

EXHIBIT M
FORM OF SOFTWARE LICENSE

This FORM OF SOFTWARE LICENSE (“Software License”) is made as of _____, 2008 (“Effective Date”) by and between, on the one hand, GEORGIA POWER COMPANY, a Georgia corporation, acting for itself and as agent for OGLETHORPE POWER CORPORATION, an electric membership corporation formed under the laws of the State of Georgia, MUNICIPAL ELECTRIC AUTHORITY OF GEORGIA, a public body corporate and politic and an instrumentality of the State of Georgia, and THE CITY OF DALTON, GEORGIA, an incorporated municipality in the State of Georgia acting by and through its Board of Water, Light and Sinking Fund Commissioners (collectively, “Owners”), and, on the other hand, WESTINGHOUSE ELECTRIC COMPANY LLC, a Delaware limited liability company having a place of business in Monroeville, Pennsylvania and STONE & WEBSTER, INC., a Louisiana corporation having a place of business in Charlotte, North Carolina (the “Consortium Members”). Owners and Consortium Members may be referred to individually as a “Party” and collectively as the “Parties.”

1. **Definitions.** For purposes of this Software License, the terms listed below shall have the meanings indicated beside them. Capitalized terms not otherwise defined below shall have the meanings ascribed to them in the Engineering, Procurement and Construction Agreement for Units 3 and 4 at the Vogtle site between the Owners and the Consortium consisting of Westinghouse Electric Company LLC and Stone & Webster, Inc., dated _____ (the “Agreement”).

(a) “Permitted Users” shall mean the [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED]

(b) “Software” shall mean the computer programs, procedures, rules or routines embodied in computer programs, databases and related computer files provided to Owners by Consortium Members or its Subcontractors in performance of the Work, as furnished and as installed, and Application Software developed by Consortium Members for Owner during the performance of this Agreement. Software shall also mean bug fixes, error-correction releases, updates, upgrades, enhancements, modifications, changes, new versions and replacement thereof if provided from time to time by or on behalf of Consortium Members or its Subcontractors. Software includes, without limitation:

- (i) “*Base Software*”, which consists of the programs and tools that provide basic Facility system functions. Base Software may include tools used to develop control strategies (function blocks, standard control algorithms, rules, etc.), operator graphics (e.g., symbol libraries), and database entries.
- (ii) “*Application Software*”, which consists of the project-specific implementation of the Facility requirements using the objects and tools provided by the Base Software. The Application Software is specific to a particular Facility.
- (iii) “*Third-Party Software*”, which consists of that portion of the Software which is developed and owned by a Third Party.

(c) “Configuration Data” shall mean the Facility-specific data that is used in conjunction with the Software, including without limitation, tuning and set point constants, graphical, pictorial and text files, that instantiate the Software for the specific Facility environment.

(d) “Software Documentation” shall mean any: (i) materials created by or on behalf of Consortium Members or their licensors, or by Third Parties, that describe or relate to the functional, operational, or performance capabilities of the Software regardless of whether such materials be in written, printed, electronic or other format; and (ii) user, operator, system administration, technical, support and other manuals, including but not limited to functional specifications, help files, flow charts, logic diagrams, programming comments, and acceptance plans, if any.

2. Licenses.

(a) Software License. Consortium Members hereby grant to Owners for an indefinite duration a fully paid-up, royalty-free, non-exclusive right and license for the Permitted Users to use the Software on the hardware with which it is provided (subject to subsection (iii) below) solely for the purposes of [REDACTED] (collectively, the “Facility Purposes”). Third-Party Software that is not imbedded in the Software developed by Consortium Members, but which is furnished by Consortium Members shall be subject to separate license agreements and/or registration requirements and limitations on copying and use and Owners agree to be bound by the terms of any such license agreements or as may be negotiated between Owners and each Third Party Software provider Consortium Members shall provide all Third-Party Software not imbedded in the Software developed by Consortium Members on a pass-through basis as further described herein. Notwithstanding anything to the contrary herein , the license granted herein shall include the specific rights to:

- (i) adapt and otherwise modify the Application Software (provided Consortium Members shall not have any warranty liability for the Facility caused by any adaptation or modification made to the Application Software by the Owners outside of the scope of the documentation for the Application Software without the prior acceptance or approval of Consortium Members);
 - (ii) make a reasonable number of copies of the Software (including the number of copies of Third-Party Software that is not imbedded in the Software developed by Consortium Members permitted by the Third-Party software supplier license agreements) solely for back-up, archival, testing, installation, maintenance, operation or disaster-recovery purposes, provided that any copyright or other proprietary rights notices included in the Software are also reproduced in such copies; and
 - (iii) install the Software on replacement hardware that is functionally equivalent to the initial hardware and which meets the designated equipment configuration as documented by Consortium Members or its Subcontractors, provided that the Software as installed on such replacement hardware is solely used only for the licensed purposes set forth in Section 2(a) above and the Software is uninstalled from or otherwise rendered inoperable on the originally supplied Equipment. The right to install specific Third-Party Software that is not imbedded in the Software developed by Consortium Members as described in this subsection (iii) shall be governed by terms of the license agreement specific to such Third-Party Software.
- (b) Software License Restrictions. Except as may be otherwise provided herein:
- (i) Owners shall not alone or with the assistance of others, reverse compile or in any other manner attempt to decipher in whole or in part the logic or coherence of any Base Software or Third-Party Software provided hereunder in object-code or machine-readable form.
 - (ii) Owners shall not use the Software for purposes of (A) performing a quality assurance program verification of any other computer program regardless of application, or (B) using the input or output of the Software to qualify, validate or provide credibility to any other software owned by Owners or any Third Party without the prior written consent of Consortium Members. Notwithstanding the foregoing, Owners shall have the right to use information obtained from Facility instrumentation through the use of the Software and/or Configuration Data for any purpose.
- (c) Software Documentation Use and Restrictions. Consortium Members hereby grant to Owners for an indefinite duration a fully paid-up, royalty-free, non-exclusive right and

license to reproduce and distribute to Permitted Users Software Documentation solely for the Facility Purposes. Rights and obligations regarding the reproduction and distribution of Third-Party Software documents shall be as set forth in Third-Party Software licenses provided herewith.

(d) Third-Party Software Provisions. With respect to the Third Party Software imbedded in the Software, Consortium Members hereby agree to maintain their licenses with the Third Party vendors and manufacturers of such Third Party Software so that Permitted Users may continue to use the Third Party Software on a fully paid-up basis for the life of the Facility as contemplated hereunder. In the event that any such license to the Third-Party Software is revoked or terminated for reasons not related to actions by Owners in violation of the terms of this Software License, Consortium Members hereby agree, at their sole expense, to either modify the Software so that it is no longer dependent upon such Third-Party Software or obtain the right to use and sublicense other software that is functionally equivalent in all material respects to such Third-Party Software such that the Permitted Users may continue to use the Software as contemplated by this Software License.

(e) Other Computer Programs. Nothing in the Agreement shall prohibit the Permitted Users from using the Equipment to run computer programs other than the Software or from using the Equipment for purposes other than operation of the Facility, it being understood that Consortium Members shall not be responsible for any failure of the Software or Equipment as a result of such activities, or from loading such computer programs on, or removing such computer programs from, the Facility.

3. **Delivery, Installation and Acceptance of the Software.** Consortium Members shall deliver, install and test the Software and Configuration Data, and subject to the representations and warranties herein, Owners shall accept the Software and Configuration Data, in accordance with the Project Schedule.

4. **Representations and Warranties.** Consortium Members represent and warrant the following:

(a) Licensing Rights. At least one of the Consortium Members own all rights, title and interest in and to the Software, Software Documentation and training materials, excluding Third-Party Software not imbedded in the Software developed by the Consortium Members and associated documentation and training materials, or otherwise has the legal right to transfer, grant, sublicense, or, for Third-Party Software, pass-through the rights and the licenses in the foregoing that are provided herein. For pass-through rights, Third-Party Software and associated documentation and training materials shall be licensed directly from the Third-Party Software developer to Owners as end user for the Permitted Use.

(b) Software Performance. During the Standard Equipment Warranty Period for a Unit (herein, the "Software Warranty Period"), the Software and Configuration Data shall: (i) be compatible with and capable of operating as represented by Consortium in conjunction with other software and hardware if indicated in the Software Documentation or if recommended by Consortium Members; and (ii) conform to and perform as represented by Consortium without

material errors or interruption and in accordance with the Software Documentation. Consortium Members shall, within a commercially reasonable time period and at no additional charge, correct any defect, nonconformity, incompatibility, or other condition that breaches the foregoing warranty, and repair, replace or maintain the Software in compliance with the standards set forth herein. If Consortium Members are unable to correct any defective or nonconforming Software, Consortium Members shall replace such Software without charge. If Consortium Members are unable to correct or replace any defective or nonconforming Software, then Consortium Members may propose another commercially reasonable alternative remedy. Consortium Members shall not be liable for failure to meet the foregoing warranty if adaptations or modifications made to the Software by Owners or others without authorization or approval from Consortium Members are responsible for causing such failure. For purposes of this Section 4(b), Software shall exclude commodity software or commercial off-the-shelf software, commonly known as COTSS, such as Microsoft OS. Exhibit O-2 contains a list of such commodity software identified as of the Effective Date. Such Third Party Software shall be governed by the provisions of the specific Third Party Software licenses.

(c) Media. The media on which the Software, Configuration Data and Software Documentation are recorded shall be free from defects in material and workmanship for the Software Warranty Period set forth in (b) above. Consortium Members will, at no additional charge, replace any defective media.

(d) Intellectual Property. The Software will not infringe any patent, trademark, service mark, copyright, trade secret or other proprietary right of any Third Party.

5. **Intellectual Property Indemnity.**

(a) Consortium Members shall, at their own expense, indemnify, hold harmless, release, and defend Owners, their Affiliates or any of their respective Personnel from any and all losses, damages, penalties, costs, and expenses (including reasonable attorney's fees) caused by, arising from, or resulting from any claim, suit or proceeding brought against Owners to the extent based on an allegation that any Software created and supplied by Consortium Members, or any part thereof furnished hereunder, or use thereof for its intended purpose, constitutes an infringement of any claim of any patent, trademark, service mark, copyright or trade secret or other property right of any Third Party, if Consortium Members are notified promptly in writing and given authority, information, and assistance for the defense or settlement of said suit or proceeding. Owners may independently appear in any such infringement action at its option and its own expense only if Owners is paying Owners' defense costs. Owners shall not enter a settlement agreement, admission or the like that includes statements or terms that indicate that the Software infringes the intellectual property rights of others. Consortium Members will not be responsible for any settlement of such suit or proceeding made without its prior written consent. If the use of the Software developed by Consortium Members or any part thereof furnished hereunder, as a result of any such suit or proceeding is held to constitute infringement, and its use by Owners is enjoined, Consortium Members will, at their option and their own expense, either: (a) procure for Owners the right to continue using said Software or part thereof; (b) replace same with substantially equivalent noninfringing Software; or (c)

modify same so it becomes non-infringing, provided that the replacement or modification performance matches or exceeds the performance and functionality of the Software or part thereof. Consortium Members shall maintain the ability to unilaterally settle a suit when only monetary damages against Consortium Members are at issue.

(b) Notwithstanding the above, Consortium Members shall not compromise or settle any claim, action, suit or proceeding in which Owners are named without Owners' prior written consent, which consent shall not be unreasonably conditioned, delayed or withheld unless such settlement provides for the payment of money only by Consortium Members and provides for a full, complete and unconditional (other than ceasing use of the applicable Software) release of Owners and each Permitted User.

(c) Consortium Members will have no indemnity duty or obligation hereunder to the extent that the Software developed by Consortium Members and furnished hereunder is: (a) supplied pursuant to a design or drawing prepared by Owners wherein Consortium Members have deviated from their normal course of performance; (b) modified by Owners; or (c) combined by Owners with items not furnished hereunder, and solely as a result of said design, instruction, modification, or combination, a suit or proceeding is brought against Owners. In the event a suit or proceeding is brought against Consortium Members as a result of such Owners' actions not approved by Consortium Members, Owners will indemnify and save Consortium Members harmless to the same extent as Consortium Members have agreed to indemnify and save Owners harmless hereunder.

(d) This Section 5 is an exclusive statement relating to intellectual property indemnification regarding the Software developed by Consortium Members hereunder.

(e) Any indemnities associated with Third Party Software that is not imbedded in the Software developed by Consortium Members hereunder and regarding which Owners directly license or receive on a pass-through basis from a Third Party shall be governed by the terms of the license agreements associated with such Third Party Software. Where the Third Party Software not imbedded in the Software developed by Consortium members is directly licensed to the Owners by Third Parties, Consortium Members shall have no obligation to indemnify Owners for any claims of infringement related to the use by Owner of such Third Party Software.

6. Proprietary Rights.

(a) Except for the licenses granted herein, all rights, title and interests in and to the Base Software, Third-Party Software and Application Software (subject to Section 6(c) below, including without limitation, all applicable copyrights) shall remain and vest exclusively with Consortium Members or their licensors.

(b) All rights, title and interests in and to (i) any new material subject to copyright protection added to Application Software by Owners and (ii) the Configuration Data created by Owners, shall be exclusively owned by the Owners. Owners hereby grant Consortium Members a fully paid-up, royalty-free, non-exclusive, right and license to use such new material

added to Application Software and the Configuration Data upon terms and conditions as the Parties may agree; provided, however, that such right and license shall not continue upon the termination of the Agreement or of this License Agreement.

(c) All rights, title and interests in and to Configuration Data and any Application Software developed by Consortium Members for Owners during the execution of the Agreement shall be exclusively owned by Consortium Members. Consortium Members hereby grant Owners for an indefinite duration a fully paid-up, royalty-free, non-exclusive right and license to use the Configuration Data and such Application Software in support of the Facility.

(d) To the extent there are any conflicts between any of the provisions of this Article 6 and Article 19 of the Agreement, the provisions of this Article 6 shall take precedence.

7. **Assignment.** Neither Party shall be entitled to assign this Software License or its rights hereunder or to delegate or subcontract its obligations hereunder, in whole or in part, without the express written consent of the other Party hereto; provided, however, that this Software License may be assigned by the Owners to any agent, replacing Georgia Power Company as agent for the Owners, pursuant to the provisions of the Ownership Agreement; and provided further that any Owner shall be permitted to assign this Software License to another Owner or to an Affiliate, or to any Third Party in accordance with the Ownership Agreement, who is able to satisfy either the credit rating requirements set forth in Section 8.7 or provide the letter of credit or other acceptable collateral pursuant to Section 8.7, or to any Financing Parties for collateral purposes. Notwithstanding the above, assignment rights for Third-Party Software shall be subject to the terms of the associated Third-Party Software license and may require ratification by the Third-Party. Any assignment or transfer in violation of this Software License will be null and void. This Software License and the rights and obligations of either Party hereto will be binding upon and will inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

8. **Miscellaneous.**

(a) Applicable law. This Software License will be governed exclusively by and construed in accordance with the laws of the state of Georgia, without giving effect to those laws relating to conflict of laws.

(b) Waiver. No party will be deemed to have waived any provision of this Software License unless such waiver is made explicit in writing and signed by the party waiving such provision. No waiver will be deemed to be a continuing waiver unless so stated in writing.

(c) Amendment. No change, amendment, or modification of this Software License will be binding upon the parties unless such change, amendment, or modification is in writing and duly executed by the parties.

(d) Severability. If any one or more of the provisions in this Software License or any application of such provision is held to be invalid, illegal or unenforceable in any respect by a competent tribunal, the validity, legality and enforceability of the remaining provisions in this

Software License and all other applications of the remaining provisions shall not in any way be affected or impaired by such invalidity, illegality or unenforceability.

(e) Entire Agreement. This Software License contains the entire agreement of the parties and there are no oral or written representations, understandings or agreements between the parties respecting the subject matter of this Software License that are not expressed herein.

(f) Notice. All notices and other communications hereunder shall be in writing and shall be delivered in accordance with the notice provisions contained in the Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Software License as of the Effective Date.

GEORGIA POWER COMPANY, as an Owner and
as agent for the other Owners

By: _____
Name: Michael D. Garrett
Title: President and CEO

Attest: _____
Its:

(CORPORATE SEAL)

STONE & WEBSTER, INC.

By: _____
Name: J. M. Bernhard, Jr.,
Title: Authorized Representative

Attest: _____
Its:

(CORPORATE SEAL)

WESTINGHOUSE ELECTRIC COMPANY LLC

By: _____
Name: Stephen R. Tritch
Title: President and CEO

Attest: _____
Its:

(CORPORATE SEAL)