based on a breach of this Agreement.

#### **ARTICLE 15. TERMINATION**

This Agreement may be canceled by mutual written agreement of the parties prior to the first transfer of facilities for any reason. In the event the parties cancel this Agreement pursuant to this section and the Agreement's approval by the Commission is pending, both parties shall take all actions necessary, in accordance with the Commission's rules, to dismiss any joint application for approval of this Agreement. In the event a party cancels this Agreement pursuant to this section and the Agreement has been approved by the Commission, both parties shall file with the Commission a written notice signed by both parties indicating that they are terminating the Agreement. Each party shall pay its costs and expenses incurred by it in connection with such termination, and no party (or any of its officers, directors, employees, agents, attorneys, representatives, or shareholders) shall be liable to any other party for any costs, expenses, or damages; except as provided herein, neither party shall have any liability or further obligation to the other party to this Agreement.

**ARTICLE 16**  
**NOTICE**

All notices, reports, records, or other communications which are required or permitted to be given to the parties under this Agreement shall be sufficient in all respects if given in writing and delivered in person, by overnight courier, or by registered or certified mail (postage prepaid, return receipt requested) to the receiving party at the following address:

**For Company**  
Union Electric Company  
d/b/a/ Ameren Missouri  
1901 Chouteau Avenue  
St. Louis, MO 63103

**For Cooperative**  
Three Rivers Electric Cooperative  
Attn: General Manager  
1324 E. Main  
Linn, MO 65051

Or to such other address as such party may have given to the other by notice pursuant to this Section 9. Notice shall be deemed given on the date of delivery, in the case of personal delivery, or on the delivery or refusal date, as specified on the return receipt, in the case of overnight courier or registered or certified mail.

**ARTICLE 17**  
**FORCE MAJEURE**

- 17.1 **Force Majeure.** Neither party shall be liable under this Agreement for damages occasioned by delay in performance or failure to perform its obligations under this Agreement if the delay or failure results from causes beyond its reasonable control and without the fault or negligence of the party so failing to perform or its contractor or agents.
- 17.2 **Notice.** The party whose performance is affected shall immediately notify the other party indicating the cause and expected duration of the event of force majeure and the delay which it will cause, and that party shall continue to keep the other party notified of the situation.
- 17.3 **Obligations of the Affected Party.** The party whose performance is affected by an event of force majeure shall use all reasonable efforts to avoid or minimize the consequences of delay or failure, shall continue with its obligations after the cause of the delay or failure ceases to exist, but shall not be required to settle a strike, work stoppage, or other labor disputes.

**ARTICLE 18**  
**ASSIGNMENT**

- 18.1 This Agreement shall be binding on the successors and assigns of both Company and Cooperative. Subject to the terms of Section 18.2, neither party shall make any assignment of any of its rights or interests under this Agreement without the written consent of the other party, which consent shall not be unreasonably withheld, and approval of the Commission.
- 18.2 Notwithstanding the foregoing, in the event of a merger, corporate reorganization, or corporate restructuring of a party, said party may assign this Agreement to the corporate entity responsible for providing distribution level electric service in the area covered by this Agreement or an affiliate of such entity, and the consent of the other party shall be deemed to be given. The consenting party or party whose consent is deemed to be given shall cooperate in obtaining approval of the assignment, including by (a) participating in the joint application requesting Commission approval of the assignment and (b) providing an affidavit, stating that it consents to the Assignment, for inclusion in such application.

**ARTICLE 19**  
**NO ASSUMPTION OF LIABILITIES**

Both parties acknowledge that the other party is acquiring facilities and easements without any assumption of the transferring party's liabilities, except as expressly assumed in writing prior to the Closing Date by the party acquiring the facilities and easements after full disclosure of the nature of the liability by the transferring party. Both parties covenant that they shall fully and timely satisfy their liabilities not assumed by the other party hereunder, but relevant to the transactions contemplated hereunder, or the subject matter hereof, including without limitation, all and any liabilities which shall have accrued prior to the Closing Date.

**ARTICLE 20**  
**MISCELLANEOUS**

- 20.1 **Map Exhibit.** Exhibit E depicts the boundaries of Company's and Cooperative's service territories referenced herein that are described in Exhibits B and D.
- 20.2 **Other Products and Services Not Affected.** This Agreement is limited to the distribution of electricity and shall in no way affect either party's right to offer other products and services to customers located in the exclusive service area of the other party. Neither shall

this Agreement limit, in any way, a party's right to construct such non-electric distribution facilities within the designated exclusive service area of the other as that party deems necessary, appropriate, or convenient to provide other non-electric distribution service to its customers.

- 20.3 **Governing Law.** This Agreement shall be governed by, construed, and enforced in accordance with, and its validity shall be determined under, the laws of the State of Missouri.
- 20.4 **Amendments.** No modification, amendment, deletion, or other change in this Agreement or the boundaries described in this Agreement shall be effective for any purpose unless specifically set forth in writing and signed by both parties and approved by the Commission.
- 20.5 **Headings.** Headings and titles contained in this Agreement are included for convenience only and shall not be considered for purposes of interpretation of this Agreement.
- 20.6 **Impact of Commission or Court Orders.** Any filing fee necessary for the submission of this application to the Commission for approval shall be split between the parties. If the Commission does not approve the provisions of this Agreement, then it shall be nullified and of no legal effect between the parties. Further, if any part of this Agreement is declared invalid or void by a Court of agency of competent jurisdiction, then the whole Agreement shall be deemed invalid and void.
- 20.7 **Survival.** No obligations shall survive termination, cancellation, or expiration of this Agreement.
- 20.8 **No Waiver.** If a party has waived a right under this Agreement on any one or more occasions, such action shall not operate as a waiver of any right under this Agreement on any other occasion. Likewise, if a party has failed to require strict performance of an obligation under this Agreement, such action shall not release the other party from any other obligation under this Agreement or the same obligation on any other occasion.
- 20.9 **Further Assurances.** The parties shall execute such other documents and perform such other acts as may reasonably be necessary in order to give full effect to this Agreement.
- 20.10 **Expenses.** Except as otherwise expressly provided herein, all expenses incurred by the parties hereto in connection with or related to the authorization, preparation, and execution of this Agreement and the closing of the transactions contemplated hereby, including,

without limitation, the fees and expenses of agents, representatives, counsel, and accountants employed by any such party shall be borne solely and entirely by the party that has incurred the same.

20.11 **Entire Agreement.** This Agreement constitutes the entire agreement between the parties relating to the allocation of service rights in the territory described herein and cancels and supersedes any prior understandings, agreements, negotiations, and discussions between the parties with respect to the allocation of service territory rights.

20.12 **Performance.** Performance of the parties is contingent upon completion of both the following, unless such condition is waived, extended or modified by agreement, in writing, signed by an officer of each party hereto:

- A. All required approvals of both the Company's authorized officer and the Cooperative's Board of Directors; and
- B. Approval of the transaction by the Commission.

**[Signature Page Follows]**

**IN WITNESS WHEREOF**, the parties have entered into this Agreement as evidenced below by the signature of their duly authorized representatives as of the date set forth on the first page hereto.

**UNION ELECTRIC COMPANY**  
d/b/a Ameren Missouri

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**THREE RIVERS ELECTRIC COOPERATIVE**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_