Pro Forma Power Purchase Agreement for Firm Capacity, Firm Energy, and Ancillary Services from a Combustion Turbine Facility for 2029–2031 All-Source Capacity Needs between Georgia Power Company and #SellerLegalName#

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Schedule of Defined Terms

This PPA uses the defined terms identified in this *Schedule of Defined Terms* or in the body of this PPA and the rules of construction identified in Section 20.17 (*Contract Interpretation*).

ACP: See *Annual Capacity Price*.

AC: Alternating current.

Affected System: An Electric System utility other than the Southern Company Transmission System or an electric facility owner whose facilities require additions, modifications, or upgrades that are necessary for safe and reliable operation of the Electric System during parallel operation of the Facility, other than those required due to GPC's designation of the Facility output to serve GPC's customers (i.e., to deliver the energy from the Point of Delivery to GPC's customers).

Affiliate: For any specific Person, any other Person directly or indirectly controlling, or controlled by or under common control with that Person. For purposes of this definition, "control" when used regarding any entity means the power to direct the management and policies of the entity, directly or indirectly, whether through the ownership of voting securities, by contract, or otherwise. For purposes of this PPA, it is assumed that a Person directly or indirectly owning 50% or more of the outstanding stock or other equity interest of another Person has "control" of that Person. The terms "controlling" and "controlled" have meanings correlative to "control."

After-Tax Basis: Regarding any payment received or deemed to have been received by any Person, the amount of the payment (i.e., the base payment) supplemented by a further payment (i.e., the additional payment) to that Person so that the sum of the base payment plus the additional payment will, after deduction of the amount of all Taxes required to be paid by the Person regarding the receipt or accrual of the base payment and the additional payment (taking into account any credits or deductions arising from the underlying loss, the base payment and the additional payment and the timing of the additional payment), be equal to the amount required to be received. The calculations will be made on the basis of the assumption that the recipient is subject to U.S. federal income taxation at the highest applicable statutory rate applicable to corporations for the relevant period or periods and is subject to state income taxation at the highest applicable statutory rates applicable to corporations in the relevant jurisdiction for the relevant period or periods.

AGC: See *Automatic Generation Control*.

AIER: See *Associated Interchange Energy Rate*.

Air Permit: Consent(s) pertaining to air emissions necessary for the performance of Seller's obligations under this PPA.

Air Permit Minimum Operating Hours Requirement: As specified in Exhibit A (*Facility Description and Additional Details*), the minimum Air Permit operating Hours requirement per calendar year throughout the Term, in accordance with the Air Permit operating limits described in the bid for the Unit.

Air Permit Threshold Date: The date by which Seller must obtain an Air Permit, as identified in Exhibit A-1 (*Key Milestones and Required Key Milestone Dates*).

Alternate Delivery: Delivery of capacity and energy from an Alternate Resource to an Alternate Delivery Point.

Alternate Delivery Point: Any point of interconnection between the Alternate Resource and the Electric System, or the point(s) of interface between the transmission system to which the Alternate Resource is interconnected and the Electric System: (i) at which GPC is capable of receiving energy in the quantity to be delivered at the point in accordance with the Southern OATT; (ii) from which GPC can obtain Firm Transmission Service to deliver all the energy from the applicable Alternate Resource from the point to serve GPC's native load customers at no additional cost to GPC or its customers; and (iii) from which GPC is able to transmit the energy to its load without being required to either materially change the output of generating resources available to GPC or materially change the schedule of its preexisting power purchases or sales (other than purchases or sales under this PPA) that results in material economic harm to GPC.

Alternate Resource: A generating resource, other than the Facility, that: (i) is connected to the Southern Company Transmission System, either directly or through other transmission systems; (ii) can be called on a first-call basis by Seller; and (iii) is reasonably reliable to meet GPC's Schedule, as determined in GPC's sole judgment.

Alternate Resource Delivery Unit Hours (ARDH): Defined in and determined in accordance with Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), Section 3.2 (*Calculation of Monthly Availability Percentage*).

Ancillary Services: All commercial products other than electrical output that are produced by or related to the Facility, including Electrical Products, Environmental Attributes, any other environmental or regulatory credits or allowances resulting from operation of the Facility, and any other benefit GPC otherwise would have realized from or related to the Facility if GPC rather than Seller had constructed, owned, or operated the Facility, it being the Parties' intent that all the benefits and entitlements in addition to electrical output that flow to the owner or operator of the Facility, whether existing as of the Effective Date or at any time during the Term, belong to GPC at no additional cost to GPC. However, if a commercial product is not produced by the Facility, Seller will not be required to acquire the commercial product in the market to comply with this PPA. Ancillary Services do not include: (i) any federal, state, or local tax attribute arising from ownership of the Facility, including any investment tax credit (ITC), production tax credit (PTC), or depreciation deduction; (ii) grant in lieu of ITC or any similar financial payment or grant regarding the Facility or the metered electric energy output from the Facility; or (iii) the metered electric energy produced by the Facility.

Annual Capacity Price (ACP): The annual price to be paid by GPC to Seller for GPC's purchase of the Facility's capacity and energy, as set forth in Section 1.5 (*Capacity Pricing*) in Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*).

Annual Period: Any one of a succession of consecutive 12-Month periods during the Term beginning on December 1st and ending on the following November 30th, except that the first Annual Period will begin on the Delivery Commencement Date and end the immediately following November 30th.

ASC: The FASB Accounting Standards Codification.

ASME Performance Test Code: The rules and regulations established by the American Society of Mechanical Engineers to govern Performance Tests applicable to the Unit under this PPA.

Associated Interchange Energy Rate (AIER): As determined for each Hour, the variable dispatch cost of the incremental resources that serve the collective obligations of the Southern Companies.

Automatic Generation Control (AGC): The equipment and capability of a unit to automatically adjust energy output within the applicable balancing authority for purposes of interchange balancing, and specifically, the Unit's capability to accept a set point electronically and the automatic adjustment and regulation of the Unit's energy output to meet that set point.

Availability Percentage: Defined in Section 16.1.8 (*Failure to Maintain Availability Percentage*).

Available: All times following the Delivery Commencement Date when the Unit or an Alternate Resource (designated in accordance with Section 4.1.4 (*Unavailability*)), as applicable, is not Unavailable.

Banking Day: Any Day on which banking institutions in Atlanta, Georgia are open.

Base Operating Mode: The normal operating mode at which each Unit runs with full normal utilization of the CT.

Base Operating Mode Energy: Energy each Unit produced in Base Operating Mode.

Business Day: Any Day excluding Saturday, Sunday, and NERC-defined holidays.

Capacity Shortfall: For any period of 30 consecutive Days, the Unit's average output, adjusted to Reference Conditions and excluding ramping, is less than Designated Capacity.

Central Prevailing Time (CPT): The time in the central time zone of the United States, considering daylight savings time if it is in effect (i.e., Central Standard Time (CST) or Central Daylight Time (CDT), as applicable).

Change of Control Transaction: Regarding a Person, any transaction or series of related transactions that, if consummated, would result in the Person being an Affiliate of another ultimate parent entity immediately after the transaction. For purposes of this definition, a Person's ultimate parent entity is the Person who directly or indirectly controls 50% or more of such Person's outstanding capital stock or other equity interests having ordinary voting power and who does not itself have an ultimate parent entity.

Change of Law: Defined in Section 17.2 (*Change of Law*).

Change of Law Capital Expenditures: Defined in Section 17.2 (*Change of Law*).

Change of Law Notice: Defined in Section 17.2.1 (*Notice and Periodic Updates*).

Claim: Any loss, damage, cost, expense, or liability (on an After-Tax Basis) for any damage or claim (including any demand, suit, settlement, judgment, penalty, fine, proceeding, or action of any kind) for: (i) personal or bodily injury (including death); (ii) property damage (including loss of use); (iii) defects; (iv) infringement; (v) monetary

damage or expense; or (vi) equitable relief, including all Claim expenses (e.g., actual attorneys' fees reasonably incurred; investigation, defense, litigation, court, arbitration, or mediation costs; and expert, consultant, arbitrator, or mediator fees or expenses and bond expense).

Commercial Operation: The Facility's ability to meet the requirements of Section 7.1.3 (*Commercial Operation*) on a reliable basis.

Commercial Operation Date (COD): The date the Facility achieves Commercial Operation.

Commission: The Georgia Public Service Commission, or any Governmental Authority succeeding to the powers and functions of the Commission.

Commission Certificate: A Certificate of Public Convenience and Necessity issued by the Commission.

Commission Certificate Target Date: The date that is 250 Days after the date GPC requests a Commission Certificate for this PPA.

Confidential Information: Business or technical information rightfully in the possession of either Party that derives actual or potential commercial value from not being generally known or readily ascertainable through independent development or reverse engineering by Person(s) who can obtain economic value from its disclosure or use, including information furnished or disclosed by the disclosing Party or another Person on behalf of the disclosing Party to the other Party in connection with discussions leading up to execution of this PPA, including this PPA. Seller must designate Confidential Information as confidential in writing on each page of a document contemporaneously with Seller's supply of the information. Confidential Information does not include information that: (i) is or becomes publicly available other than because of a violation of this PPA; (ii) was, at the time of the disclosure, already in the receiving Party's possession; (iii) is disclosed to the receiving Party by a third party who, to the receiving Party's knowledge, is not prohibited from disclosing the information under any agreement with the disclosing Party; (iv) the receiving Party develops or derives without the aid, application or use of the privileged or proprietary information; or (v) the receiving Party is required to disclose in accordance with applicable law.

Consent: Any approval, consent, authorization, or other applicable requirement that is required regarding the Project, Unit, or Facility from any Governmental Authority, including all applicable environmental certificates, licenses, permits, and approvals, and any federal or state compliance program that GPC is or becomes subject to at any time during the Term.

Contracted Capacity: The full capacity range of the Unit (in MW) being made available to GPC in accordance with this PPA, as specified in Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), Section 1.1 (*Contracted Capacity Cap; Contracted Capacity Range*).

Contracted Capacity Cap: Defined in, and determined in accordance with, Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), Section 1.1 (*Contracted Capacity Cap; Contracted Capacity Range*).

CPT: See *Central Prevailing Time*.

Creditworthy or Creditworthiness: A Person: (i) with an investment grade rating from at least two of the Rating Agencies, such that its senior unsecured debt (or issuer rating if the Person has no senior unsecured debt rating) is rated at least (a) BBB- by S&P, if rated by S&P; (b) Baa3 by Moody's, if rated by Moody's; and (c) BBB- by Fitch, if rated by Fitch, respectively; and (ii) that has satisfactory and verifiable creditworthiness determined in GPC's sole discretion.

CT: Combustion turbine.

Current Unit: Defined in Section 4.4.1 (*Current Unit Replacement with Substitute Unit*).

Daily Fuel Oil Replacement Price: Price per gallon issued by the Oil Price Information Service (OPIS) for low sulfur #2 dyed average price for the location specified in Exhibit A (*Facility Description and Additional Details*), plus any applicable transportation charges to the Facility. The Operating Committee establishes the procedures and methodology that Seller shall use for determining the Fuel Oil transportation charges.

Day: Any calendar day, including Saturday, Sunday, or a holiday.

Delivered Energy: For any Hour, the quantity of energy (expressed in MWh) delivered by Seller to the Point of Delivery or Alternate Delivery Point, as applicable, in accordance with GPC's Schedule, excluding test energy and including ramp energy delivered to GPC at the Point of Delivery.

Delivery Commencement Date: The Commercial Operation Date, except that the Delivery Commencement Date may not be more than nine Months before the Required Commercial Operation Date. If Commercial Operation occurs more than nine Months before the Required Commercial Operation Date, the Delivery Commencement Date will be the date that is nine months before RCOD as specified in Exhibit A (*Facility Description and Additional Details*). **[NOTE TO BIDDERS: For any Month before the Delivery Commencement Date, Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*) provides that Monthly Capacity Payments are not owed to Seller, and Monthly Energy Payments are as set forth in Exhibit C (*Energy Payment Calculation*).]**

Designated Capacity: Defined in, and determined in accordance with, Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), Section 1.3. (*Designated Capacity*).

Eastern Time (ET): The time in the easternmost time zone of the United States, considering daylight savings time if it is in effect (i.e., Eastern Standard Time (EST) or Eastern Daylight Time (EDT), as applicable).

Effective Date: The date of full execution of this PPA, which will be the date on which GPC signs this PPA, as shown on the signature page.

Electric System: The network of electric generation, transmission, or distribution facilities owned or operated by GPC or other electric utilities.

Electrical Products: All electrical products produced by or related to the Unit, including spinning reserves, operating reserves, black start capability, balancing energy, regulation service, ramping capability, reactive power and voltage control, frequency control, and other ancillary or essential reliability service products. Electrical Products also include any benefit GPC otherwise would have realized from or related to the Unit if GPC, rather than Seller, had constructed, owned, or operated the Unit, it being the Parties' intent that all those benefits and entitlements, in addition to electrical output, that flow from construction, ownership, or operation of the Unit, whether existing as of the Effective Date or at any time during the Term, will belong to GPC, at no additional cost to GPC. Electrical Products do not include: (i) any federal, state, or local tax attribute arising from ownership of the Unit, including any investment tax credit (ITC), production tax credit (PTC), or depreciation deduction; (ii) any grant in lieu of ITC or any similar financial payment or grant regarding the Unit or the metered electric energy output; or (iii) the metered electric energy produced by the Unit.

Eligible Collateral: Either: (i) a Letter of Credit, (ii) cash deposited into a GPC Security Account by Seller, or (iii) a Seller Guaranty. However, at least 50% of any Eligible Collateral required under any provision of this PPA must be in the form of either a Letter of Credit or cash deposited into a GPC Security Account, whenever a Seller Guarantor supplying a Seller Guaranty under this PPA has an investment grade rating such that its senior unsecured debt (or issuer rating if such Person has no senior unsecured debt rating) is not rated at least: (a) BBB by S&P, if rated by S&P, (b) Baa2 by Moody's, if rated by Moody's, and (c) BBB by Fitch, if rated by Fitch, respectively. For the purposes of the immediately preceding sentence, a Person is not required to have a senior unsecured debt rating (or issuer rating if such Person has no senior unsecured debt rating) from each of S&P, Moody's and Fitch, but must have the requisite senior unsecured debt rating (or issuer rating if such Person has no senior unsecured debt rating) as set forth above from at least two of the three Rating Agencies.

Energy Price: Defined in, and determined in accordance with, Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*) Section 4.1 (*Calculation of Replacement Costs*).

Environmental Attributes: Either: (i) all fuel-related, emissions-related, air quality-related, or other environmental-related aspects, claims, characteristics, benefits, credits (including RECs), reductions, offsets, savings, allowances, efficiencies, certificates, tags, attributes, demand reductions, or similar products or rights (including all of those relating to greenhouse gases and all green certificates, green tags, renewable certificates, RECs, CO2 credits, and emission reduction credits, and all those that otherwise arise or result from the generation of energy from the Unit, and all those arising or resulting from the existence of the Unit): (a) howsoever titled and whether known or unknown; (b) whether existing as of the Effective Date or at any time during the Term; and (c) whether the Environmental Attributes have been certified or verified under any renewable standard, including all those that could qualify or do qualify for application toward compliance with any local, state, federal or international renewable energy portfolio standard, green pricing program, renewable energy program, carbon reduction or greenhouse gas reduction initiative, electricity savings program, or other environmental program, incentive, mandate, or objective, in each case whether voluntary or mandatory; or (ii) all environmental benefits GPC otherwise would have realized from or related to the Unit if GPC rather than Seller had constructed, owned, or operated the Unit, as applicable.. Environmental Attributes do not include: (I) any federal, state, or local tax attribute arising from ownership of the Unit, including any investment tax credit (ITC), production tax credit (PTC),

or depreciation deduction; (II) any grant in lieu of ITC or any similar financial payment or grant regarding the Unit or the metered electric energy output from the Unit; or (III) the metered electric energy produced by the Unit.

Environmental Law: Any applicable law that relates to pollution, occupational safety, protection of occupational health, or the protection of the environment, including; (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq; (b) the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; (c) the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; (d) the Clean Air Act, 42 U.S.C. § 7401 et seq.; (e) the Hazardous Materials Transportation Authorization Act of 1994, 49 U.S.C. § 5101 et seq.; (f) the Toxic Substances Control Act, 15 U.S.C. §§ 2601 through 2629; (g) the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; (h) the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; (i) the Safe Drinking Water Act, 42 U.S.C. §§ 300f through 300j; (j) the Federal Insecticide, Fungicide, & Rodenticide Act, 7 U.S.C. § 136 et seq.; (k) the Endangered Species Act, 16 U.S.C. § 1531 et seq.; (l) the Clean Water Act, 33 U.S.C. § 1251 et seq.; (m) National Environmental Policy Act, 42 U.S.C. § 55 et seq.; (n) the Migratory Bird Treaty Act, 16 U.S.C. § 703 et seq.; (o) the Bald and Golden Eagle Protection Act; (p) Archeological Resources Protection Act, 16 U.S.C. § 470aa et seq.; (q) National Historic Preservation Act, 54 U.S.C. § 300101 et seq.; and (s) state or local equivalents to items (a) through (q). However, the term "Environmental Law" will not include any law relating to worker health or safety matters to the extent not related to human exposure to hazardous or toxic materials, wastes, or substances.

EPA: The U.S. Environmental Protection Agency.

Equivalent Unplanned (Forced) Derated Unit Hours (EFDH): Defined in, and determined in accordance with, Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), Section 3.2 (*Calculation of Monthly Availability Percentage*).

ET: See *Eastern Time*.

Event of Default: A Party's failure to perform or comply with a material PPA term or condition, as further described in Section 16.1 (*Default by Seller*) for Seller and in Section 16.2 (*Default by GPC*) for GPC.

Extended FME: Suspension of performance due to a Force Majeure Event that will continue for a period of six Months or longer following the initial suspension of performance resulting from the Force Majeure Event.

Facility: The CT(s) at Seller's electric generating plant, interconnected to the Electric System at the POI, as further described in Exhibit A (*Facility Description and Additional Details*). However, in accordance with Section 4.4 (*Substitution of a Unit at the Site*), a Current Unit may be substituted for a Substitute Unit.

FASB: Financial Accounting Standards Board.

Federal Power Act: The Federal Power Act, 16 U.S.C. § § 791a *et seq.* (1994), as amended from time to time, and any successor statute of similar import.

FERC: The Federal Energy Regulatory Commission, or any Governmental Authority succeeding to the powers or functions of FERC.

Finance Lease: As defined in ASC Topic 842, Leases, as issued and modified from time to time by FASB.

Firm Transmission Service: Transmission service that has: (i) been procured and is held by Seller under the applicable open access transmission tariff on each applicable Electric System for the delivery of energy from the Facility or Alternate Resource to the POD; and (ii) a priority equal to the highest level of firm transmission service available to any Person on that Electric System from the COD and through the Term.

Fitch: Fitch Ratings Ltd. or its successor. If Fitch ceases to exist or publish ratings, Fitch will mean a nationally recognized rating agency mutually agreed upon by the Parties.

Force Majeure Event (FME): Defined in Section 15.1 (*Definition of Force Majeure Event*).

Force Majeure Remedy Plan: A remedy plan as required under Section 15.7 (*Extended FME*).

Forced Derate: A time during which the generating capability of a Unit is reduced below the Designated Capacity for the Unit for reasons other than a Force Majeure Event and that is not a Scheduled Outage, Maintenance Outage, or Forced Outage.

Forced Outage: A time during which the Unit is wholly Unavailable for reasons other than a Force Majeure Event and that is not a Scheduled Outage or a Maintenance Outage.

Fuel Oil: Ultra low sulfur No. 2 fuel oil that satisfies the Colonial Pipeline Company Product Specifications for

Fungible 15 ppm Sulfur Diesel Fuel/Heating Oil (GRADES 61, 62, 63 and 67), or more restrictive, specifications for fuel oil included in the Air Permit, as required by applicable laws, and containing no more than 0.017 weight percent fuel bound nitrogen..

GAAP: Generally accepted accounting principles issued by the Financial Accounting Standards Board (FASB), as modified from time to time.

Gas Day: The time period established by the applicable standards of the North American Energy Standards Board ("NAESB") (or successor standards) for a "gas day", which as of the Effective Date is from 9:00 a.m. CPT on one Day until 9:00 a.m. CPT the next Day as set forth in NAESB Wholesale Gas Quadrant Standard No. 1.3.1, as the same may change from time to time.

Gas Delivery Point: The point of interconnection between the Facility and the #PipelineName pipeline serving the Facility, as specified in Exhibit A (*Facility Description and Additional Details*).

Gas Supply Plan: A gas supply plan for procuring and making available at the Gas Delivery Point the quantities of Natural Gas at the rates of delivery and at an allowable pressure as specified in Exhibit D (*Technical Limits and Schedule Procedures*) required to accommodate GPC's Scheduling Instructions.

GDPIPD: The Gross Domestic Product Implicit Price Deflator as reported in the *Survey of Current Business* published in January of each year for the annual escalation or de-escalation of the previous year, and subsequently revised, by the Bureau of Economic Analysis, United States Department of Commerce.

Georgia Integrated Transmission System (Georgia ITS): The Georgia Integrated Transmission System, which is owned individually by GPC, Georgia Transmission Corporation, Municipal Electric Authority of Georgia, or Dalton Utilities, and operated as an integrated transmission system for transmitting, receiving, or distributing electric energy or capacity.

GHG: See *Greenhouse Gas*.

GHG Cap: The product of: (i) GHG Rate; *times* (ii) the quantity of fuel required to comply with GPC's Scheduling Instructions.

GHG Charges: Any Taxes imposed on the Unit or Seller by a Governmental Authority under a New GHG Law for Greenhouse Gas emitted by and attributable to the Unit after the Delivery Commencement Date and prior to the end of the Term.

GHG Credits: Any instrument, credit, offset, allowance, or similar right to emit Greenhouse Gas issued by a Governmental Authority in accordance with applicable laws or any revenues that are allocated to or received by any Person or generating facility associated with any GHG emissions or the avoidance of or reduction in the production of GHG emissions.

GHG Rate: The GHG rates specified in Exhibit A (*Facility Description and Additional Details*).

Governmental Authority: As applicable to the specific Party, facility, or event, any federal, state, or local governmental or regulatory authority, administrative agency, commission, department, board, or court that has jurisdiction over that Party, the Unit, or the subject matter of this PPA, but excluding any federal, state, or local governmental or regulatory authority, administrative agency, commission, department, board, or other such entity acting in a capacity as lender, guarantor, or mortgagee.

GPC-Related Party: Each of GPC, Southern Company, and their Affiliates, and the officers, directors, employees, representatives, and agents of each of them.

GPC Security Account: An account designated by GPC for the benefit of GPC, under the exclusive control of GPC and free of any lien (including the lien of any lender) of any Person or entity other than GPC. Any GPC Security Account will be established and maintained at the expense of Seller and held by a depositary bank acceptable to GPC under a control agreement in form and substance acceptable to GPC.

GPC System Incremental Cost: Defined in Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), Section 4.1 (*Calculation of Replacement Costs*).

Greenhouse Gas (GHG): Carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), sulfur hexafluoride (SF_6), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), or other gases or emissions classified as a greenhouse gas contributing to the greenhouse effect.

Grid Emergency: Defined in the IA.

Guaranteed Heat Rates: Guaranteed heat rates set forth in Exhibit F (*Guaranteed Heat Rates*).

Hot Gas Path Inspection: The hot gas path inspection as defined by the maintenance documents of the original equipment manufacturer.

Hour: One of the 24 clock-hours of a Day. "**Hourly**" has a meaning correlative to that of Hour.

IA: See *Interconnection Agreement*.

Imbalance Charges: Any imbalances or other penalties or charges from transporters or suppliers of Natural Gas delivered to the Unit.

Indebtedness: For any Person, each of the following, without duplication: (i) obligations of the Person for borrowed money evidenced by bonds, debentures, notes, loan agreements, or other similar instruments; (ii) purchase money indebtedness of the Person constituting an obligation to pay the deferred purchase price of property or services, other than trade payables incurred in the ordinary course of business; (iii) lease obligations of the Person that are capitalized on the balance sheet of the Person in accordance with GAAP; (iv) liabilities of a second Person secured by any lien on any property of the first Person, whether or not the liabilities have been assumed by the first Person; (v) liabilities of the Person regarding letters of credit, applications, or reimbursement agreements for the liabilities; (vi) net obligations of the Person under any swap or hedging agreement; or (vii) indebtedness of the Person owing under direct or indirect guarantees of indebtedness of any other Person or constituting obligations to purchase, acquire, or otherwise protect or insure a creditor against loss regarding indebtedness of any other Person, excluding endorsements of negotiable instruments for deposit or collection in the ordinary course of business.

Initial Synchronization Date: The date that includes the first instant in time when energy generated by the Facility is delivered to the POI in accordance with the IA.

Interconnection Agreement (IA): The agreement, entered into[or to be entered into] between Seller and Interconnection Provider, in accordance with Section 8.1 (*Interconnection*), that provides for construction and operation of Interconnection Facilities and governs the interconnection and parallel operation of the Facility with the Electric System.

Interconnection Facilities: The facilities described in the IA that: (i) must be installed or modified to enable the Facility to deliver the Contracted Capacity and associated energy; (ii) are owned by the Interconnection Provider; and (iii) are necessary to provide the physical electrical connection between the Facility and the Electric System.

Interconnection Limit: The maximum output amount of energy allowed by the IA.

Interconnection Provider: The owner or operator of the Electric System responsible for providing transmission interconnection service to the Facility.

Interconnection Study: A study by the Facility's Interconnection Provider in which the provider studies the Facility's potential impact on the Electric System to determine necessary Interconnection Facilities and Electric System improvements or Affected System upgrades, the estimated related costs, and the schedule of construction, for purposes of entering into an IA or amending an existing IA.

Interconnection Study Agreement: An agreement between Seller and the Facility's Interconnection Provider under which the Interconnection Provider performs the Interconnection Study.

Interest Rate: Interest per annum equal to the prime rate as published in *The Wall Street Journal*, or comparable successor publication, under "Money Rates," as applied daily and compounded quarterly.

Key Milestones: Each of the milestones identified in Exhibit A-1 (*Key Milestones and Required Key Milestone Dates*).

Key Milestone Date: Each of the dates identified in Exhibit A-1 (*Key Milestones and Required Key Milestone Dates*) as the date by which Seller guarantees the corresponding Key Milestone will be achieved.

kV: Kilovolt(s).

kW: Kilowatt(s) (AC).

kWh: Kilowatt-hour(s) (AC).

Letter of Credit: An irrevocable standby letter of credit that is: (i) substantially in the form set forth in Exhibit H (*Form of Standby Letter of Credit*); (ii) issued by a U.S. commercial bank or a U.S. branch of a foreign bank: (a) with total assets of at least ten billion dollars ($10,000,000,000.00) and having a general long-term senior

unsecured debt rating of: (I) A minus or higher as rated by S&P; (II) A3 or higher as rated by Moody's; or (III) A minus or higher as rated by Fitch; and (iii) that is acceptable to GPC in GPC's sole discretion.

MAA: See *Monthly Availability Adjustment*.

MAF: See *Monthly Availability Factor*.

Maintenance Outage: A planned interruption of a portion or all of the Facility's generation capability that: (i) has been coordinated in advance with GPC with a mutually agreed start date, time and duration or to which GPC has consented in accordance with Section 10.2.2 (*Maintenance Outages*); and (ii) is for the purpose of performing work on specific components of the Facility that would limit the power output of the Facility but should not, in the reasonable judgment of Seller, be postponed until the next Scheduled Outage.

Maintenance Schedule: Seller's maintenance schedule, including the scope of the maintenance and outage plans for the Facility that conforms to Prudent Industry Practices for similar equipment, including in terms of frequency and duration. Upon GPC's approval, the Maintenance Schedule establishes Scheduled Outages.

Major Inspection: Major inspection as defined by the maintenance documents of the original equipment manufacturer.

MAP: See *Monthly Availability Percentage*.

Material Adverse Change: Seller or, if Seller is providing Eligible Collateral in the form of a Guaranty, Guarantor experiences any of the following conditions: (i) Seller or Guarantor is no longer Creditworthy; or (ii) the maturity of any Indebtedness of Seller or Guarantor that in the aggregate exceeds fifty million dollars ($50,000,000.00) or 3% of equity, whichever is less, is accelerated by the holder or holders of the Indebtedness because of a Seller or Guarantor default regarding the Indebtedness.

Maximum Ramp Rate: The maximum ramp rate listed in Exhibit D (*Technical Limits and Schedule Procedures*), Section 1.3 (*Maximum Ramp Rates*).

MCF: See *Monthly Capacity Fee*.

MCP: See *Monthly Capacity Payment*.

MEP: See *Monthly Energy Payment.*

Metering System: All meters, metering devices and related instruments used to measure and record electric energy and to determine the amount of energy that is being made available or delivered to the POI and for the other purposes set forth in Section 8.2 (*Metering and Telemetry*).

MFC: See *Monthly Fuel Charge*.

MH: See *Monthly Hours*.

Milestone Schedule: A schedule containing, at a minimum, Key Milestones and other significant milestones related to Facility design, Unit design, engineering, procurement, notice to proceed, construction, Initial Synchronization Date, testing, startup, anticipated COD, and any interconnection or transmission service studies that GPC may reasonably request.

Minimum Capacity: The minimum level that the Unit can remain operationally stable and in compliance with permitted emissions limits.

MMBtu: One million British thermal units. One MMBtu is equivalent to one dekatherm.

Month: A calendar month, commencing at the beginning of the first Day of such calendar month. "**Monthly**" has a meaning correlative to that of Month.

Monthly Availability Adjustment (MAA): Defined in, and determined in accordance with, Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), Part 3 (*Monthly Availability Adjustment*).

Monthly Availability Factor (MAF): Defined in, and determined in accordance with, Table B-4 (*Monthly Availability Factor*) in Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*).

Monthly Availability Percentage (MAP): Defined in, and determined in accordance with Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), Part 3 (*Monthly Availability Adjustment*).

Monthly Capacity Fee (MCF): Defined in, and determined in accordance with, Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), Section 3.1 (*Calculation* of *Monthly Capacity Payment*).

Monthly Capacity Payment (MCP): Defined in, and determined in accordance with, Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), Part 2 (*Monthly Capacity Payment*).

Monthly Energy Payment (MEP): Defined in, and determined in accordance with, Exhibit C (*Energy Payment Calculation*), Part 1 (*Monthly Energy Payment*).

Monthly Fuel Charge (MFC): Defined in, and determined in accordance with, Exhibit C (*Energy Payment Calculation*), Part 1 (*Monthly Energy Payment*) and Section 1.5 (*Monthly Fuel Charge*).

Monthly Hours (MH): The total Hours during the applicable Month.

Monthly Invoice: As defined in Section 5.1 (*Capacity and Energy Billing and Payment*).

Monthly Startup Charge (MSC): Defined in, and determined in accordance with, Exhibit C (*Energy Payment Calculation*), Section 1.3 (*Monthly Startup Charges (MSC)*).

Monthly Value Factor (MVF): For a given Month, the factor value determined in accordance with Table B-3 (*Monthly Value Factor*) in Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*)**.**

Moody's: Moody's Investors Service, Inc. or its successor. If Moody's ceases to exist or publish ratings, Moody's will mean a nationally recognized rating agency mutually agreed upon by the Parties.

MSC: See *Monthly Startup Charge*.

MVF: See *Monthly Value Factor*.

MVOM: Defined in, and determined in accordance with, Exhibit C (*Energy Payment Calculation*), Section 1.2 (*Monthly Variable O&M (MVOM) Charges*).

MW: Megawatt (AC).

MWh: Megawatt-hour(s) (AC).

Natural Gas: A mixture of hydrocarbon gasses that occurs with petroleum deposits, principally methane, together with varying quantities of ethane, propane, butane, or other gases, but excluding manufactured or artificial gas.

NERC: The North American Electric Reliability Corporation, including any successor and subdivisions.

Network Resource: As defined in the Southern OATT, including any successor term.

New GHG Law: An applicable law enacted after the Effective Date that imposes GHG Charges as a direct result of the Unit's generation of electric energy.

Nominal Capability: The values (in MW) stated in Exhibit A (*Facility Description and Additional Details*).

NOx: Nitrogen oxides.

NOx Allowances: Allowances for NOx Emissions that are allocated to or for the Unit, or for which Seller otherwise receives a grant from any Governmental Authority or in accordance with any applicable law or Consent, including through any type of state or federal set-aside program, for the calendar years covered, in whole or in part, by the Annual Periods.

NOx Emissions: Emissions of NOx.

OASIS: Southern Company's Open Access Same-Time Information System web site (located at https://www.oasis.oati.com/SOCO).

Operating Committee: The committee established in accordance with Section 10.7 (*Operating Committee*).

Operating Procedures: Procedures developed by the Parties in accordance with Section 10.1.2 (*Written Operating Procedures*).

Operating Representatives: Those individuals appointed by each of the Parties to the Operating Committee in accordance with Section 10.7 (*Operating Committee*).

Party or Parties: Either GPC or Seller or both.

Performance Security: Security in the form of Eligible Collateral that Seller must deliver to GPC to secure Seller's due performance of Seller's PPA obligations, as required under Section 6.1 (*Performance Security*) and Exhibit F (*Performance Security*).

Performance Test: A performance test conducted in accordance with the procedures set forth in Exhibit E (*Performance Testing Procedures*). Performance Testing has a meaning correlative to that of Performance Test.

Person: Any natural person, corporation, limited liability company, general partnership, limited partnership, proprietorship, other business organization, trust, union, association, or Governmental Authority.

Point of Delivery (POD): Either: (i) the POI or Alternate Delivery Point, if the Facility or Alternate Resource (in accordance with Section 4.1.4 (*Unavailability*)) is interconnected to the STT; or (ii) the selected Southern Transmission Interface if the Facility or Alternate Resource is interconnected to an Electric System outside the SBAA. For a Facility interconnected to an Electric System outside the SBAA, the selected Southern Transmission Interface is identified in Exhibit A (*Facility Description and Additional Details*).

Point of Interconnection (POI): The point at which the Facility is interconnected to the Electric System, as defined in the IA.

PPA: This Power Purchase Agreement for Firm Capacity, Firm Energy, and Ancillary Services from a Combustion Turbine at the Facility name specified in Exhibit A (*Facility Description and Additional Details*) between GPC and Seller.

Primary Beneficiary: As defined in FASB ASC Topic 810 (*Consolidation*), as issued and modified from time to time by FASB.

Project: The design, engineering, construction, testing, and commissioning of the Unit or Facility and, as applicable, the ownership, operation, management, and maintenance of the Unit or Facility, all of which being reasonably expected to enable Seller to fulfill its obligations under this PPA.

Prudent Industry Practices: Any of the practices, methods, standards, or acts engaged in or approved by a significant portion of the electric power industry in the United States that, at a particular time, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known when a decision was made, could have been expected to accomplish the desired result, consistent with good business practices, reliability, economy, safety, and expedition. Prudent Industry Practices are not intended to be limited to the optimum practices, methods, or acts to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the United States electric power industry having due regard for, among other things, manufacturers' warranties, applicable law, and, as applicable, requirements of this PPA.

Rating Agency: The rating entities of S&P, Moody's, or Fitch. If any Rating Agency ceases to exist or publish ratings, the Rating Agency will be replaced under this PPA with a nationally recognized rating agency mutually agreed upon by the Parties.

RCOD: See *Required Commercial Operation Date*.

Reference Conditions: Reference Conditions of: (i) either: (a) 95°F, 45% relative humidity for Summer Seasonal Period; or (b) 40°F, 75% relative humidity for Winter Seasonal Period; and (ii) average barometric pressure at the site at the reference temperature and relative humidity, and the maximum reactive power obligation as specified in the IA.

Replacement Costs: Defined, and determined in accordance with, Exhibit B (*Capacity; Capacity Payment and Payment Reductions; Buydown*), Part 4 (*Calculation of Replacement Costs*).

Replacement Price: Defined in and determined in accordance with Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), Part 4 (*Calculation of Replacement Costs*).

Representative: When used regarding a Person, collectively or individually (as the context indicates), the Person, its Affiliates, and any permitted successor or assign, and the directors, officers, employees, representatives, consultants, attorneys, agents, bankers, insurers, financiers, accountants, contractors, or subcontractors of each of them.

Required Commercial Operation Date (RCOD): The date by which the Facility must obtain Commercial Operation, which is the date specified in Exhibit A (*Facility Description and Additional Details*), subject to any extension of such date in accordance with Section 7.4.6 (*Commercial Operation Delay Caused by GPC*) or Section 15.3.2 (*Extension of RCOD*).

S&P: Standard & Poor's Financial Services LLC, or its successor. If S&P ceases to exist or publish ratings, S&P will mean a nationally recognized rating agency mutually agreed upon by the Parties.

SBAA: See *Southern Balancing Authority Area*.

Schedule or Scheduling or Scheduling Instructions: Instructions issued by GPC from the Scheduling Center to Seller regarding the scheduling of the production of electricity by the Unit, or the delivery of energy from an Alternate Resource if applicable under Section 4.1.4 (*Unavailability*), in accordance with Part 12 (*Energy Scheduling and Transmission*) and Exhibit D (*Technical Limits and Schedule Procedures*), including signals provided through AGC and including all instructions.

Scheduled Energy: Either: (i) the amount of energy Seller delivers from the Unit each Hour for operation on Natural Gas (in accordance with GPC's Schedules) including energy produced during Facility ramping; or (ii) energy delivered from an Alternate Resource when the Unit would have been dispatched on Natural Gas in a Month.

Scheduled Outage: An outage (whole or partial) scheduled in the final, approved Maintenance Schedule, or any outage approved by GPC to be added to the Maintenance Schedule after submission.

Scheduling Center: The scheduling center designated by GPC in writing as being the primary control point for Scheduling Instructions and other notifications provided in accordance with Part 12 (*Energy Scheduling and Transmission*) and Exhibit D (*Technical Limits and Schedule Procedures*), Part 2 (*Schedule Procedures*), as may be modified during the Term. There may only be one Scheduling Center designated at any one time.

SCS: Southern Company Services, Inc., an Affiliate of GPC that performs services as agent for GPC.

Seasonal Performance Period (SPP): One of the following periods during each Annual Period: (i) Summer (June through September); (ii) Fall (October and November); (iii) Winter (December through February); or (iv) Spring (March through May).

Seller: The counterparty to GPC in this PPA, as specified in the preamble.

Seller Entity: Each of Seller or any Affiliate, contractor, supplier, contractual party, or customer, or an officer, director, employee, representative, or agent of one of them.

Seller Guarantor: A Person that, at the time of execution and delivery of its Guaranty: (i) is either: (a) an Affiliate of Seller; or (b) otherwise an entity acceptable to GPC; and (ii) is Creditworthy.

Seller Guaranty: A guaranty provided by the Seller Guarantor that is substantially in the form of the guaranty attached as Exhibit G (*Form of Guaranty*).

SERC: The Southeastern Electric Reliability Corporation, including any successor.

Site: The physical location (i.e., real property) where the Facility is or will be located, as described in Exhibit A (*Facility Description and Additional Details*).

SO_2 Allowances: Allowances for SO_2 Emissions that are allocated to or for the Unit, or for which Seller otherwise receives a grant from any Governmental Authority or in accordance with any applicable law or Consent, including through any type of state or federal set-aside program, for the calendar years covered, in whole or in part, by the Annual Periods.

SO_2 Emissions: Emissions of sulfur dioxides.

Southern Balancing Authority Area (SBAA): The NERC- and SERC- recognized balancing authority area that includes the Southern Company Transmission System.

Southern Companies: Collectively, the regulated electric operating companies of The Southern Company (i.e., Alabama Power Company, GPC, and Mississippi Power Company).

Southern Company: The Southern Company, a Delaware corporation, the parent of GPC.

Southern Company Transmission System: The transmission system consisting of transmission facilities (>40 kV) owned by the Southern Companies, as the system may be modified or expanded from time-to-time, as well as any successor transmission system. For the avoidance of doubt, the Southern Company Transmission System does not include the Georgia ITS facilities owned by the ITS Participants.

Southern OATT: Southern Company's Open Access Transmission Tariff.

Southern Transmission Interface: A transmission interface between the Southern Company Transmission System and another Electric System outside the SBAA.

Southern Transmission Territory (STT): Depending on usage, either: (i) the Southern Company Transmission System and the Georgia ITS; or (ii) the geographic area that would allow interconnection to either the Southern

Company Transmission System or the Georgia ITS.

SPP: See *Seasonal Performance Period*.

Startup Energy: Energy produced during startup when ramping from synchronization to the Minimum Capacity.

Startup Event: As defined in Exhibit C (*Energy Payment Calculation*), Section 1.3 (*Monthly Startup Charges (MSC)*).

Station Service: Energy that is used to serve the electrical requirements of the Facility and includes the transformer losses and line losses between the Facility and the Electric System.

STT: See *Southern Transmission Territory*.

Substitute Unit: A combustion turbine generating unit to replace the Current Unit at the Site.

Substitution Eligibility Criteria: Defined in Section 4.4.2 (*Substitution Eligibility*).

System Emergency: When the Scheduling Center has determined in accordance with its prevailing practices that conditions are expected to occur or have occurred that could jeopardize the ability to meet projected loads in the SBAA.

Taxes: Any income, gross receipts, license, employment, excise, recording, stamp, customs, capital stock, franchise, profits, withholding, social security, unemployment, disability, property (real or personal), sales, use, transfer, value added, net worth, capital gains, payroll, alternative minimum or other tax, or any other charge, fee, levy, tariff, duty, liability, imposition, or other assessment in the nature of a tax, imposed by any Governmental Authority, including any interest, penalties, and additions to tax imposed with respect thereto, and any liability for any of the foregoing of any Person under any applicable law, including as a transferee or successor, by contract or otherwise.

Technical Limits: The operational limits and constraints described in Exhibit D (*Technical Limits and Schedule Procedures*), Part 1 (*Technical Limits*).

Term: The term of this PPA specified in Exhibit A (*Facility Description and Additional Details*), which becomes effective on the Effective Date and continues for the number of Annual Periods (5, 10, 15, or 20).

Termination Payment: Defined in Section 16.3.2 (*Gains, Losses, Costs, or Damages*).

Test Energy Price: Defined in and determined in accordance with Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), Section 1.2 (*Tested Reliable Capacity; Performance Tests*).

Tested Reliable Capacity: The capability of the Unit at Reference Conditions to produce Base Operating Mode Energy as demonstrated by a Performance Test.

Threshold Amount: Defined in Section 17.2.2 (*Excess Change of Law Capital Expenditures*).

Transmission Service Provider: Any electric utility (or its designated agent) that owns, controls, or operates transmission or distribution facilities used for the transmission of energy in interstate commerce and that provides transmission service under a tariff.

Unavailability Event: Any single, continuous period during which the Unit or an Alternate Resource (designated in accordance with Section 4.1.4 (*Unavailability*)), is Unavailable to respond to GPC's Schedules, in whole or in part.

Unavailable or Unavailability: The extent to which, after the Delivery Commencement Date, the Unit or an Alternate Resource (designated in accordance with Section 4.1.4 (*Unavailability*)), as the case may be, is unable (in whole or in part) to deliver energy in accordance with a Schedule due to a Scheduled Outage, Maintenance Outage, Forced Outage, Forced Derate or a Force Majeure Event.

Undelivered Energy: Defined in, and determined in accordance with Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown),* Section 4.1 (*Calculation of Replacement Costs*).

Unit: One or more of the CTs at the Facility, as further described in Exhibit A (*Facility Description and Additional Details*), that are designated to meet Seller's power supply obligations in accordance with this PPA.

Unit Hour: For each Unit, an Hour in which the Unit is dispatched in order to meet a Schedule by GPC pursuant to Exhibit A (*Capacity; Capacity Payments*). For example, in one Hour where GPC Schedules two Units, two Unit Hours shall accumulate. [**NOTE TO BIDDERS: If the PPA applies to one Unit, this definition will be revised**

accordingly.]

Unplanned (Forced) Outage Hours (FOH): Defined in, and determined in accordance with, Exhibit A (*Capacity; Capacity Payments and Payment Reductions; Buydown*), Section 3.2 (*Calculation of Monthly Availability Percentage*).

Upgrade Security: A Letter of Credit provided by Seller if GPC determined that Electric System improvement costs beyond the POI are necessary to deliver the full output of the Facility to GPC's customers, upon which security GPC may draw in accordance with Section 7.5 (*Grid Cost Improvements*).

Variable Interest (VI): Defined in ASC Topic 810 (*Consolidation*), as issued and modified from time to time by FASB.

Variable Interest Entity (VIE): Defined in ASC Topic 810 (*Consolidation*), as issued and modified from time to time by FASB.

Variable O&M (VOM): Variable operation and maintenance costs.

Power Purchase Agreement for Firm Capacity, Firm Energy, and Ancillary Services from a Combustion Turbine Facility at GPC-#ProjectID# (#FacilityName#) between Georgia Power Company and #SellerLegalName#

Georgia Power Company ("**GPC**"), a Georgia corporation, and **#SellerLegalName#** **("Seller**"), enter into this **Power Purchase Agreement for Firm Capacity, Firm Energy, and Ancillary Services from a Combustion Turbine Facility** as of the Effective Date. GPC and Seller acknowledge:

- Seller desires to sell, and GPC desires to purchase, capacity and associated energy and Ancillary Services from the Unit consistent with the Commission's Orders in Docket Nos. 44160 and 55268; and
- The Parties desire to set forth the terms and conditions upon which the sale and purchase of capacity and associated energy and Ancillary Services may be conducted between the Parties.

In consideration of the mutual promises described in this PPA, and other good and valuable consideration, the receipt, adequacy, and sufficiency of which each Party acknowledges, and intending to be legally bound, the Parties agree:

PART 1. TERM OF AGREEMENT

1.1 Term. Subject to applicable law and any earlier termination per Section 16.3 (*Remedies*), this PPA becomes effective on the Effective Date and continues for the Term.

1.2 Survival. PPA provisions that by their nature or context should apply beyond PPA expiration, suspension, cancelation, completion, or termination, or after transfer, assignment, novation, merger, or other entity change, will survive per applicable law or PPA terms, including all provisions of this PPA that must survive to give effect to the rights and obligations of the Parties. Expiration or termination of this PPA will not relieve either Party of its liabilities or obligations that accrue before or at termination, and those liabilities and obligations will survive PPA termination.

1.3 Conditions Subsequent. Each Party's obligations under this PPA are subject to the satisfaction of each of the following conditions:

1.3.1. FERC Delay or Rejection. If FERC acceptance of this PPA is required by applicable law, and if: (a) FERC issues a valid order rejecting this PPA; or (b) FERC fails to take action or takes action that has the effect of delaying the date when FERC will issue an order accepting this PPA to a date beyond 285 Days after the Commission Certificate, then in the case of (a) or (b) the Parties will meet no later than 10 Business Days following the date of the order or the date that is 285 Days after the Commission Certificate, as applicable, to negotiate amendments to this PPA, an extension of time for FERC to accept this PPA beyond 285 Days from the granting of a Commission Certificate, or other appropriate measures, so that this PPA is legal and fully enforceable without materially increasing the risks for either Party or adversely affecting the value of the economic bargain to either Party contemplated by this PPA in its original form.

(i) If the Parties are unable to negotiate any acceptable amendment, or other appropriate measures, then either Party may terminate this PPA upon written notice to the other Party, so long as such notice is delivered to the non-terminating Party no later than 30 Days after 285 Days from the granting of a Commission Certificate. In no event will this termination right be available to the Parties, and a Party will be deemed to have waived its termination right, absent receipt of notice by the non-terminating Party before the expiration of the 30-Day period.

1.3.2. FERC Acceptance with Modification. Despite the preceding provisions, if, before 285 Days after the granting of a Commission Certificate, FERC issues a valid order accepting this PPA subject to material

modification or condition(s), including acceptance subject to refund following an administrative proceeding, then the adversely affected Party or Parties will have the right to terminate this PPA if the material modification or condition(s) are not acceptable to the Party or Parties. By no later than 15 Days after the issuance date of a FERC order, Seller must provide GPC with a copy of the FERC order, along with written notice of whether the FERC order is subject to material modification or condition(s) that adversely affect Seller and, if so, whether the material modification or condition(s) are acceptable to Seller. If Seller fails to provide the written notice before the 15th Day, then Seller will be deemed to have accepted any FERC order accepting this PPA subject to material modification or condition(s).

(i) By no later than 15 Days following the receipt date of a copy of the FERC order from Seller, GPC will provide Seller with written notice of whether the FERC order is subject to material modification or condition(s) that adversely affect GPC and, if so, whether such material modification or condition(s) are acceptable to GPC. If GPC does not provide the notice before the 15th Day, then GPC will be deemed to have accepted the FERC order accepting this PPA subject to material modification or condition(s).

(ii) If either Party provides written notice that such material modification or condition(s) are not acceptable, then the Parties will meet no later than 10 Business Days following the date of the notice to negotiate an amendment to this PPA, or other appropriate measures, so that this PPA is legal and fully enforceable, without materially increasing the risks for either Party or adversely affecting the value of the economic bargain to either Party contemplated by this PPA in its original form. If the Parties are unable to negotiate any acceptable amendment, or other appropriate measures, then the Party who delivers the notice will have the right to terminate this PPA upon written notice to the other Party, so long as the written notice is delivered no later than 30 Days after the 285 Days from the granting of a Commission Certificate. Upon a termination in accordance with this Section 1.3.2, neither Party will have any liability to the other Party under this PPA.

1.3.3. Commission Certificate Target Date Conditions.

(i) GPC's Initial Termination Rights for Commission Certificate Target Conditions. If: (a) after the Commission Certificate Target Date the Commission has not approved this PPA through a Commission Certificate; or (b) the Commission has issued a Commission Certificate that is subject to material qualification or condition(s) that adversely affect GPC, then GPC may terminate this PPA upon written notice to Seller, so long as the notice is delivered to Seller by no later than 30 Days after: (I) the Commission Certificate Target Date; or (II) the date the Commission issued the Commission Certificate that is subject to material qualification or condition(s)that adversely affect GPC.

(ii) Motion to Reconsider or Appeal; Extended PPA Termination Rights for Commission Certificate Target Conditions. If, within 30 Days after the issuance of the Commission Certificate, either Party files a motion to reconsider with the Commission or an appeal with Fulton County Superior Court regarding the issuance or denial of the Commission Certificate, GPC may terminate this PPA upon written notice to Seller, so long as the notice is delivered to Seller no later than 80 Days after the Commission Certificate Target Date.

(iii) Waiver of PPA Termination Right. If, within the applicable notice period, GPC does not exercise the termination right in accordance with this Section 1.3.3, then GPC will be deemed to have waived the termination right.

(iv) Obligations following PPA Termination. Upon PPA termination in accordance with this Section 1.3.3: (a) neither Party will have any further liability to the other Party under this PPA; and (b) GPC will promptly return to Seller any unused portion of Performance Security or Upgrade Security, if applicable.

1.3.4. Revocation, Qualifications, or Conditions. Despite Section 1.3.3 (*Commission Certificate Target Date Conditions*), if, at any time during the Term, the Commission issues an amendment to the Commission Certificate regarding this PPA ("**Amended Commission Certificate**") that imposes a material qualification or condition that adversely affects GPC and that is not acceptable to GPC, GPC will have the right to terminate this PPA, unless GPC and Seller agree to amend in accordance with Section 1.3.6 (*PPA Amendment*). Within 15 Days after the issuance of the Amended Commission Certificate, GPC will provide Seller with written notice of whether the Amended Commission Certificate is subject to material

qualification or condition and, if so, whether the material qualification or condition is acceptable to GPC. If GPC does not provide notice within the 15-Day period, the Amended Commission Certificate will be deemed to be acceptable to GPC. Upon a termination in accordance with this Section 1.3.4: (i) neither Party will have any further liability to the other Party under this PPA; and (ii) GPC will promptly return to Seller any unused portion of the Performance Security or Upgrade Security, if applicable.

1.3.5. Change in Economic Circumstances or Market Conditions. Despite any other provision in this PPA, and so long as it is not required by Commission Rule 515-3-4.08, neither Party will seek to have the Commission revoke the Commission Certificate of its own initiative for reasons solely related to changed economic circumstances or market conditions affecting this PPA.

1.3.6. PPA Amendment. If the Commission issues an Order approving this PPA with any modification or condition, or issues an Amended Commission Certificate, as applicable, this PPA will not be amended to include the modification or condition unless Seller executes a written amendment agreeing to the modification or condition. If GPC requests, within 30 Days after issuance of the Order, that Seller execute a written amendment agreeing to the modification or condition, and Seller does not execute the written amendment by no later than 30 Days after the date of GPC's request, GPC may terminate this PPA. Upon termination of this PPA in accordance with this Section 1.3.6: (i) GPC will promptly return to Seller any unused portion of the Performance Security or Upgrade Security, if applicable; and (ii) neither Party will have any further obligation to the other Party under this PPA.

PART 2. REPRESENTATIONS, WARRANTIES, AND COVENANTS

2.1 Seller Representations, Warranties, and Covenants. Seller makes to GPC the following additional representations, warranties, or covenants as the basis for the benefits and obligations contained in this PPA:

2.1.1. Organization; Facility Ownership; Legal Power and Authority. Seller is, duly organized and validly existing in accordance with the Seller information provided in Exhibit A (*Facility Description and Additional Details*), and in good standing under the laws of the state of GA, that is qualified to do business in the state of Georgia, is the sole owner and operator of the Facility, and has the legal power and authority to: (i) own its properties; (ii) carry on its business as now being conducted; (iii) enter into this PPA; (iv) to otherwise carry out the transactions contemplated by this PPA; and (v) perform and fulfill all covenants and obligations on Seller's part to be performed under this PPA.

2.1.2. Authorization. The execution, delivery, and performance by Seller of this PPA have been duly authorized by all necessary action, and do not and will not require any consent or approval of any Person other than those already properly obtained.

2.1.3. No Conflict or Breach. The execution and delivery of this PPA, the consummation of the transactions contemplated by this PPA, and the fulfillment of and compliance with this PPA, do not and will not conflict with or constitute a breach of or a default under, any of the terms, conditions, or provisions of any applicable law, charter, bylaw, operating agreement, or other formation or organizational document of Seller, or any deed of trust, mortgage, loan agreement, other evidence of Indebtedness, or any other agreement or instrument to which Seller is a party or by which Seller or any of its property is bound.

2.1.4. Legal, Valid, and Binding Obligations. This PPA contains the legal, valid, and binding obligations of Seller that are enforceable in accordance with their terms, except as the enforceability may be limited by bankruptcy, insolvency, reorganization, or similar laws relating to or affecting the enforcement of creditors' rights generally or by general equitable principles, regardless of whether the enforceability is considered in a proceeding in equity or at law.

2.1.5. No Proceeding Impacting Legality, Validity, or Enforceability of this PPA. As of the Effective Date, there is no pending, or to the knowledge of Seller, threatened action or proceeding affecting Seller before any Governmental Authority that purports to affect the legality, validity, or enforceability of this PPA or that could reasonably be expected to have a material adverse effect on Seller.

2.1.6. No Bankruptcy Proceeding. There is no bankruptcy proceeding pending or being contemplated by Seller or, to Seller's knowledge, threatened against Seller.

2.1.7. No Federal Debarment. Seller is not debarred, suspended, or proposed for debarment as a contractor or subcontractor to any department, agency, or other division of the United States Government.

2.1.8. VIE Certification. GPC will not be required by any applicable law or accounting standard, including those implemented or administered by FASB, to consolidate Seller or any of Seller's Affiliates or permitted assigns as a VIE in GPC's or any of GPC's Affiliates' financial statements. Seller must promptly notify GPC following any determination made by Seller or Seller's independent auditor that Seller constitutes a VIE for which GPC is the Primary Beneficiary under this PPA, considered individually or together with any other power purchase agreements between Seller and GPC. Seller must provide to GPC a VIE certification form in the form of Exhibit J (*VIE Certification*) signed by the chief financial officer of Seller: (i) at the time of execution of this PPA; (ii) before each COD anniversary during the Term; and (iii) at any time this PPA is amended by the Parties. Seller must also provide GPC a Finance Lease certification in the form of Exhibit K (*Finance Lease Certification*) signed by Seller's chief financial officer at the time of execution of this PPA and, after the Effective Date, at any time the Parties amend this PPA. Seller must promptly notify GPC following any determination made by Seller or Seller's independent auditor that Seller must be partially or fully deconsolidated from the books of Seller or Seller's parent.

2.1.9. Facility or Unit Modification Resulting in Material Adverse Effect. No modification to, or expansion of, the Facility or Unit that would have a material adverse effect on GPC's rights or obligations under this PPA will occur without GPC's prior written consent, which consent will not be unreasonably withheld, conditioned, or delayed.

2.1.10. Sale, Lease, Transfer, or Other Disposal of Business or Assets Resulting in Material Adverse Effect. Seller must not sell, lease, transfer, or otherwise dispose of all or substantially all of its business or assets, whether now owned or later acquired, to the extent that the sale, lease, transfer, or other disposition would have a material adverse effect on GPC's rights or obligations under this PPA without GPC's prior written consent, which consent will not be unreasonably withheld, conditioned, or delayed.

2.1.11. Legal Right to Possess and Operate Unit and Deliver Capacity, Energy, and Ancillary Services. Except as may be allowed under Sections 2.1.10 (*Sale, Lease, Transfer, or Other Disposal of Business or Assets Resulting in Material Adverse Effect*), 18.2 (*Restrictions Regarding Assignment, Transfer, or Change of Control*), or any other provision of this PPA, Seller must maintain the legal right to and will possess and operate the Unit and deliver to GPC the Unit's capacity, energy, and Ancillary Services of the Unit to GPC in accordance with this PPA.

2.1.12. GPC's Exclusive Right to Environmental Attributes. GPC will have exclusive rights to all Environmental Attributes associated with the Facility, which include the exclusive right to: (i) report to any Governmental Authority, or other Person for compliance with any applicable law or other purpose, that it owns the Environmental Attributes; and (ii) claim the Environmental Attributes to customers or potential customers for purposes of marketing and advertising. However, Seller and Seller's Affiliates may issue marketing materials and other statements regarding their respective operations and business activities, so long as the issuance of the materials and statements does not: (a) reduce the economic value to GPC of the Environmental Attributes; (b) reduce GPC's claims to the Environmental Attributes; or (c) result in the double counting of the Environmental Attributes.

2.1.13. Information Regarding Environmental Attributes. Seller must maintain and provide to GPC (or, if directed by GPC, other applicable Persons) the information as necessary to substantiate, account for, or track the quantity of Environmental Attributes delivered to GPC under this PPA, including all information necessary for GPC to comply with the requirements of any Governmental Authority or other certifying or standard-setting body relating to the Environmental Attributes. Seller must provide GPC with attestations regarding the accuracy of the information as reasonably requested by GPC. Upon GPC's request, Seller, at Seller's expense, must use reasonable efforts to obtain verification, from a certification authority mutually agreed upon by the Parties, that the Environmental Attributes sold to GPC in accordance with this PPA comply with the standards set by the certification authority. Seller is responsible for the costs associated with registering, qualifying, or recording any Environmental Attributes with any applicable Governmental Authority or other certifying or standard-setting body at GPC's request. GPC will have the right to disclose the information publicly or to any third party, without Seller's prior consent, as reasonably required regarding the operation of GPC's business, including disclosures: (i) to any Person that purchases the Environmental Attributes from GPC; (ii) to any Governmental Authority; (iii) to any auditor or any Person that certifies or sets standards with respect to Environmental Attributes; or (iv) as necessary for GPC to defend, verify, or substantiate its ownership of the Environmental Attributes.

2.1.14. Environmental Compliance Certification. On each anniversary of the Commercial Operation Date through the end of the Term, Seller will provide to GPC an Environmental Compliance certificate in the form of Exhibit M (*Environmental Compliance Certification*), signed by a duly authorized officer of Seller.

2.1.15. Extreme Weather Technical Requirements. Throughout the Term, the Facility will comply with NERC EOP-012-1 (*Extreme Cold Weather Preparedness and Operations*).

2.2 GPC Representations, Warranties, and Covenants. GPC makes the following representations, warranties, or covenants to Seller as the basis for the benefits and obligations contained in this PPA:

2.2.1. Organization; Facility Ownership; Legal Power and Authority. GPC is a corporation, duly organized, validly existing, and in good standing under the laws of the state of Georgia, that is qualified to do business in the state of Georgia and has the legal power and authority to own its properties, to carry on its business as now being conducted and to enter into this PPA and carry out the transactions contemplated by this PPA, and perform and fulfill all covenants and obligations on its part to be performed under this PPA.

2.2.2. Authorization. The execution, delivery, and performance by GPC of this PPA have been duly authorized by all necessary corporate action and does not and will not require any consent or approval of GPC's board of directors or shareholders other than that already obtained.

2.2.3. No Conflict or Breach. Subject to Section 1.3 (*Conditions Subsequent*), the execution and delivery of this PPA, the consummation of the transactions contemplated by this PPA, and the fulfillment of and compliance with the provisions of this PPA do not and will not conflict with any of the terms, conditions, or provisions of any applicable laws applicable to GPC, or of any partnership agreement, deed of trust, mortgage, loan agreement, other evidence of indebtedness, or any other agreement or instrument to which GPC is a party or by which GPC or any of its property is bound, or result in a breach of or a default under any of the foregoing.

2.2.4. Legal, Valid, and Binding Obligations. This PPA constitutes the legal, valid, and binding obligation of GPC that is enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, or similar laws relating to or affecting the enforcement of creditors' rights generally or by general equitable principles, regardless of whether such enforceability is considered in a proceeding in equity or at law.

2.2.5. No Proceeding Impacting Legality, Validity, or Enforceability of this PPA. There is no pending or, to the knowledge of GPC, threatened action or proceeding affecting GPC before any Governmental Authority that purports to materially adversely affect the legality, validity, or enforceability of this PPA or that reasonably could be expected to have a material adverse effect on GPC's ability to perform its obligations under this PPA.

2.2.6. Creditworthiness and No Bankruptcy Proceedings. GPC is Creditworthy and there are no bankruptcy proceedings pending or being contemplated by it or, to its knowledge, threatened against it.

2.2.7. Designation of Alternate Resource as a Secondary Resource. GPC, at the request of Seller, but only to the extent permissible under the Southern OATT, will designate any Alternate Resource as a secondary Network Resource (or similar designation) for the period during which the Alternate Resource is used to provide GPC with energy in accordance with this PPA.

PART 3. PRESERVATION OF TERMS; CONSENTS; TAXES

3.1 Preservation of Terms. Each Party agrees that, subject to Section 3.2 (*Other Approvals*), except with the prior written consent of the other Party, the Party will not institute or voluntarily cooperate in the institution or conduct of any claim, action, or proceeding before FERC under Section 205, Section 206 or any other portion of the Federal Power Act, or before any other Governmental Authority under any applicable law that is intended to, or could reasonably be expected to, change PPA terms then in effect. Without limiting the preceding sentence, but subject to the terms of this PPA, the Parties agree that the rates for service specified in this PPA will remain in effect for the Term and will not be subject to change through application to FERC in accordance with Section 205 or 206 of the Federal Power Act, or to any other Governmental Authority under any provision of federal law, Georgia state or local law, or any other applicable law, absent written agreement of the Parties.

3.1.1. FERC Filings Waiver; Standard of Review. Each Party waives all rights to submit filings to FERC seeking modification or rescission of this PPA under Section 205 or 206 of the Federal Power Act.

(i) FERC Standard of Review. In any proceeding before FERC involving this PPA, the Parties will request that FERC review all aspects of this PPA under the "public interest" application of the "just and reasonable" standard of review in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956), each clarified by NRG Power Marketing LLC v. Maine Public Utility Commission, 130 S. Ct. 693 (2010).

3.2 Other Approvals. Throughout the Term, each Party will diligently seek to obtain, maintain, pursue, or cause to be pursued, comply with, and, as necessary, renew or modify all other Consents required to be possessed by the Party in a manner that is reasonably expected to enable the Party to perform its PPA obligations. Each Party agrees to assist and support the other Party, in a timely manner and to the extent reasonably requested by either Party, in obtaining the Consents. Upon request, Seller will provide a copy of Consents to GPC.

3.3 Taxes.

3.3.1. Payment by Seller. Subject to Section 17.1 (*New GHG Law*), Seller will be responsible for, and must pay, or cause to be paid, all Taxes on or regarding: (i) the Facility, including its development, permitting, design, engineering, procurement, construction, testing, startup, ownership, leasing, financing, operation, and maintenance; (ii) the production and delivery of energy and Ancillary Services to be provided to GPC arising, in the case of energy, before the time of Seller's delivery of the energy to GPC at the POI, or, in the case of Ancillary Services, before the time the Ancillary Services are made available to GPC; (iii) Seller's conversion of Natural Gas into electricity after delivery by GPC and receipt by Seller of the Natural Gas at the Gas Delivery Point; and (iv) Seller's conversion of Fuel Oil into electricity, except that nothing contained in this Section 3.3.1 will be construed to affect the applicability of Section 17.1 to GHG Charges under any New GHG Law.

3.3.2. Payment by GPC. GPC will pay or cause to be paid all Taxes on or regarding: (i) energy received by GPC arising at and after the time the energy is delivered by Seller to the POI; (ii) Ancillary Services received by GPC arising at and after the time the Ancillary Services are made available to GPC; (iii) Natural Gas received and possessed by GPC at and prior to the time of delivery of the Natural Gas by GPC to Seller at the Gas Delivery Point; and (iv) property taxes on Fuel Oil stored for GPC at the Facility. The Taxes will include sales, use, excise, or other similar Taxes on the sale to GPC and purchase from Seller of capacity, energy, and Ancillary Services in accordance with this PPA. GPC will be responsible for all Taxes arising out of the transfer and delivery by GPC and receipt by Seller of Natural Gas at the Gas Delivery Point, and Seller will be responsible for any new Taxes that may arise after the date of execution of this PPA concerning the conversion of Natural Gas or Fuel Oil into energy, except that nothing contained in this Section 3.3.2 will be construed to affect the applicability of Section 17.1 (*New GHG Law*) to GHG Charges under any New GHG Law.

3.3.3. Efforts to Implement PPA Provisions to Minimize Taxes. Each Party will use reasonable efforts to implement and administer the PPA provisions to minimize Taxes so long as neither Party is materially adversely affected by such efforts.

3.3.4. GPC Reimbursement or Deduction for Taxes. If Seller is required by law or regulation to remit or pay Taxes that are GPC's responsibility under this PPA, Seller may include the Taxes in the next Monthly Invoice and GPC will remit payment for the applicable Taxes in accordance with Part 5 (*Billing and Collections*). Conversely, if GPC is required by law or regulation to remit or pay Taxes that are Seller's responsibility under this PPA, GPC may deduct those Taxes from the sums otherwise due to Seller under this PPA. Any refund associated with the Taxes will be handled in the same manner. Nothing in this PPA will obligate or cause a Party to pay or be liable to pay any Taxes from which the Party is exempt under applicable law.

PART 4. SALE AND DELIVERY OF CAPACITY AND ENERGY

4.1 Agreement to Sell and Purchase.

4.1.1. Sale and Purchase Obligations During the Term. From the Delivery Commencement Date through the end of the Term, but subject to the terms of this PPA, Seller must sell to GPC: (i) the entire electrical capability of the Unit, net of any Station Service, as, when, and to the extent GPC Schedules

the electrical capability; and (ii) all Ancillary Services. Subject to the terms of this PPA, GPC will purchase from Seller the electrical output of the Unit, in accordance with GPC's Scheduling Instructions, and the Designated Capacity associated with the Unit after the Delivery Commencement Date. The delivery of energy to the POD includes the transfer to GPC of all Ancillary Services associated with the energy. Seller must make available and provide to GPC all Ancillary Services as instructed by GPC at all power output levels and during periods that the Facility is not actively delivering energy. The Monthly Capacity Payments and the Monthly Energy Payments are the exclusive compensation owed to Seller for capacity, energy, and Ancillary Services under this PPA.

4.1.2. Station Service. Seller is responsible for all Station Service at Seller's expense. If the Facility is located within the state of Georgia, Seller must arrange Station Service for the Facility in accordance with the Georgia Territorial Electric Service Act (O.C.G.A. §§ 46-3-1 through 46-3-15). If the Facility is located within the state of Georgia and any additional electric service is required to serve auxiliary equipment (ancillary equipment at or otherwise supporting the Facility, including lights and security equipment and systems (e.g., gates and cameras)), Seller must: (i) purchase that service from the local electric service provider in accordance with the Georgia Territorial Electric Service Act (O.C.G.A. §§ 46-3-1 through 46-3-15); (ii) install a separate meter for the service; and (iii) if purchasing from GPC, pay any installation costs, in accordance with GPC's standard procedures for establishing retail service. If Seller supplies its Station Service on Seller's side of the POI, the Unit's output is net of energy consumed and demand requirements (i.e., the energy delivered to the POI).

4.1.3. Delivery of Energy; Risk of Loss; Balancing Services. Except as otherwise provided in Section 4.1.4 (*Unavailability*) regarding delivery of capacity and energy at an Alternate Delivery Point, Seller must deliver capacity and energy from the Unit to GPC at the POD. The risk of loss of energy will pass from Seller to GPC at the POD. If the Facility is interconnected within the STT, GPC will be responsible for providing generator balancing services regarding the SBAA and Southern OATT necessary for the receipt of energy in accordance with GPC's Schedules and for any associated costs. The Facility, Unit, nor Alternative Resource must not deliver to the POD, at any time, any output in excess of the Interconnection Limit or transmission service reservation, as applicable. If the Facility is interconnected to the Electric System outside of the SBAA, Seller must comply with the dynamic scheduling requirements described in Section 12.3 (*Dynamic Scheduling*).

4.1.4. Unavailability.

(i) Scheduled Energy Delivery Using Alternate Resource. Following the Delivery Commencement Date, if the Unit is Unavailable because of a Forced Outage or Forced Derate, Seller will have the option to elect to substitute physical Alternate Delivery from an Alternate Resource at an Alternate Delivery Point in accordance with Sections 4.1.4(ii) (*Requirements for Seller's Election to Provide Energy from an Alternate Resource*) and 4.1.4(iii) (*Requirements for Exercising Delivery Right from an Alternate Resource*) to meet GPC's Schedules (subject to the other provisions of this PPA), except that Seller will only be permitted to utilize an Alternate Resource to provide that portion of Scheduled Energy that cannot be provided from the Unit due to the Unavailability Event.

(ii) Requirements for Seller's Election to Provide Energy from an Alternate Resource. If Seller elects to provide energy from an Alternate Resource, Seller must, to the extent the designated Alternate Resource(s) is Available, provide GPC with a uniform quantity of energy in each Hour that GPC Schedules at least that quantity of energy. The Hours (or equivalent Hours) of delivery of energy from an Alternate Resource will be incorporated as Alternate Resource Delivery Hours in the Monthly Availability Percentage calculations in accordance with Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), Part 3 (*Monthly Availability Adjustment*), and Seller's failure to deliver from the Unit in the Alternate Resource Delivery Hours will not be treated as Unavailability. At GPC's discretion, GPC may deduct from any Monthly Capacity Payment or Monthly Energy Payment the incremental additional costs incurred by GPC due to system losses caused by Seller's delivery of Scheduled Energy from an Alternate Resource, as compared to the losses that GPC would have incurred if such Scheduled Energy were delivered from the Unit. GPC will determine the incremental additional energy losses in a manner consistent with the methodology utilized by GPC in applying loss penalties in its system dispatch. GPC's methodology will not treat Seller's Alternate Resource in a materially different manner from GPC's other generating resources. The Operating Representatives will further

develop Operating Procedures to calculate and bill Seller for such losses consistent with this Section 4.1.4(ii).

(iii) Requirements for Exercising Delivery Right from an Alternate Resource. To exercise its right to deliver energy from an Alternate Resource under Section 4.1.4.(i) (*Scheduled Energy Delivery Using Alternate Resource*) during a given Day, Seller must provide GPC with advance notice in a manner agreed upon by the Operating Committee by no later than 7:00 a.m. CPT of the Business Day immediately before the Day of delivery, which notice will specify the Alternate Resource and Alternate Delivery Point. Seller must provide any other information that GPC requires for GPC to request Firm Transmission Service for the energy. Seller may propose to utilize only one Alternate Delivery Point and only one Alternate Resource for a given Day. Once Seller provides a notice of Alternate Delivery, Seller must adhere to and must not withdraw such Alternate Delivery without GPC's written consent. Any failure to deliver energy in accordance with GPC's Schedules from a designated Alternate Resource will reduce the calculated Availability performance under Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), Part 3 (*Monthly Availability Adjustment*). If the Alternate Resource is interconnected to an Electric System outside the SBAA, Seller must procure Firm Transmission Service.

(iv) Alternative Delivery During Force Majeure Event. Following the Delivery Commencement Date, if the Unit is Unavailable because of a Force Majeure Event, instead of the suspension of Monthly Capacity Payments to the extent provided in Section 15.4 (*Monthly Capacity Payments*), Seller will have the option to elect Alternate Delivery under Section 4.1.4(iii) (*Requirements for Exercising Delivery Right from an Alternate Resource*).

4.1.5. Designated Capacity and GPC's Scheduling Right for Unit Energy Output and Ancillary Services. Despite Seller's designation of the Designated Capacity in accordance with Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), GPC may Schedule and receive, and if Scheduled by GPC, Seller must deliver, up to the entire energy output that the Unit is capable of producing when operated and all Ancillary Services associated with the Unit, subject to the Technical Limits and Scheduling procedures set forth in Exhibit D (*Technical Limits and Schedule Procedures*).

4.1.6. No Sale of Capacity, Energy, or Ancillary Services to a Third Party. Seller must not sell any of the capacity, energy, or Ancillary Services associated with the Unit to any Person other than GPC, including the sale of any energy not Scheduled by GPC.

4.1.7. Capacity Shortfall.

(i) Capacity Shortfall Declaration. GPC may declare a "**Capacity Shortfall**" if, during a Summer Seasonal Performance Period or Winter Seasonal Performance Period: (a) the Unit is Scheduled to operate at its Designated Capacity for any period of 30 consecutive Days; and (b) the average actual output of the Unit for the period of 30 consecutive Days, adjusted to applicable Reference Conditions (excluding ramping), is less than the Designated Capacity. However, the calculation of a Capacity Shortfall will not include any reduction in output of the Unit to the extent: (1) caused by a Force Majeure Event, a Forced Derate, or a Forced Outage, in each case that has been properly declared in accordance with the terms of this PPA; or (2) to the extent due to an Electric System outage. The following section provides a calculation example.

(a) Capacity Shortfall Calculation Example. For example, Seller designated the Unit to have: (i) a Designated Capacity of 500 MW. During one period of 30 consecutive Days in a Summer Seasonal Performance Period, the Unit was Scheduled at the Designated Capacity. The Base Shortfall would be calculated as follows:

On average during the period of 30 consecutive Days the actual output of the Unit, adjusted to Reference Conditions, when the Unit was Scheduled to operate at its Designated Capacity, excluding ramping, was 483 MW, and the resulting Base Capacity Shortfall was 17 MW (500 MW – 483 MW = 17 MW).

(ii) Data Review after Capacity Shortfall Declaration; Designated Capacity Adjustment. When GPC declares a Capacity Shortfall, Operating Representatives from each Party will convene, by no later than 10 Business Days after GPC's declaration, to review the data GPC used to support the Capacity Shortfall declaration. For a Capacity Shortfall declaration, GPC will use actual Hourly generation data from the Unit and the associated actual Hourly ambient

conditions (i.e., temperature and humidity) as measured at the Facility to determine the Hourly output of the Unit, as adjusted to Reference Conditions. Upon the completion of the review, GPC, in its sole discretion, may elect to reduce, as applicable, for the 30 consecutive Days that triggered the Capacity Shortfall or for the remainder of the Annual Period: (a) the Designated Capacity by the Capacity Shortfall. The reduction would apply to successive Annual Periods, subject to any subsequent Capacity Shortfall, unless and until such time that Seller conducts a Performance Test in accordance with Exhibit E (*Performance Testing Procedures*) and establishes a different Designated Capacity in accordance with Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*).

(a) Designated Capacity Reduction Calculation Example. The following would be the Designated Capacity reduction for the example set forth in Section 4.1.7(i)(a) (*Capacity Shortfall Calculation Example*): the Capacity Shortfall is 17 MW, and GPC could elect to reduce the Designated Capacity by 17 MW.

(iii) Seller Dispute Regarding Capacity Shortfall Declaration. If Seller disputes GPC's Capacity Shortfall declaration, the matter will be resolved in accordance with Part 19 (*Dispute Resolution*). If GPC elects to reduce the Designated Capacity in accordance with Section 4.1.7(ii) (*Data Review after Capacity Shortfall Declaration; Designated Capacity Adjustment*), GPC will provide to Seller written notice of the reduction in Designated Capacity and its effective date.

4.2 Calculation of Monthly Capacity Payments. Subject to the terms of this PPA, GPC will pay Seller a Monthly Capacity Payment calculated in accordance with Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), Part 2 (*Monthly Capacity Payment*). Other than the Monthly Capacity Payments, GPC will not owe Seller any payment or other compensation for the Facility's capacity.

4.3 Calculation of Monthly Energy Payments. Subject to the terms of this PPA, GPC will pay Seller a Monthly Energy Payment calculated in accordance with Exhibit C (*Energy Payment Calculation*), Part 1 (*Monthly Energy Payment*). Despite any other provision in this PPA, the Monthly Energy Payments include all compensation owed to Seller for Ancillary Services associated with energy delivered to the POD.

4.4 Substitution of a Unit at the Site. Current Unit Replacement with Substitute Unit. To improve Seller's performance under this PPA regarding capacity availability and energy supply reliability, Seller may propose by written notice to GPC, in accordance with Exhibit N (*Notices*), to replace the unit then comprising the Facility ("**Current Unit**") with another CT generating unit at the Site ("**Substitute Unit**") (including a unit that had been previously substituted under this Section 4.4 (*Substitution of a Unit at the Site*) that satisfies the Substitution Eligibility Criteria and otherwise is capable of reliably meeting GPC's Schedules. However, despite any other provision in this PPA, GPC, in GPC's sole discretion, may reject any proposed replacement of a Current Unit, including rejection of any proposed Substitute Unit that satisfies the Substitution Eligibility Criteria. Unless otherwise agreed by GPC, in GPC's sole discretion, a replacement of the Current Unit with a Substitute Unit approved by GPC will not occur any earlier than the later of: (i) 60 Days after the date of GPC's receipt of Seller's written notice to GPC, in accordance with Exhibit N (*Notices*), proposing the replacement; and (ii) commencement of the next Annual Period after Seller's written notice to GPC, in accordance with Exhibit N, proposing the replacement.

4.4.2. Substitution Eligibility. Unless otherwise agreed by GPC, in its sole discretion, a CT generating unit at the Site must satisfy all of the following criteria to be eligible for consideration as a proposed Substitute Unit (collectively, "**Substitution Eligibility Criteria**"): (i) GPC must be able to obtain sufficient Firm Transmission Service delivery rights on the Electric System, without any modification to the Electric System being necessary, to permit the replacement of the Current Unit with the proposed Substitute Unit; and (ii) the proposed Substitute Unit cannot be designated under any other firm power sale obligation by Seller for the proposed replacement period; and (iii) during the 365 Days period prior to Seller's written notice to GPC proposing the replacement, the proposed Substitute Unit had a Forced Outage rate that was less than the Forced Outage rate during the same period for the Current Unit, or, if the proposed Substitute Unit cannot satisfy such Forced Outage rate requirement, Seller demonstrates to GPC's satisfaction that the reasonably anticipated availability of the proposed Substitute Unit during the next Annual Period will be equal to or greater than the reasonably anticipated availability of the Current Unit, in each case based on credible information, analysis and projections; and (iv) the Designated Capacity of the proposed Substitute Unit, as determined in accordance with Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), will be no less than the lower limit of the Contracted Capacity range and will not exceed the Designated Capacity of the Current Unit.

4.4.3. Performance Testing. If Seller provides notice proposing the replacement of the Current Unit with a Substitute Unit in accordance with Section 4.4.1 (*Current Unit Replacement with Substitute Unit*), Seller must, as part of the proposal and at Seller's expense, complete a Performance Test on the proposed Substitute Unit in accordance with Exhibit E (*Performance Testing Procedures*) to determine the Designated Capacity of the Substitute Unit in accordance with Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*).

4.4.4. Supporting Information and Documentation. Seller's written notice to GPC proposing the replacement of the Current Unit with the Substitute Unit must contain necessary supporting information and documentation regarding Substitution Eligibility Criteria definition items (ii), (iii), (iv), and (v). If Seller proposes the replacement of the Current Unit with a Substitute Unit for a period less than the remainder of the Term, the proposal must include details regarding the subsequent replacement of the Substitute Unit under this Section 4.4 (*Substitution of a Unit at the Site*) at the end of the defined period.

4.4.5. Additional Terms for Subsequent Replacement of Substitute Unit. In the case of a proposal for the replacement of the Current Unit with a Substitute Unit for a period less than the remainder of the Term, GPC may require, as a condition to GPC's acceptance of the proposed Substitute Unit, additional terms to address the subsequent replacement of the Substitute Unit under this Section 4.4 (*Substitution of a Unit at the Site*) at the end of the defined period.

4.4.6. Replacement with Substitute Unit After Acceptance. If GPC, in its sole discretion, accepts the proposed Substitute Unit, the Current Unit will be replaced with the Substitute Unit as the Unit under this PPA, effective as of the replacement date as determined under Section 4.4.1 (*Current Unit Replacement with Substitute Unit*).

PART 5. BILLING AND COLLECTIONS

5.1 Capacity and Energy Billing and Payment.

5.1.1. Seller Invoices. Subject to Section 5.2 (*Billing Disputes and Final Accounting*), by no later than the 10th Day of each Month (commencing with first Month after the Delivery Commencement Date), Seller must send GPC an invoice stating the Monthly Capacity Payment, the Monthly Energy Payment, and, if applicable, any Monthly Availability Adjustment for the immediately preceding Month or cumulative Months of a Season ("**Monthly Invoice**"). If the 10th Day is not a Business Day, Seller must send GPC the applicable Monthly Invoice by no later than the Business Day succeeding the 10th Day. The invoice must specify any other payment required to be made by either Party in accordance with this PPA.

5.1.2. GPC Invoices. By no later than the 10th Business Day of each Month (commencing with first Month after the Delivery Commencement Date), GPC will send Seller an invoice stating any amount that is required to be paid by Seller to GPC, including, if applicable, any Monthly Availability Adjustment for the immediately preceding Month or true-up. If the 10th Day is not a Business Day, GPC will send Seller the applicable Monthly Invoice by no later than the Business Day succeeding the 10th Day.

5.1.3. GPC Invoice Payments. GPC will pay all Monthly Invoices on or before the 20th Day after GPC's receipt of the Monthly Invoice. If the 20th Day is not a Business Day, then GPC may pay the Monthly Invoice by the Business Day succeeding the 20th Day. Subject to Sections 5.1.4 (*Net Payment or Net Bill*) and 5.2 (*Billing Disputes and Final Accounting*), GPC will pay Seller in accordance with the Monthly Invoice by the due date in immediately available funds through wire transfer of funds to an account designated by Seller, or other means acceptable to Seller. Interest on unpaid amounts will accrue from the date the payment was due at a rate equal to the Interest Rate. Each Monthly Invoice will contain a statement explaining in reasonable detail how the invoice was calculated in accordance with Sections 4.2 (*Calculation of Monthly Capacity Payments*) and 4.3 (*Calculation of Monthly Energy Payments*).

5.1.4. Net Payment or Net Bill. GPC may provide a net payment or net bill, whichever is applicable, that consolidates amounts owing to Seller with amounts owing to GPC.

5.2 Billing Disputes and Final Accounting.

5.2.1. Payment of Undisputed Amounts. If GPC questions or disputes the amount or propriety of any payment Seller claims to be due under this PPA, GPC will pay Seller amounts not in dispute but may withhold amounts disputed in good faith until after the settlement of the question or contest in accordance with this Section 5.2 (*Billing Disputes and Final Accounting*).

5.2.2. Billing Dispute Notice. If GPC questions or disputes the correctness of any charge or credit, GPC will provide Seller with written notice of the amount and the basis for GPC's question or dispute. Seller must: (i) promptly review the questioned charge or credit; and (ii) notify GPC, by no later than 20 Days after the date Seller receives GPC's notice, of any error in Seller's determination of amounts owed by GPC; and (iii) if applicable, issue an amended invoice for any payment that GPC is required to make regarding the re-determination. If GPC disputes in good faith Seller's amended invoice amount, then the matter will be resolved in accordance with Part 19 (*Dispute Resolution*) applicable to billing disputes. To the extent Seller disagrees with GPC's basis for questioning the original invoice, Seller must provide a written explanation of Seller's position.

5.2.3. Time for Permitted Disputes. Seller will have until 90 Days after the date of a Monthly Invoice under this PPA to: (i) correct the invoice for payment due for the Monthly Capacity Payment; and (ii) deliver a corrected Monthly Invoice to GPC. GPC will have until the end of one year after its receipt of any Monthly Invoice to dispute the correctness of any charge or credit made to GPC on an invoice. If within the one-year period, GPC has made payment under a Monthly Invoice and later disputes the correctness the invoice, Seller will not be required to refund any payment received from GPC until the time as it is finally determined that Seller's Monthly Invoice was in error.

5.3 Interest. If either Party does not make a payment required by this PPA when due, then interest at the Interest Rate from the date the overdue payment was due until the overdue payment, together with interest, is paid, will be added to the due payment. If either Party makes a payment in accordance with an invoice that is later determined to have been incorrect, then interest at the Interest Rate from the date the overpayment was made will be added to the overpayment until the overpayment, together with interest, is refunded to the Party. Remittance received by mail, if mail is a means of payment acceptable to a Party owed payment, will be accepted without interest charges if the payment is postmarked on or before the due date. If the due date of any payment falls on a Day other than a Business Day, the next succeeding Business Day will be the last Day on which payment can be postmarked without interest charges being assessed. Despite this Section 5.3, no interest will be paid regarding any Monthly Availability Adjustment except to the extent the Monthly Availability Adjustment was not correctly calculated or invoiced in accordance with this PPA.

5.4 Billing and Payment Records. Each Party will, until the end of one year after its receipt of any invoice, make available to the other Party, and each Party may audit, the books and records of the other Party as are necessary for the Party to verify the calculation of the Monthly Capacity Payments, the Monthly Energy Payments, and any Monthly Availability Adjustment, and any other invoice, charge, or payment demand made in connection with this PPA.

PART 6. PERFORMANCE SECURITY

6.1 Performance Security. Simultaneous with the execution of this PPA, if Seller is not Creditworthy, Seller must deliver to GPC Eligible Collateral in an amount equal to the Performance Security required by Exhibit F (*Performance Security*). Seller must maintain Performance Security throughout the Term and adjust its Eligible Collateral in accordance with Exhibit F (*Performance Security*). If: (i) any portion of the Eligible Collateral that GPC is then holding is in the form of a Seller Guaranty; and (ii) a Material Adverse Change occurs regarding Seller Guarantor, then by no later than three Banking Days after the Material Adverse Change occurrence, Seller must deliver to GPC replacement Eligible Collateral to replace the Seller Guaranty: (i) in a form other than a Seller Guaranty; or (ii) in the form of a Seller Guaranty from a different Seller Guarantor that is Creditworthy.

6.2 Replacement Collateral; Substituted Collateral; Release of Collateral.

6.2.1. Replacement Collateral. To the extent that any Performance Security supplement or replacement is required to maintain compliance with Section 6.1 (*Performance Security*) (subject to adjustment in amount under Exhibit F (*Performance Security*)), Seller must deliver to GPC the replacement Seller Performance Security by no later than 90 Days before the earlier to occur of the date when: (i) an increase or decrease in Eligible Collateral is required in accordance with Exhibit F; or (ii) the existing Eligible Collateral will expire. However, the increase or decrease, as applicable, in Eligible Collateral will not become effective until the applicable date specified in Exhibit F. If the U.S. commercial bank or a U.S. branch of a foreign bank that issued the Letter of Credit fails to maintain: (a) total assets of at least ten billion dollars ($10,000,000,000.00); or (b) a general long-term senior unsecured debt rating required for a Letter of Credit under this PPA, Seller must deliver to GPC a replacement Letter of Credit by no later than 10 Banking Days after the disqualifying event of (a) or (b). If Seller does not comply with the preceding sentence, GPC has the right, without limitation to its other remedies under this PPA or at law,

to (a) draw the full amount on the existing Eligible Collateral prior to the expiration date thereof and (b) take further action to protect its interests under this PPA.

6.2.2. Release of Collateral; Substituted Collateral. Upon replacement of the Seller Performance Security in accordance with Section 6.2.1 (*Replacement Collateral*), GPC will promptly release back to Seller the Eligible Collateral that Seller replaced. During the Term, Seller may substitute the Eligible Collateral by providing GPC with notice and the substitute Eligible Collateral. If GPC accepts the substitute Eligible Collateral, GPC will promptly release the Eligible Collateral for which substitution is being made in an amount equal to the substitution amount. Following any expiration or termination of this PPA, the Parties will mutually agree to a final settlement of all obligations under this PPA, which period will not exceed six Months after the expiration or termination date. After the settlement, GPC will return to Seller any remaining Eligible Collateral that Seller posted and upon which GPC has not drawn in accordance with GPC's rights under this PPA. Any dispute between the Parties regarding a final settlement will be resolved according to Part 19 (*Dispute Resolution*), and GPC will not return to Seller any remaining Eligible Collateral that Seller posted until the resolution of the dispute.

6.3 Draws; Replenishment. In addition to the draws permitted by Section 6.2.1 (*Replacement Collateral*) and Section 7.5 (*Grid Cost Improvements*), GPC may draw upon the Eligible Collateral provided by Seller to recover any damages to which GPC is entitled under this PPA (including damages following the occurrence of a Seller Event of Default) or any other unpaid amount owed by Seller under this PPA, including to recover delay liquidated damages under Section 7.4 (*Failure to Achieve Commercial Operation by RCOD*), damages arising from a Seller Event of Default, or termination damages arising from GPC's termination of this PPA for a Seller Event of Default. If GPC draws upon the Eligible Collateral, then, except in the circumstance when GPC establishes an Early Termination Date under Section 16.3.1 (*Remedies for Event of Default*) or this PPA otherwise terminates, Seller, within three Business Days, must replenish the Eligible Collateral to the full amount required by Section 6.1 (*Performance Security*) and Section 7.5 (*Grid Cost Improvements*).

6.4 Reporting. Seller must promptly notify GPC of any circumstance that results in Seller's failure to comply with the Seller Performance Security requirements of this Part 6 (*Performance Security*). From time to time, at GPC's written request, Seller must provide GPC with evidence as GPC reasonably requests to demonstrate that Seller and any Seller Guarantor, Seller Guaranty, Letter of Credit, or Security Account is in full compliance with this PPA.

6.5 Delivery of Eligible Collateral for Performance Security. Seller must provide to GPC Eligible Collateral to meet any of the Seller Performance Security requirements under this PPA by delivering, as applicable: (i) cash wired to an account to be designated by GPC; or (ii) Letter of Credit or Seller Guaranty to the address indicated in Exhibit N (*Notices*).

PART 7. FACILITY DESIGN AND CONSTRUCTION; ACHIEVING COMMERCIAL OPERATION; GRID COST IMPROVEMENTS

7.1 Design and Construction of the Facility/Unit.

7.1.1. Facility/Unit Design. Seller must design and construct the Facility in accordance with the applicable specifications set forth in this PPA. Despite any other provision in this PPA, the actual capacity of the Facility (i.e., the total capacity of the Unit(s)) must be at least 100 MW. The Facility must be designed to meet the requirements of Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*) and Exhibit C (*Energy Payment Calculation*). The Project must be completed in accordance with Prudent Industry Practices and all applicable law. The Facility must comply with applicable EOP-012-1 (Extreme Cold Weather Preparedness and Operations) requirements, including Requirements R1 (applicable to New Facilities), R2 (applicable to Existing Facilities), R3, R4, R5, R6, and R7. EOP-012-1 (Extreme Cold Weather Preparedness and Operations) is published by NERC and available at: https://www.nerc.com/pa/Stand/Reliability%20Standards/EOP-012-1.pdf.

7.1.2. RCOD and Facility Construction Key Milestones. Seller must progress Facility construction in accordance with applicable Key Milestone Dates, including achievement of Commercial Operation by the RCOD.

7.1.3. Commercial Operation. The Facility will be deemed to have achieved Commercial Operation under this PPA when Seller demonstrates, to GPC's satisfaction, that the following criteria are fulfilled. GPC is entitled, but not required, to verify satisfaction of these criteria before GPC's acceptance of Commercial Operation.

(i) The Unit is capable of producing and delivering, on a reliable basis, energy to the Electric System and meets GPC's AGC requirements;

(ii) (a) Seller has satisfied all IA requirements that are conditions to commercial operation (as defined in the IA); (b) the Facility otherwise is in compliance with the IA; and (c) the Facility has demonstrated the reliability of its communication systems with the Scheduling Center;

(iii) Seller has successfully completed Performance Testing in accordance with Section 9.1 (*Tested Reliable Capacity and Designated Capacity*) including a Tested Reliable Capacity higher than 70% of the Nominal Capability under Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), Section 1.4 (*Tested Reliable Capacity Below Contracted Capacity Range; Capacity Buydown*) or GPC will have determined to its reasonable satisfaction through any combination of testing and examination of Facility or Unit data that the Facility or Unit is fully capable of successfully completing a Performance Test;

(iv) Seller must have provided to GPC a certificate reasonably acceptable to GPC, stating that the Facility has been designed, engineered, constructed, and tested in accordance with Prudent Industry Practices and can perform in accordance with the terms of this PPA;

(v) Seller must have delivered to GPC a certificate from a responsible officer of Seller certifying that Seller has obtained all licenses, permits, franchises, agreements, approvals, authorizations, Consents, waivers, rights, exemptions, releases, variances, exceptions, or orders of or issued by, or filing with, or notice to, any Governmental Authority required under applicable law ("**Governmental Approvals**") for the construction, ownership, operation, and maintenance of the Facility in accordance with this PPA; and

(vi) If the Facility is interconnected to an Electric System outside the SBAA, Seller has delivered to GPC a certificate from a responsible officer of Seller that is reasonably acceptable to GPC confirming that Firm Transmission Service has been procured from the COD throughout the Term.

7.1.4. Commercial Operation Certificate. When Seller believes the Facility achieved the Commercial Operation requirements set forth in Section 7.1.3 (*Commercial Operation*), Seller must complete and submit to GPC the Commercial Operation Completion Certificate provided in Exhibit I (*Form of Commercial Operation Completion Certificate*). Upon receipt of the Commercial Operation Completion Certificate, GPC will have the right, but not the obligation, to inspect the Facility or review inspection-related information before acceptance. Within 30 Days after receipt, GPC will review the Commercial Operation Completion Certificate and notify Seller whether GPC agrees that Commercial Operation was achieved. If GPC agrees that Commercial Operation was achieved, the date that Seller submitted the Commercial Operation Completion Certificate will be the Commercial Operation Date. However, if GPC determines that the Facility has not actually achieved Commercial Operation, Seller must promptly resolve any issue or deficiency and then resubmit the Commercial Operation Completion Certificate. This process will repeat until Commercial Operation (as determined by GPC) is achieved. Seller will be liable for Delay Damages under Section 7.4 (*Failure to Achieve Commercial Operation by RCOD*) if GPC determines that Seller did not timely achieve Commercial Operation. Subject to Section 7.4.4 (*RCOD Exceptions*), if applicable, Seller may be entitled to an RCOD extension if: (i) the Facility interconnects to the Southern Company Transmission System; and (ii) the Interconnection Provider is solely responsible for a delay in the construction of Interconnection Facilities.

7.2 Key Milestones and Milestone Schedule. By no later than 10 Business Days after the date of the Commission Certificate, Seller must provide a Milestone Schedule. At a minimum, the Milestone Schedule must include the Key Milestones stated in Exhibit A-1 (*Key Milestones and Required Key Milestone Dates*) and supported by documentation, as applicable.

7.2.1. Milestone Schedule Updates; Quarterly Reports. Until COD, Seller must submit to GPC a Monthly written status report that: (i) covers the previous Month; (ii) is prepared in a manner and format (hard copy and electronic) acceptable to GPC; and (iii) includes a detailed summary of (a) Seller's progress toward each of the Key Milestones and the Facility's development and construction; (b) Seller's adherence to the Milestone Schedule; (c) any significant event that is scheduled or expected to occur during the following 30 Days; and (d) any other information requested by GPC. Seller must promptly notify GPC of any significant change in the Milestone Schedule that may delay Commercial Operation or the status of construction as may occur from time to time (including the reason for the change).

7.2.2. Recovery Plan. Promptly after becoming aware of any event or circumstance that could reasonably be expected to cause a delay in achieving any Key Milestone by its Key Milestone Date, Seller must provide to GPC for GPC's review and reasonable approval a recovery plan setting forth in detail and with supporting documentation: (i) the cause(s) of the event or circumstance and the expected delay; and (ii) Seller's plan to recover the lost time and regain compliance with the Milestone Schedule to achieve Commercial Operation by the RCOD, and if not by the RCOD, then by no later than nine Months after the RCOD. If Seller does not: (a) submit a recovery plan that meets GPC's reasonable approval; or (b) diligently implement and comply with a GPC-approved recovery plan, GPC may declare a Seller Event of Default in accordance with Section 16.1.5 (*Failure to Comply with Other Material PPA Terms*) and terminate this PPA without giving Seller further opportunity to cure. Nothing in this Section 7.2.2 will be construed to relieve Seller of any of its PPA obligations.

7.2.3. Requested Information and Physical Inspections. GPC may reasonably request information regarding the status of the Facility and inspect the Facility's construction, startup, and testing. Seller must provide, or cause to be provided, to GPC the requested information. Additionally, Seller must coordinate physical inspection of the Facility as GPC may reasonably request during or after completion of construction. GPC will provide Seller reasonable prior notice regarding an inspection. All GPC or GPC-Representative activities at the Site will be subject to Seller's reasonable rules and procedures (including those related to health and safety).

7.3 Permitting. A Seller Event of Default will arise under Section 16.1.12 (*Failure to Obtain Air Permit by Air Permit Threshold Date*) if Seller: (i) does not obtain the Air Permit by the Air Permit Threshold Date; or (ii) reasonably determines that Seller will not obtain the Air Permit by the Air Permit Threshold Date. In either case, Seller must promptly deliver to GPC written notice, in accordance with Section 19.1 (*Notice*), regarding the event. If GPC terminates this PPA in accordance with Section 16.3.1 (*Remedies for Event of Default*) for a Seller Event of Default under Section 16.1.12 (*Failure to Obtain Air Permit by Air Permit Threshold Date*), Seller must pay to GPC the Termination Payment under Section 16.3 (*Remedies*). Subject to Section 7.5 (*Grid Cost Improvements*), Seller must also reimburse GPC for the total costs incurred by GPC for modifications to the Electric System associated with the Facility and the delivery of energy from the Unit to GPC's customers. Following any such termination and Seller's payment to GPC of all required damages under this Section 7.3, neither Party will have any other liability to the other Party under this PPA.

7.4 Failure to Achieve Commercial Operation by RCOD.

7.4.1. Delay Liquidated Damages. If Seller fails to achieve Commercial Operation by the RCOD, Seller must pay to GPC delay liquidated damages calculated in accordance with the *Liquidated Damages Table* in Exhibit A-2 (*Performance Security and Liquidated Damages*), prorated daily, until the earlier of: (i) the COD; (ii) the Day GPC receives written notice from Seller that Commercial Operation will not be achieved; or (iii) GPC's termination of this PPA in accordance with Section 16.3.1 (*Remedies for Event of Default*) for a Seller Event of Default.

7.4.2. No Payment to Seller during Delay. GPC will not owe any Monthly Capacity Payment to Seller during any period of delay in achieving Commercial Operation.

7.4.3. Seller Payment of Delay Liquidated Damages; Pre-COD Termination Damages. Seller must pay GPC on a Monthly basis by no later than 10 Days after the end of the applicable Month delay liquidated damages owed under this Section 7.4 (*Failure to Achieve Commercial Operation by RCOD*). In accordance with Section 6.3 (*Draws; Replenishment*): (i) GPC may draw upon the Performance Security to recover delay liquidated damages owed under this Section 7.4; and (ii) Seller must replenish the Performance Security. The Parties will resolve any dispute regarding delay liquidated damages under this Section 7.4 in accordance with Section 5.2 (*Billing Disputes and Final Accounting*). Each of the following events is a Seller Event of Default under Section 16.1.11 (*Abandonment or Failure to Achieve RCOD*): (a) Seller abandons, as determined by GPC, of the Unit or Facility, as applicable, development or construction before the COD; (b) Seller does not achieve Commercial Operation of the Unit by no later than nine Months after the RCOD; or (c) Seller notifies GPC that: (I) Seller has reasonably determined that Seller will not achieve Commercial Operation of the Unit; or (II) Seller will not achieve Commercial Operation of the Unit by no later than nine Months after the RCOD. If GPC terminates this PPA for a Seller Event of Default under Section 16.1.11 (*Abandonment or Failure to Achieve RCOD*), then, in addition to Seller's payment of the delay liquidated damages that accrue under Section 7.4 (*Failure to Achieve Commercial Operation by RCOD*), Seller must pay to GPC termination liquidated damages in an amount equal to the applicable Performance Security amount shown in Exhibit F (*Performance Security*). Subject

to Section 7.5 (*Grid Cost Improvements*), Seller must reimburse GPC for the total costs GPC incurred for modifications to the Electric System associated with the Facility and the delivery of energy from the Unit to GPC's customers. Following termination, as described in the preceding sentences, and Seller's payment to GPC of all required termination damages and delay liquidated damages in accordance with this Section 7.4.3, neither Party will have any other liability to the other Party under this PPA.

7.4.4. RCOD Exceptions. If Seller's failure to achieve Commercial Operation by the RCOD is solely caused by: (i) an FME under Section 15.3 (*No Breach or Liability*); or (ii) if one of the Southern Companies is the Interconnection Provider, a delay in the construction by Interconnection provider of Interconnection Facilities, so long as Seller has complied with Section 8.1.3 (*Interconnection Projected Completion Date*), and the delay is not caused by any action or inaction on the part of Seller, the RCOD will be extended on a day-for-day basis to the extent the Project's critical path is impacted. In the case of (ii), if Seller has not met all IA obligations in a timely manner, Seller's failure to achieve Commercial Operation by the RCOD will not be excused, the RCOD will not be extended, and, while GPC completes construction of the Interconnection Facilities, Seller will owe liquidated delay damages for each Day of delay after RCOD as set forth in Section 6.3 (*Draws; Replenishment*).

7.4.5. Liability Following Termination. If GPC terminates this PPA in accordance with Section 16.3 (*Remedies*) for a Seller Event of Default under Section 16.1.11 (*Abandonment or Failure to Achieve RCOD*), Seller will owe the Termination Payment under Section 16.3 in addition to the delay liquidated damages that accrue before termination. GPC will also have a right to draw upon the Upgrade Security in accordance with Section 7.5 (*Grid Cost Improvements*). After the termination, other than the requirement for Seller to pay the damages that accrue under this Section 7.4 (*Failure to Achieve Commercial Operation by RCOD*), and GPC's right to draw upon the Upgrade Security in accordance with Section 7.5 (*Grid Cost Improvements*), neither Party will have any further liability to the other Party under this PPA.

7.4.6. Commercial Operation Delay Caused by Southern Company Transmission System Capability or Natural Gas Supply Transportation Capability.

(i) RCOD Extensions to Accommodate Start-Up and Testing. If Seller's start-up and testing activities for the Unit or Facility are delayed, as a critical path item on the Milestone Schedule, solely and directly by: (a) if the Facility is interconnected to the Southern Company Transmission System, a delay in the construction of Interconnection Facilities in accordance with the IA schedule for which delay the Interconnection Provider is responsible; or (b) a delay by the Natural Gas transportation provider(s) in timely constructing the requisite Natural Gas metering and interconnection facilities to reasonably accommodate Seller's start-up and testing activities for the Unit or Facility under the Milestone Schedule, and because of the delay in Seller's start-up and testing activities for the Unit or Facility, Seller is prevented from achieving Commercial Operation by the RCOD, then the RCOD will be extended to a date that will reasonably accommodate Seller's start-up and testing activities based on the impact to the critical path of the Milestone Schedule, so long as, as a condition to the extension, Seller undertakes all commercially reasonable efforts to avoid, overcome, or otherwise mitigate the impact to the critical path of the Milestone Schedule. Despite any provision in this PPA, this Section 7.4.6 will not apply, and there will be no extension of the RCOD: (I) in the case of any delay in the construction of Interconnection Facilities if Seller has not timely complied with Section 8.1 (*Interconnection*), including timely performance of its obligations under the IA; or (II) in the case of any other delay that is caused, in whole or in part, by any action or inaction on the part of Seller.

(ii) Exclusive Remedies. Seller understands and acknowledges that extension of RCOD in accordance with Section 7.4.6(i) (*RCOD Extensions to Accommodate Start-Up and Testing*) will be Seller's exclusive remedy for any delay described in items (a) or (b) in Section 7.4.6(i).

(iii) No PPA Term Extension. Despite any other provision in this PPA, an extension of RCOD under Section 7.4.6(i) (*RCOD Extensions to Accommodate Start-Up and Testing*) will not cause an extension of the Term, and no delay described in items (a) or (b) of Section 7.4.6(i) will otherwise extend this PPA beyond its stated Term.

7.5 Grid Cost Improvements.[NOTE TO BIDDERS: Language consistent with the Upgrade Security sections of RFP Exhibit B (*Interconnection and Delivery Requirements*) will be included in this Section 7.5.]

PART 8. INTERCONNECTION AND METERING

8.1 Interconnection.

8.1.1. Interconnection Study and Entry into IA. After the Commission certifies this PPA, Seller must enter into an IA with the Interconnection Provider by no later than 30 Days after the Interconnection Provider presents Seller with the IA for execution, unless GPC agrees otherwise in writing. Seller must timely comply with all obligations under the Interconnection Study Agreement and IA, including timely submission of required data and documentation and timely payment, as applicable. The Interconnection Study Agreement must address the full seasonal capability of the Facility. The IA must be maintained throughout the Term. Seller must promptly provide to GPC a copy of, and any amendments to, the IA in accordance with Section 20.4 (*Notice*).

8.1.2. Interconnection Costs and Expenses. GPC will not be responsible under this PPA for any cost or expense (including overheads and administrative costs) or risk incurred concerning: (i) the Interconnection Study; or (ii) the design, construction, installation, or maintenance of the Interconnection Facilities. Seller is responsible for determining all transmission- and interconnection-related rules, practices, and policies with which Seller must comply. Seller also is responsible for satisfying the payment or security requirements of the Interconnection Provider and any Affected System or Transmission Service Provider. For the avoidance of doubt, if the POD is a Southern Transmission Interface, Seller is responsible for the cost and risk for both interconnection and delivery to the Southern Transmission Interface.

8.1.3. Interconnection Projected Completion Date. The IA must reflect a projected completion date for construction of the Interconnection Facilities, including a reasonable schedule between initial synchronization and the COD to allow for operations verification and testing consistent with the Interconnection Provider's current practices. Seller must, in a timely manner, execute and perform under the IA, including providing timely notice to proceed, timely submission of required data and documentation, and timely payment or security. Seller acknowledges that before entering any IA with GPC, as described in Section 8.1.4 (*Interconnection to Southern Company Transmission System*), Seller may need to enter an engineering, procurement, and construction agreement to provide timely notice to proceed.

8.1.4. Interconnection to Southern Company Transmission System. If the Facility is interconnected to the Southern Company Transmission System, the IA will be read in conjunction with this Part 8 (*Interconnection and Metering*) and any contradictory provision related to Facility interconnection will be resolved in favor of the IA.

8.2 Metering and Telemetry.

8.2.1. Metering System. Seller must ensure the Metering System is designed, located, constructed, installed, owned, operated, and maintained in accordance with the IA and Prudent Industry Practices to measure and record the energy delivered from the Unit to the POI, to: (i) determine the Unit capacity; and (ii) measure the availability of the Unit in meeting GPC's Schedules. The Metering System will be of a mutually acceptable accuracy range and type, including audit capabilities. Seller, Seller's Affiliates or the employees, subcontractors, or contractors of any of them must not adjust the Metering System without GPC's written consent. GPC may, at its own cost, install additional meters or other such facilities, equipment, or devices as GPC deems necessary or appropriate to monitor the measurements of the Metering System. Seller must install, at its own expense, all needed metering support equipment on its side of the POI to facilitate GPC's dispatch of the Facility via AGC signals. Seller must, at Seller's expense, install or upgrade the Facility's control systems to allow GPC's AGC dispatch of the Unit. GPC will reasonably establish the telemetering equipment and systems that are necessary to control the Unit from the Scheduling Center and Seller will, at Seller's expense, install or cause the installation of the telemetering equipment. Seller must deliver to GPC all the telemetered data and any other data GPC requests.

8.2.2. Inspection. Seller must inspect and test all meters at such times as will conform to Prudent Industry Practices, but not less often than once biennially. Seller will be responsible for all costs and expenses incurred in connection with such inspections or tests.

8.2.3. Adjustments. If any seal securing the Metering System is found broken, if the Metering System fails to register, or if a measurement made by a metering device is found upon testing to vary by more than 0.5% from the measurement made by the standard meter used in the test, an adjustment will be

made correcting all measurements of energy made by the Metering System during the Adjustment Period. "**Adjustment Period**" means either: (i) the actual period when inaccurate measurements were made by the Metering System, if that period can be determined to the mutual satisfaction of the Parties; or (ii) if the actual period cannot be determined to the mutual satisfaction of the Parties, the second half of the period from the date of the last test of the Metering System to the date the failure is discovered or the test is made. If the Parties are unable to agree on the adjustment to be applied to the Adjustment Period, the adjustment will be determined: (a) by correcting the error if the percentage of error is ascertainable by calibration, tests, or mathematical calculation; or (b) if not so ascertainable, by estimating based on deliveries made under similar conditions during the period since the last test. Within 30 Days after the determination of any adjustment, GPC will pay Seller any additional amounts then due for deliveries of energy or Designated Capacity during the Adjustment Period or GPC will be entitled to a credit against any subsequent payments for energy or Designated Capacity, as the case may be.

8.2.4. Notice of Testing. GPC and its representatives may be present at any test, inspection, maintenance, adjustments, and replacement of any part of the Metering System relating to obligations under this PPA. Seller must provide GPC with reasonable prior written notice regarding an activity described in the preceding sentence.

8.2.5. Loss Factor Adjustment. For a Unit interconnected to the STT, if, and to the extent, the Metering System is not measuring deliveries of energy physically at the POI, the metered energy quantity will be adjusted for losses to or from the POI by a loss factor determined by GPC, in accordance with Prudent Industry Practices.

PART 9. DESIGNATED CAPACITY AND PERFORMANCE TESTS

9.1 Tested Reliable Capacity and Designated Capacity. Before Commercial Operation, Seller must conduct, at its expense, Performance Testing as detailed in Exhibit E (*Performance Testing Procedures*). The Tested Reliable Capacity, and Designated Capacity of the Unit will be established in accordance with Exhibit B (*Capacity; Capacity Payments*). Performance Tests will be conducted in accordance with Exhibit E. Seller must notify GPC personnel in advance of its Performance Testing and allow GPC to witness and participate in the testing as GPC desires. Upon Seller's completion of any Performance Test, Seller must promptly provide to GPC a complete written report of the Performance Test, in accordance with Exhibit E, certified by a responsible officer of Seller, for GPC's review and verification. Following the Delivery Commencement Date, Seller must cooperate with GPC's request for information concerning the performance of the Unit that GPC may reasonably request from time to time.

9.2 Disputes Concerning Capacity Tests. If the Parties disagree regarding the Performance Test results, the Parties will resolve the dispute in accordance with Part 19 (*Dispute Resolution*) applicable to Performance Test results. If the dispute is not resolved by the first Day of any Annual Period, the Tested Reliable Capacity and Designated Capacity in effect for the Annual Period may not exceed the Tested Reliable Capacity and Designated Capacity established under Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*) by the most recent undisputed Performance Test, subject to the outcome of this dispute resolution process. Following the resolution of the dispute, an adjustment will be made to all Monthly Capacity Payments made regarding the Annual Period to account for any difference between the new Designated Capacity and the preceding Designated Capacity.

PART 10. OPERATION AND MAINTENANCE

10.1 Operation and Maintenance.

10.1.1. General Standards. Seller must manage, control, operate, and maintain all parts of the Unit in a manner consistent with Prudent Industry Practices, considering GPC's right to Schedule the Unit, and in accordance with applicable planning standards and operating policies of SERC and NERC and in accordance with the Operating Procedures to be developed by the Operating Committee. The requirements of this Section 10.1.1 will not be interpreted to limit GPC's Scheduling rights as provided for elsewhere in this PPA.

10.1.2. Written Operating Procedures. Seller and GPC will mutually develop and agree upon written Operating Procedures no later than six Months before the Delivery Commencement Date. Topics covered will include: (i) Performance Tests procedures, deliveries of energy during start-up and testing of the Unit; (ii) the method of Day-to-Day communications; (iii) clearance and switching practices; (iv) daily capacity

availability and energy reports; (v) Unit operations log; (vi) reactive power output; (vii) Technical Limits regarding Unit operation (including minimum run times, Maximum Ramp Rate(s)); (viii) minimum down times between starts, quick start capability, and other limits specified in Exhibit D (*Technical Limits and Schedule Procedures*)); (ix) ramp rates for the delivery of power to the Electric System; (x) coordination of maintenance scheduling; (xi) designation of Confidential Information; and (xii) any other matters as the Operating Representatives agree are appropriate. The Operating Representatives will be responsible for modifying, from time to time, the Operating Procedures in writing to reflect agreed upon changes. In the event of an inconsistency or conflict between the Operating Procedures and specific terms of this PPA, the specific terms of this PPA will take precedence.

10.1.3. Safety Devices, Safety Practices, and Records. Seller must employ at the Facility all safety devices and safety practices required by Prudent Industry Practices. Seller must keep accurate records of any accident or other occurrence at the Site that results in injury to persons or damage to property. Seller must provide to GPC reasonable access to these records upon at least seven Days' notice during normal business Hours, but Seller will not be required to provide access to employment records regarding Facility personnel.

10.1.4. Facility Personnel. During the Term, Seller must employ qualified and trained personnel for management, operation, and maintenance of the Facility.

10.2 Maintenance Scheduling.

10.2.1. Maintenance Schedule Reporting and Approvals. Commencing in the year before the year of the Delivery Commencement Date, and continuing throughout the Term, Seller must submit to GPC before September 1 Maintenance Schedules covering the next four Annual Periods or the number of Annual Periods remaining in the Term, whichever is less. Seller must not schedule any maintenance of the Unit during any of the Summer or Winter Seasonal Performance Periods of any Annual Period that would decrease the capacity output of the Unit below the Designated Capacity without the prior written consent of GPC. GPC will have 30 Days to review the proposed Maintenance Schedules and may approve or reject (in whole or in part) the Maintenance Schedules. The Maintenance Schedules are subject to the approval of GPC, which approval GPC will not unreasonably withhold or delay. However, any determination by GPC to disapprove a Hot Gas Path Inspection or Major Inspection in May will not be considered unreasonable. If any portion of a Maintenance Schedule is rejected by GPC, Seller must resubmit a revised Maintenance Schedule to GPC within 30 Days after GPC's rejection and GPC and Seller agree to use best efforts to promptly develop Maintenance Schedules that are mutually acceptable, considering the burdens that GPC's changes impose on Seller compared to the burdens avoided by GPC because of the changes. Any dispute concerning this Section 10.2.1 will be resolved in accordance with the provisions of Part 19 (*Dispute Resolution*) applicable to Maintenance Schedule disputes. The outages included in the final, approved Maintenance Schedule for the current Annual Period will be the Scheduled Outages for that Annual Period.

10.2.2. Maintenance Outages. In addition to Scheduled Outages, Seller may request Maintenance Outages during any Annual Period. Seller must notify GPC (in writing, electronically, or orally) of each Maintenance Outage no less than 24 Hours in advance and at least one Business Day in advance of Seller's proposed commencement of the Maintenance Outage. In Seller's request, Seller must identify the equipment and Designated Capacity that will not be available for delivery at the POI and the proposed start time and duration of the Maintenance Outage. GPC will respond to Seller's request as soon as reasonably practicable. Seller must not take a Maintenance Outage without GPC's prior written or telephonic consent, and GPC' will not unreasonably withhold, condition, or delay its consent. Despite the preceding sentence, each Party acknowledges that it will be reasonable for GPC to deny any request for a Maintenance Outage if GPC reasonably believes that it may Schedule the Unit to a level that would require the availability of the equipment that is proposed to be Unavailable during the Maintenance Outage. GPC will have the right to revoke its consent to a Maintenance Outage if changed conditions require Scheduling of the Designated Capacity scheduled to be Unavailable during the Maintenance Outage. If GPC reasonably requests Seller to return to full Availability status all or part of that portion of the Facility that is affected by the Maintenance Outage, Seller must comply as soon as reasonably practical. GPC will not dispatch the Unit to the extent that the Unit is not capable of delivering energy as a direct result of a Scheduled Outage or a Maintenance Outage approved by GPC.

10.2.3. Reporting of Forced Outages and Derates. Seller must notify GPC promptly, through the method required by the Operating Procedures, upon the occurrence of any Forced Outage or Forced

Derate. As soon as practicable, but in any event not later than one Business Day after the beginning of the period of the Forced Outage or Forced Derate, Seller must notify GPC of: (i) the cause of the outage or derate; (ii) the amount of capacity affected by the outage or derate; (iii) the proposed corrective action to address the outage or derate; and (iv) Seller's reasonable estimate of the expected duration of the Forced Outage or Forced Derate and expected return to full operation.

10.2.4. System Emergencies. If Seller has a Scheduled Outage or Maintenance Outage, and the Scheduled Outage or Maintenance Outage occurs or would occur coincident with a System Emergency, GPC will notify Seller of the System Emergency. GPC, because of the System Emergency, may request Seller to reschedule the Scheduled Outage or Maintenance Outage or, if the Scheduled Outage or Maintenance Outage has begun, to expedite the completion thereof, and Seller must comply with GPC's request as soon as reasonably practical.

10.3 Permits. Seller must maintain, for the period required by applicable law during the Term, all Air Permits, including during the Unit's operation with the Air Permit Minimum Operating Hours Requirement. However, Seller's inability to cause compliance with the Air Permit Minimum Operating Hours Requirement per unit will not be deemed a Seller Event of Default so long as Seller completely covers for the remainder of the Term any shortfall in the Facility's ability to meet GPC's Schedules due to limitations in the Air Permit by electing to provide physical Alternate Delivery from an Alternate Resource in accordance with Section 4.1.4(i) (*Scheduled Energy Delivery Using Alternate Resource*). In accordance with the notice provisions of Section 20.4: Seller must: (i) provide GPC with a copy of the Air Permit; and (ii) promptly provide GPC with a copy of any Air Permit renewal or amendment.

10.3.1. Alternative Determination of Capacity Payment. For a Seller Event of Default caused by Seller's inability to comply with the Air Permit Minimum Operating Hours Requirement, the capacity and energy that would be considered available to GPC under this PPA in calculating the Termination Payment in accordance with Section 16.3.3 (*Determining Gains, Losses, and Costs*) will be determined by utilizing the Unit's Air Permit limitations in effect on the Early Termination Date as defined in Section 16.3.1 (*Remedies for Event of Default*).

10.4 Access to the Site and the Facility. Seller grants to GPC or GPC's designated Representatives, with reasonable prior notice to Seller, the right to enter the Site to: (i) inspect, maintain, and test meters and other GPC equipment; (ii) monitor or measure energy generated by the Unit in accordance with this PPA and Prudent Industry Practices; (iii) monitor Performance Tests; (iv) inspect the Facility; and (v) inspect and test facilities related to the supply of Natural Gas and Fuel Oil. Seller must cooperate in the physical inspections of the Facility as GPC may reasonably require, so long as: (a) the inspections will not materially interfere with the Facility's testing or operations; and (b) GPC complies with rules and regulations of Governmental Authorities having jurisdiction regarding the Facility and with Seller's reasonable policies and procedures applicable to the Facility, including those regarding safety. **GPC's technical review or inspection of the Unit or Facility, as applicable, will not be construed as endorsing Unit or Facility design or construction or as any warranty of the safety, durability, or reliability of the Unit or Facility.** Seller must cooperate, and must cause its Representatives to cooperate, in: (I) providing the information GPC requests; and (II) the physical inspections of the Unit or Facility as GPC may reasonably request during and after completion of construction. At the end of the Term, GPC or GPC's designated Representatives will have the right to inspect the Unit or Facility's decommissioning.

10.5 Availability of Records. Seller must keep complete and accurate records and all other data necessary for the purposes of proper administration of this PPA in accordance with the following guidelines:

10.5.1. Holding Period. Seller must maintain all records related to the Unit and Seller's performance under this PPA for a minimum of five years after the creation of the record or data and for any additional time period required by applicable law or a Governmental Authority. However, the records must be kept for as long as is necessary to complete any audit that began or was announced during the five-year period. Despite any PPA provision, if Seller intends to dispose of or destroy any such records or data after the five-year period, Seller must provide GPC with 30 Days' prior written notice.

10.5.2. Operating Logs. Seller must maintain at the Facility an accurate and up-to-date operating log with records of: (i) real and reactive power production for each Hour; (ii) changes in operating status and scheduled maintenance; (iii) Scheduled Outages, Maintenance Outages, Forced Outages, Forced Derates, and Force Majeure Events; (iv) any unusual condition found during an inspection; and (v) any significant event related to the operation of the Unit.

10.5.3. GPC's Access to Facility and PPA Records. Upon reasonable advance notice and during normal business Hours, GPC will have the right from time to time to examine at the Unit or Facility, or at a location

mutually agreed to by the Parties, the records and data relating to the Unit and this PPA, including all historical test records relating to the Unit, at the Facility.

10.5.4. GPC's Access to Financial and Business Information. At GPC's request, throughout the Term, Seller must provide to GPC public and non-public financial and business information reasonably necessary for GPC to make accounting determinations. Without limiting the preceding sentence, upon reasonable notice to Seller, GPC and GPC's independent auditor will have the right to inspect, from time to time, Seller's books and records as are reasonably necessary for GPC to determine whether Seller constitutes a VIE or this PPA represents a VI, or if this PPA must be treated as a Finance Lease. To the extent the inspection requires access to Seller's Confidential Information, the information will constitute Confidential Information subject to Section 20.16 (*Confidentiality*).

10.5.5. GADS Data. By no later than the 10th Day of each Month, Seller must provide to GPC all the preceding Month's NERC Generation Availability Data System (GADS) (or any successor system) data concerning the Facility.

10.6 Effect of GPC Action. Seller understands and agrees that GPC's receipt and review of any material related to the Project or any physical inspection of the Unit or Facility GPC conducts under any PPA provision is solely for GPC's own information. **By conducting the review or inspection, GPC makes no endorsement of the design or representation or warranty of the safety, durability, or reliability of the Unit or Facility, all of which are Seller's sole responsibility in accordance with the terms of this PPA, and GPC will not be deemed to have accepted any condition of the Unit or Facility that is not in full compliance with the terms of this PPA.** Seller must not represent to any third party that, because of GPC's receipt and review of any material or any inspection, GPC is in any way responsible for the engineering or construction soundness or operational practices of the Unit or Facility.

10.7 Operating Committee.

10.7.1. Appointments. The Parties will establish an Operating Committee comprised of two Operating Representatives, one appointed by each of Seller and GPC. Each Party will provide written notice of the appointments to the other Party. Each Party may change their Operating Representative appointment at any time by similar written notice. The Operating Representatives will meet as necessary, but not less often than once each calendar year, at a mutually agreeable time and place upon prior written notice. The Operating Representatives will represent the Parties in all matters arising under this PPA that may be delegated to them by mutual agreement of the Parties, but the Operating Representatives will not have any authority to modify or amend the terms of this PPA.

10.7.2. Cooperation. Each Party will cooperate in providing the Operating Representatives all information required in the performance of their duties. If the Operating Representatives are unable to agree on any matter falling under their jurisdiction, the Operating Representatives will submit the matter to senior officers for discussion and resolution. All decisions and agreements made by the Operating Representatives or their principals must be evidenced in writing.

10.8 Cyber Security. The Facility must comply with the requirements for Bulk Electric System generation facilities in North America set forth in the NERC reliability standards (*Cyber Security Standards*) created pursuant to FERC Order 706 (*Mandatory Reliability Standards for Critical Infrastructure Protection*), other applicable law, or Prudent Industry Practices. With respect to any actual or suspected cyber security incident that compromises, disrupts, or constitutes an attempt to compromise or disrupt: (i) Seller's cyber security or physical security at the Facility; (ii) the performance of Seller's obligations regarding the operation of the Facility; or (iii) products, software, or systems provided or to be provided under this PPA (a "**Cyber Security Incident**"), Seller must report any Cyber Security Incident to GPC within 24 Hours after discovery..

PART 11. FUEL SUPPLY ALLOWANCES

11.1 Overview.

11.1.1. Natural Gas Availability; Gas Supply Plan. Before the Delivery Commencement Date, Seller must acquire and pay for any Natural Gas and Fuel Oil used at the Unit. At all times following the Delivery Commencement Date during the Term: (i) the Unit must be capable of utilizing Natural Gas as Scheduled by GPC to produce the energy committed to GPC under this PPA; and (ii) Seller shall use commercially reasonable efforts to maintain in the Unit's Air Permit the ability to utilize Fuel Oil, and to the extent allowed

by such Air Permit, the Unit must be capable of utilizing Fuel Oil as Scheduled by GPC to produce the energy committed to GPC under this PPA. GPC will develop a Gas Supply Plan.

11.1.2. Monthly Fuel Adjustments; Natural Gas Responsibility. In accordance with Exhibit C (*Energy Payment Calculation*), Section 1.4 (*Monthly Fuel Adjustment*), GPC will receive or pay, as the case may be, a Monthly Fuel Adjustment based on the Guaranteed Heat Rate described in Exhibit F (*Guaranteed Heat Rates*) for all Natural Gas and Fuel Oil used to generate energy that is delivered to GPC in accordance with GPC's Scheduling Instructions, including ramping: (i) from synchronization to Minimum Capacity (Startup Energy); (ii) from Minimum Capacity to Base Operating Mode Schedule; (iii) from Base Operating Mode Schedule to Minimum Capacity; and (iv) from Minimum Capacity to offline. The ramping energy will be multiplied by the appropriate Guaranteed Heat Rates in accordance with Exhibit F to determine the Daily Guaranteed Fuel quantity during ramping. The Guaranteed Heat Rate for ramping from synchronization to Minimum Capacity will be the Guaranteed Heat Rate for Minimum Capacity. Seller will be responsible for the cost of Natural Gas and Fuel Oil for the Unit start-up before synchronization. Each Party will be responsible in accordance with Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), Section 1.2 (*Tested Reliable Capacity; Performance Tests*) for the cost of Natural Gas and Fuel Oil, including transportation charges, required for Performance Testing.

11.2 Natural Gas Transportation Capacity.

11.2.1. Gas Supply Plan Costs. Except as provided in this Part 11 (*Fuel Supply Allowances*), GPC will bear all costs incurred under the Gas Supply Plan. To the extent GPC desires to have or use storage capacity to better manage the Natural Gas requirements of the Unit, GPC will obtain such capacity at its expense.

11.2.2. Facilities, Infrastructure, and Property Interests. At Seller's expense, Seller must cause to be acquired, constructed, owned, operated, and maintained, all facilities, infrastructure, and property interests that are necessary for Seller to receive, measure, and use Natural Gas delivered by GPC at the Gas Delivery Point so as to enable the Unit to produce energy as committed to GPC under this PPA, including all costs associated with the construction and operation of the gas pipeline lateral(s) necessary to connect the Facility to the fuel supplier's (or suppliers') gas pipeline(s).

11.2.3. Acceptance at Gas Delivery Point. Seller agrees to accept at the Gas Delivery Point any Natural Gas that: (i) meets the gas quality standards for delivered Natural Gas under the applicable gas transportation provider's FERC gas tariff and the applicable transportation agreement(s); (ii) does not meet the gas quality standards, so long as such the Natural Gas would not, in Seller's reasonable discretion, have a material adverse effect on the Unit; or (iii) Seller allows to flow beyond the Gas Delivery Point.

11.2.4. Imbalance Charges. The Parties will exercise reasonable commercial efforts to minimize any Imbalance Charges. GPC will be responsible for all Imbalance Charges relating to delivery of Natural Gas to the Unit to meet GPC's Scheduling Instructions. If GPC or Seller receives an invoice regarding Imbalance Charges from a transporter, the Parties will determine the cause for the charges. To the extent that the Imbalance Charges were incurred because of GPC's action or inaction, then GPC will pay the Imbalance Charges. To the extent that the Imbalance Charges were incurred because of Seller's actions or inaction, or a combustion turbine trip or a Forced Derate associated with attempting to respond to GPC's Schedule, then Seller must pay the Imbalance Charges. Imbalance Charges that are not due to the action or inaction of GPC or Seller or those for which a cause cannot be determined will be shared equally by GPC and Seller. Any disputes under this Section 11.2.4 will be resolved in accordance with Part 19 (*Dispute Resolution*) applicable to Imbalance Charges disputes.

11.2.5. Measurements; Title. All Natural Gas supplied by GPC in accordance with this PPA will be measured at the Gas Delivery Point. GPC will retain title to Natural Gas provided by GPC to meet GPC's Schedules. The title to all energy generated by the Unit because of the conversion of the Natural Gas to energy in the Unit will vest in GPC immediately upon its generation and, in accordance with this tolling arrangement, Seller must make the Unit Available to GPC to convert GPC's Natural Gas to GPC's energy. Despite the preceding sentences, risk of loss of Natural Gas GPC supplies in accordance with this PPA will transfer from GPC to Seller at the Gas Delivery Point and Seller must bear the risk of loss of energy generated at the Unit until Seller transfers the energy to GPC at the POD.

11.3 Fuel Oil.

11.3.1. Ownership, Operation, and maintenance of Facilities, Infrastructure, and Property Interests. At Seller's sole cost and expense, Seller must own, operate, and maintain all facilities, infrastructure, and property interests necessary for: (i) the simultaneous delivery of at least two 7,500 gallon tractor-trailers containing Fuel Oil; and (ii) working storage for GPC's sole use of a Fuel Oil storage capacity at Reference Conditions for the Winter Seasonal Period (i.e., 40°F and 75% relative humidity) to supply the plant at full load for 72 Hours.

11.3.2. Purchase and Sale of the Facility's Fuel Oil Inventory.

(i) Seller's Sale to GPC of Fuel Oil Inventory. Seller must sell to GPC the number of gallons of the Fuel Oil inventory residing in the Facility's Fuel Oil storage tank (as specified in Exhibit A (*Facility Description and Additional Details*)) as of the Delivery Commencement Date. GPC will pay Seller for the Fuel Oil inventory, within 10 Days after the date GPC receives Seller's invoice for Seller's Fuel Oil inventory, the amount equal to the product of: (i) the quantity of the inventory; *times* (ii) the average Daily Fuel Oil Replacement Price during the120-Day period immediately preceding the Delivery Commencement Date.

(ii) GPC's Sale to Seller of GPC's Fuel Oil Inventory. At the end of the Term, GPC will sell to Seller, and Seller must purchase from GPC, GPC's Fuel Oil inventory residing in the Facility's Fuel Oil storage tank (with capacity as specified in Exhibit A (*Facility Description and Additional Details*)) as of the last day of the Term. Seller must pay GPC for the inventory, no later than 10 Days after the date of GPC's invoice for GPC's Fuel Oil Inventory, the amount equal to the product of: (a) the quantity of the inventory; *times* (b) the average Daily Fuel Oil Replacement Price during the 120-Day period immediately preceding the last day of the Term.

11.3.3. GPC's Obligation to Procure Fuel Oil. GPC will be responsible for procuring sufficient quantities of Fuel Oil to meet its generating needs. GPC and Seller may agree to purchase or sell quantities of Fuel Oil to each other. Under no circumstance will Seller burn any quantity of GPC's Fuel Oil inventory at the Facility except as required to generate energy in accordance with GPC's Schedules. If Seller does not transfer and make available GPC's Fuel Oil inventory to the Facility in order to meet GPC's Schedules, then Seller will be responsible for supplying Natural Gas necessary to meet GPC's Schedules or be subject to availability and replacement provisions of the Agreement.

11.3.4. Fuel Oil Delivery and Metering. Fuel Oil supplier's delivery tickets will constitute conclusive evidence (absent manifest error) of the quantity and grade of Fuel Oil delivered at the Fuel Oil Delivery Point. Seller must provide GPC with a copy of the delivery tickets on the next Business Day following any delivery of Fuel Oil and a copy of the original delivery tickets each month with Seller's Monthly Invoice. The quantity of Fuel Oil consumed at the Facility will be determined by the Unit's fuel oil metering system.

11.3.5. Risk of Loss. Seller will always bear the risk of loss of Fuel Oil after delivery of Fuel Oil to the Facility.

11.3.6. Inspections; Cost Responsibility. Seller and GPC have the right to order tank inspections for problematic conditions, including low stability, water, and bacteria, which can occur from having Fuel Oil sit in the tanks for a prolonged period of time, the costs of which the Parties will share, and to the extent reasonably necessary to chemically treat Fuel Oil at GPC's expense. GPC will be responsible for the costs of any treatment needed to bring the Fuel Oil in the Fuel Oil storage tank back within specification unless the action or inaction of Seller can be determined to be the cause of the out of spec condition, in which case Seller will bear the full cost of treatment.

11.3.7. Seller's Responsibility for Other Fuel Oil Costs. Seller will always be responsible for the cost of Fuel Oil that Seller utilizes for any purpose other than meeting GPC's Schedules. Seller will not be excused from failing to satisfy GPC's Schedule requests to operate on Fuel Oil to the extent the failure is due to Seller's use of Fuel Oil for any purpose other than: (i) to generate energy specified in GPC's Schedules, or (i) for testing to be conducted in accordance with Prudent Industry Practices.

11.3.8. GPC's Right to Direct Seller to Maintain Specified Level Fuel Oil Inventory. GPC will have the ongoing right to direct Seller to maintain during specified time periods a specific level of Fuel Oil inventory at the Facility, not to exceed the upper limit fuel oil inventory level specified in Exhibit A (*Facility Description and Additional Details*).

11.3.9. Development of Parameters Applicable to the Unit's Fuel Oil Utilization. The Parties recognize that the ability to Schedule the Unit using Fuel Oil is limited by a number of factors including:

(i) the amount of Fuel Oil inventory at the Facility; (ii) the rate at which the inventory is being depleted in accordance with GPC's Scheduling Instructions; (iii) Seller's maximum Hourly replenishment capability of as specified in Exhibit A (*Facility Description and Additional Details*); (iv) the Air Permit; and (v) the availability of Fuel Oil and transportation for Fuel Oil to the Facility. Through each of their representatives on the Operating Committee, GPC and Seller agree to cooperate in the development of Operating Procedures establishing parameters applicable to utilization of Fuel Oil by the Unit to optimize GPC's right to Schedule the Unit on Fuel Oil.

11.3.10. Monthly Fuel Oil Tracking and Reporting. At Seller's cost and expense, Seller must ensure that Fuel Oil storage equipment includes real-time inventory monitoring telemetering equipment that can be connected with GPC's designated Fuel Oil carrier and supplier. Through Seller's telemetering system, Seller must track and report monthly to GPC and its designated Fuel Oil carrier and supplier the level of GPC's Fuel Oil inventory, the amount of Fuel Oil delivered that month, and the amount of Fuel Oil consumed that month. The Operating Committee will develop procedures for the real time reporting of Fuel Oil inventory and other operating protocols, including nomination, scheduling and delivery, inventory accounting, operations reporting, and quality control.

11.3.11. Seller's Responsibility to Decant. Seller must decant the water off the bottom of each Fuel Oil storage tank twice per year, which shall be performed in accordance with Prudent Industry Practices and the requirement of this Section 11.3.11. This process includes opening the valve on the small take-off pipe (typically located approximately 4 inches to 6 inches from the bottom of the tank) and draining off any water present. Without limitation of other safety measures that should be taken, Seller must install a new, threaded ball valve in front of the existing isolation valve, to isolate the Fuel Oil, should the original valve fail or remain open.

11.4 Allowances.

11.4.1. NOx and SO2 Allowances. Seller will reserve for GPC's sole benefit Unit NOx Allowances and Unit SO2 Allowances, and Seller must use, at no cost to GPC, all Unit NOx Allowances and Unit SO2 Allowances for NOx Emissions and SO2 Emissions, respectively, from the Unit resulting from energy generated to meet GPC's Scheduling Instructions. If Unit NOx Emissions or SO2 Emissions resulting from energy generated to meet GPC's Scheduling Instructions exceed the Unit NOx Allowances or Unit SO2 Allowances, respectively, GPC will be required to obtain and supply, at GPC's expense, additional NOx Allowances or SO2 Allowances, as applicable, required for the NOx Emissions or SO2 Emissions in excess of the Unit NOx Allowances or Unit SO2 Allowances, except that GPC will not be required to provide any NOx Allowances or SO2 Allowances that are needed due to Seller exceeding the emission rates allowed by the Air Permit, any Consent, or any other applicable law. In no event will Seller transfer any Unit NOx Allowances or Unit SO2 Allowances to any Person other than GPC at any time or otherwise use Unit NOx Allowances or Unit SO2 Allowances for any purpose other than the NOx Emissions and SO2 Emissions from the Unit resulting from energy generated to meet GPC's Scheduling Instructions.

(i) NOx or SO_2 Allowance Rights. If Seller is allocated, issued, or has the right to obtain NOx Allowances or SO_2 Allowances for a portion of, or its entire fleet of, generating units, then a proportion of the NOx Allowances or SO_2 Allowances will be reserved as Unit NOx Allowances or Unit SO_2 Allowances, as applicable, for GPC's benefit in accordance with this Section 11.3 (*Allowances*). The proportion of NOx Allowances or SO_2 Allowances will be calculated based on the method, formula, or other similar calculation used by the Governmental Authority to determine such NOx Allowances or SO_2 Allowances attributable to each generating unit compared to the sum of all NOx Allowances or SO_2 Allowances for all generating units of Seller. For purposes of this Section 11.3.1(i), all references to "Seller" will be deemed to include Seller's Affiliates or other entity to which NOx Allowances or SO_2 Allowances may be or have been allocated to or given rights to obtain for the Unit.

11.4.2. Facility Exceeding NOx Allowances or SO2 Allowances. If for any period the Unit NOx Allowances or Unit SO2 Allowances exceed the number of NOx Allowances or SO2 Allowances, respectively, required for Unit emissions resulting from energy generated to meet GPC's Scheduling Instructions for the period, then Seller will carry forward the excess Unit NOx Allowances or Unit SO2 Allowances, as applicable, to use for GPC's benefit in accordance with Section 11.3.1 (*NOx and SO2 Allowance Rights*) in future periods to the extent the Unit NOx Allowances or Unit SO2 Allowances are allowed to be carried forward. At the end of the Term, Seller must, to the extent permitted by applicable

laws, transfer to GPC any excess Unit NOx Allowances or Unit SO2 Allowances, and GPC may utilize the Unit NOx Allowances or Unit SO2 Allowances for any purpose in GPC's sole discretion.

11.4.3. Substitute Unit Applicability. This Section 11.4 (*Allowances*) will apply to a Substitute Unit that is authorized in accordance with Section 4.4 (*Substitution of a Unit at the Site*). However, GPC will not be required to provide any NOx Allowances or SO2 Allowances that are required regarding any Alternate Resource, and Seller will be responsible, at Seller's expense, for obtaining all NOx Allowances or SO2 Allowances required for any Alternate Resource.

11.4.4. Other Emissions Allowances. Seller will be solely responsible, at Seller's sole cost, for any other emission allowances other than NOx Allowances or SO2 Allowances that are required concerning the Unit or any Substitute Unit, including for any emissions or energy produced from the Unit or any Substitute Unit.

PART 12. ENERGY SCHEDULING AND TRANSMISSION

12.1 Energy Scheduling. GPC will issue Scheduling Instructions for the electrical output committed under this PPA. GPC has the right to Schedule the Unit on AGC or non-AGC.

12.2 Coordination and Scheduling.

12.2.1. Schedules. Despite any other provision of this PPA, GPC will submit, and Seller will receive, Schedules of the Unit in accordance with the procedures in this Section 12.2 and Exhibit D (*Technical Limits and Schedule Procedures*). Seller is not obligated to deliver energy in response to those portions of Scheduling Instructions that materially deviate from such procedures. GPC is not entitled to Schedule energy, and Seller is not obligated to deliver energy, to the extent the energy cannot be delivered due to: (a) GPC's failure to deliver to the Facility a sufficient quantity of fuel to generate such energy at the applicable Guaranteed Heat Rate; (b) GPC's inability to receive such energy at the POD; or (c) the inability of Seller to operate the Unit in excess of Air Permit Minimum Operating Hours Requirement per unit per calendar year, except that Seller will not be excused from failing to meet GPC's Schedule in accordance with this subsection (c) if the failure is the result of Seller's operation of the Unit for purposes other than complying with GPC's Schedules and the associated requirements of this PPA.

12.2.2. Electrical Output; Scheduling Instructions; IA Compliance. The electrical output committed under this PPA will be subject to Scheduling Instructions issued by the Scheduling Center. Seller must comply with the Scheduling Instructions at the time designated for compliance, subject to the Technical Limits and Scheduling procedures set forth in Exhibit D (*Technical Limits and Schedule Procedures*). In addition, at the request of GPC, Seller must make reasonable efforts to cause the Unit to control voltage by producing or absorbing reactive power subject to the Technical Limits, so long as such actions do not cause Seller to breach any term or condition in its IA and so long as GPC will reimburse Seller for any incremental costs Seller incurred (including waiving any negative Unit Availability impacts directly attributable to Seller's compliance with the reactive power instructions), in excess of those costs Seller would have incurred under the IA, because of Seller's compliance with any request.

12.2.3. Records and Energy Scheduling. GPC and Seller will maintain written records of the quantities of energy to be delivered each six-second period and Hour during the Term. Following the Delivery Commencement Date, GPC may Schedule energy at any time during the Term and Seller must cause the entire output capability of the Unit to be available to GPC when Scheduled.

(i) Day-Ahead Scheduling Instructions and Deadlines. If GPC elects to Schedule energy for delivery on the next Business Day, GPC will provide Seller with GPC's Schedule for the delivery no later than: (i) 12:00 p.m. CPT on the Business Day before the Day of delivery for deliveries from the Unit; or (ii) 9:00 a.m. CPT on the Business Day before the Day of delivery for deliveries from an Alternate Resource. The Day-ahead Scheduling Instruction will also include any electric deliveries from midnight to midnight for any Days that precede the next Business Day (i.e., weekends and holidays). GPC will also provide a non-binding, good faith estimate of its Scheduling Instructions for the 24-Hour period following the next Business Day. GPC may submit Scheduling Instructions for each Hour requesting the number of Units to be operated and, for each Unit, the Unit energy output level to meet GPC's Schedule, subject to a minimum of the Minimum Capacity up to the full Base Operating Mode Energy output capability. Seller may dispatch any combination of Units at any Unit energy output levels to meet GPC's Schedule. However, if for any reason, Seller chooses to operate more or less than the number of Units

requested by GPC, the energy payment calculations made pursuant to Exhibit C (*Energy Payment Calculation*) will be based on the lesser of (I) the Guaranteed Heat Rate and number of starts for GPC's Scheduling Instructions; or (II) the Guaranteed Heat Rate and number of starts for actual operation of the Units. GPC will be required to accept and pay for energy during ramp up and ramp down periods at a price as described in Exhibit C (*Energy Payment Calculation*).

(ii) Scheduling Instructions Submitted after the Day-Ahead Scheduling Deadline. For Scheduling Instructions submitted after the Day-ahead deadline, GPC will provide Seller with a proposed revised Schedule at least one Hour before the start-up or ramp up of energy delivery. If energy is not already Scheduled, GPC will be assessed one or more turbine start events, as applicable, in accordance with Exhibit C (*Energy Payment Calculation*), Section 1.3 (*Monthly Startup Charges (MSC)*). GPC will be responsible for the actual costs (commensurate with the Guaranteed Heat Rate) of implementing the intra-Day Scheduling Instruction (including any associated imbalance penalties, if any, that the Transmission Service Provider assessed); however, the costs will not include any lost opportunity costs for power sales from the Facility.

(iii) Deemed Schedule; GPC's Scheduling Right. Despite the preceding Section 12.2.3(ii) (*Scheduling Instructions Submitted after the Day-Ahead Scheduling Deadline*), if Seller has provided notice that an Unavailability Event has occurred before GPC giving intra-Day Scheduling Instructions, the most recent Schedule GPC submitted will be deemed the Schedule for the balance of the Day in which Seller has provided notice that the Unavailability Event has occurred. If no Day-ahead or intra-Day Schedule has been given to Seller for a given Day and Seller subsequently provides notice that an Unavailability Event has occurred, GPC will have the right to submit one intra-Day Schedule for the balance of the Day and will not change the intra-Day Schedule for the balance of the Day. For each Day following the Unavailability Event until the return of the Unit to service, GPC will have the right to submit a Day-ahead Schedule and one intra-Day Schedule for the balance of the Day and will not change the Schedule for the balance of the Day. During an Unavailability Event, Seller must inform GPC regularly regarding the projected schedule of the return to service of the Facility.

(iv) Return to Service after Unavailability. If the Unit can return to service, Seller must notify GPC before 3:00 p.m. CPT on the day before the Day the Unit will return to service to be able to deliver the entire Schedule GPC requested from the Unit. If the Unit can return to service intra-Day, Seller must give a three-Hour notification of ability to operate. GPC then has the right to submit a new Schedule for the balance of that Day. The previous Day's Schedule remains the obligation of Seller until the end of the three-Hour notification. If GPC chooses to Schedule zero MWh for the balance of the Day, there is no obligation for Seller for the remainder of that Day. If GPC chooses to Schedule the Unit for greater than the Minimum Capacity, the new forward Schedule becomes Seller's delivery obligation for the remainder of that Day.

12.2.4. Operator Requested Schedule. During the Term, Seller may from time to time request that the Unit be allowed to deliver electric energy output to GPC to test or evaluate Facility equipment ("**Operator Requested Schedule**"). Seller must request the Operator Requested Schedule from GPC at least one Business Day (and no later than 24 Hours) before the date of the Operator Requested Schedule and GPC will have the right to approve the Operator Requested Schedule (such approval not to be unreasonably withheld, conditioned, or delayed). If GPC approves and subsequently determines that it is necessary to Schedule the Unit during an Operator Requested Schedule, then GPC may cancel or interrupt the Operator Requested Schedule and subsequently Schedule the Unity as it deems appropriate. GPC will reimburse Seller for any reasonable, incremental expenses incurred by Seller due to Seller's reliance on GPC's previous approval of the Operator Requested Schedule.

12.2.5. System Emergency.

(i) General System Emergency Procedure. The Parties recognize that GPC is a FERC jurisdictional entity subject to the reliability authority of NERC and that, to ensure continuous and reliable electric service, GPC operates its system in accordance with the operating criteria and guidelines of NERC. If a System Emergency is declared and the Scheduling Center, at its sole discretion, identifies the need to modify the schedule or dispatch of the Unit, the Scheduling Center will notify Seller's personnel and, if requested, Seller will immediately place the energy of the Unit within the exclusive control of the Scheduling Center for the duration of the System Emergency. During the System Emergency, GPC will ensure that the Scheduling Center does not

cause the Unit to be operated in a manner that exceeds the Technical Limits or any operations-related limits in the Air Permit without the prior consent of Seller, and, despite Seller's consent, GPC will be responsible for the costs associated with operation of the Unit in accordance with the Scheduling Center control, including any penalties imposed on Seller by any Governmental Authority or costs incurred by Seller associated with additional maintenance or accelerated maintenance, in accordance with Prudent Industry Practices, due to the event. Without limiting the generality of the foregoing, the Scheduling Center may require Seller's personnel to raise or lower production of energy generated by the Unit, including potential start-up or shutdown situations, to maintain safe and reliable load levels and voltages on the Electric System. To the extent Seller is required, under this Section 12.2.5(i), to take any action, or GPC takes any action, which will adversely affect Seller's ability to meet GPC's Schedules, including those Schedules modified in accordance with Section 12.2.5(ii)) (*Cooperation During System Emergency*), Seller may be excused from meeting GPC's Schedules and, for purposes of the MAP calculation, the Hours (or equivalent Hours) of Unavailability will be subtracted from Unplanned (Forced) Outage Hours and Equivalent Unplanned (Forced) Derated Unit Hours and the Hours (or equivalent Hours) of Unavailability will be subtracted from Dispatch Hours, as shown in the MAP formulas in Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), Section 3.2 (*Calculation of Monthly Availability Percentage*).

(ii) Cooperation During System Emergency. Seller must cooperate with GPC in establishing System Emergency plans, including recovery from a local or widespread electrical blackout, voltage reduction to effect load curtailment, or other plans that may be necessary or appropriate under the circumstances.

12.3 AGC. The Unit must be capable of operating on AGC. Seller is responsible for all costs incurred at the Facility that are necessary to make the Unit respond to GPC's AGC signals and to provide all information and control system access needed by GPC to effect these signals. GPC has the right, but not the obligation, to dispatch the Unit in the AGC mode. GPC has the right to: (i) operate the Unit on AGC; or (ii) provide a Schedule to Seller at any time. The integrated net effect of AGC during an Hour will be treated as a Schedule and subject to all limitations that otherwise apply to Schedules. If the AGC capability of the Unit is unavailable, GPC will utilize non-AGC Scheduling and Seller, at Seller's expense, must use commercially reasonable efforts to re-establish AGC capability.

12.3.1. Dynamic Scheduling. If the Facility is interconnected to the Electric System outside of the SBAA, then Seller must cooperate with GPC to implement a dynamic scheduling arrangement regarding Delivered Energy under GPC's AGC schedules. The arrangement is contingent on: (i) the Parties' mutual agreement; and (ii) securing required agreements and arrangements with the applicable balancing area authorities and Transmission Service Providers.

(i) The dynamic scheduling arrangement will be implemented to transmit energy in accordance with GPC's AGC schedule from the POI to GPC's load on the STT.

(ii) The dynamic schedule arrangement must conform to the then-applicable business practices of the applicable balancing authority area(s) and Transmission Service Provider(s).

(iii) The dynamic schedule arrangement must include written agreements with the applicable balancing authorities and Transmission Service Provider(s) regarding electronic communications protocols, operating procedures, and the calculation of instantaneous and Hourly integrated dynamic schedule value(s).

(iv) Seller and GPC will install and maintain, or cause to be installed and maintained, any additional telemetry and communications equipment required for operation of the dynamic schedule.

(v) GPC's AGC schedule will be constrained by the Facility high and low operating limits for the applicable period as communicated to GPC by the Facility.

(vi) GPC's AGC schedule may be limited due to a reliability curtailment enacted by a transmission reliability coordinator.

(vii) Delivered Energy will be subject to the then-applicable Maximum Ramp Rate per Exhibit D (*Technical Limits and Schedule Procedures*) Section 1.3 (*Maximum Ramp Rates*), or if applicable, any ramp rate(s) which are established by the operating committee.

(viii) Energy delivered to GPC's load on the STT under GPC's AGC schedule must be delivered to the STT interface net of transmission losses.

12.4 Effect of Grid Emergencies. The Parties recognize that in accordance with the IA, Seller may be required to reduce generation or take certain actions during a Grid Emergency and may be required to disconnect the Unit from the Electric System to allow mitigation of system problems and repair or maintenance on the Interconnection Facilities or the Electric System. To the extent that Seller is required under the IA to take any action, other than instances where Seller's acts or omissions are the cause for the required actions, which will adversely affect Seller's ability to meet GPC's Schedules, Seller will be excused from meeting GPC's Schedules and, for purposes of the MAP calculation, the Hours (or equivalent Hours) of Unavailability will be subtracted from Unplanned (Forced) Outage Hours and Equivalent Unplanned (Forced) Derated Unit Hours and the Hours (or equivalent Hours) of Unavailability will be subtracted from Monthly Hours, as shown in the MAP formulas in Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), Section 3.2 (*Calculation of Monthly Availability Percentage*).

12.5 Effect of Insufficient Capability in the Electric System. If the Electric System is unable to receive the Scheduled Energy from the Unit, Seller will be excused from meeting GPC's Schedules and, for purposes of the MAP calculation, the Hours (or equivalent Hours) of Unavailability will be subtracted from Unplanned (Forced) Outage Hours and Equivalent Unplanned (Forced) Derated Unit Hours and the Hours (or equivalent Hours) of Unavailability will be subtracted from Monthly Hours, as shown in the MAP formulas in Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), Section 3.2 (*Calculation of Monthly Availability Percentage*). In the event Seller is utilizing an Alternate Resource to meet GPC's Schedules and the Electric System is unable to receive the Scheduled Energy from the Alternate Resource, this will be treated as Unavailability to be included in the MAP calculation in accordance with Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), Part 3 (*Monthly Availability Adjustment*).

12.6 Transmission and Delivery Responsibilities of GPC. GPC will be solely responsible for scheduling and making all necessary arrangements for the Facility to be designated as a Network Resource for serving GPC's load with deliveries of the energy sourced from the Facility. The designation will be obtained and maintained by GPC from COD and thereafter throughout the Term. The request will be consistent with the Network Resource process described in the Southern OATT. GPC will provide to Seller the OASIS reference number for the designation request. Except as otherwise provided in this PPA, GPC will be solely responsible for all costs and charges incurred in connection with delivery of energy from the POD to GPC's load, whether imposed pursuant to standards or provisions established by FERC, another Governmental Authority, or any other Person.

12.7 Seller Transmission and Delivery Responsibilities. If the Facility is interconnected to an Electric System outside the SBAA, Seller is responsible for Firm Transmission Service.

12.7.1. Firm Transmission Service. Seller will be solely responsible for making all necessary arrangements for the Firm Transmission Service necessary for the delivery of all energy to the POD, including ancillary services, from the COD throughout the remainder of the Term. Seller is solely responsible for all costs and charges incurred concerning providing Firm Transmission Service up to the POD, whether imposed under standards or provisions established by FERC, another Governmental Authority, any Transmission Service Provider, Interconnection Provider, or any other Person, including transmission and distribution costs, scheduling costs, generation and energy imbalance costs, congestion costs, operating reserve charges, and the cost of rights to utilize the transmission or distribution system.

12.7.2. Southern Transmission Interface. Seller must: (i) obtain, maintain, and utilize Firm Transmission Service to deliver all energy from the Facility, through any applicable balancing authority area, to the POD; and (ii) provide to GPC all information reasonably requested by GPC, including information regarding the Facility or balancing authority area. Seller must procure Firm Transmission Service for the generating capacity of the Facility throughout the Term to effectuate delivery to the selected Southern Transmission Interface.

12.7.3. Information Regarding Delivery of Energy. Seller will provide and make available to GPC all information with respect to the delivery of energy and the interruption or curtailment of energy and Seller will use good faith efforts to obtain such information from other pertinent Persons in order to provide such

information to GPC. Without limiting the foregoing, from COD through the end of the Term, Seller will provide to GPC the transmission service request identification number for transmission service to the POD and any other information in the possession of Seller required by GPC to receive the energy delivered to or for the account of GPC at the POD.

PART 13. INSURANCE

13.1 Insurance Required of Seller. Throughout the Term, Seller must acquire and maintain in effect without interruption, at its sole cost and expense, the types and amounts of insurance coverage as are consistent with Prudent Industry Practices, but in no event less than the types and amounts described in this Part 13 (*Insurance*). All insurance must be with insurers: (i) holding an AM Best rating of at least A- VII or equivalent; (ii) whose financial condition and policy forms are acceptable to GPC; and (iii) authorized to transact insurance in the state where the Facility is located.

13.2 Proof of Insurance. Before the Effective Date and annually after the Effective Date on the COD anniversary, Seller must provide to GPC a certificate of insurance certifying Seller's coverage under insurance policy(ies) issued by an insurance company or insurance companies meeting the requirements of Section 13.1 (*Insurance Required of Seller*). GPC's receipt or acceptance, without objection, of a certificate of insurance that does not comply with this Part 13 (*Insurance*) does not operate as GPC's waiver of Seller's obligations under the requirements of this Part 13.

13.3 General Terms. Upon commencement of operation of the Facility, the required insurance coverage must contain a broad form contractual endorsement specifically covering liabilities arising out of or caused by the operation of the Facility or by Seller's failure to maintain the Facility in satisfactory and safe operating condition. Seller's insurance must be primary for any activity arising out of this PPA. Insurance or self-insurance maintained by GPC or other additional insureds is in excess of Seller's insurance, contingent and non-contributory. To the extent allowed by applicable law, GPC, its parent, Affiliates, and each of their Representatives, and each other Person identified in this PPA, must be additional insureds under the commercial general liability policy, auto liability policy and, if applicable, excess/umbrella policy. **To the extent allowed by applicable law, Seller waives, and must require its insurers to waive, a right of subrogation against GPC, its parent, Affiliates, and each of their Representatives for the commercial general liability policy, auto liability policy, umbrella policy, if applicable, and the workers' compensation policy.**

13.4 Required Insurance. Seller must acquire and maintain throughout the Term, the following types of insurance:

13.4.1. Commercial General Liability Insurance. Commercial General Liability insurance providing the following coverage, which can be exceeded by Seller and may be met through a combination of primary insurance and following form excess or umbrella insurance, so long as the combined limits meet requirements of this PPA:

(i) General Requirements. Commercial general liability insurance in an "occurrence" form with bodily injury and property damage combined liability limits of not less than **twenty million dollars ($20,000,000.00)** per occurrence, except that: (i) Seller may use any combination of primary or excess policies to satisfy the overall limit requirements; and (ii) if Seller uses a "claims-made" policy, it must maintain continuous coverage in effect for at least five years beyond termination of this PPA, through continuous renewal of the original policy or by purchasing extended discovery period or retroactive insurance dated back to the Effective Date of this PPA.

(ii) Additional Requirements. Specific coverage for broad form contractual liability and a separation of insureds provision.

13.5 Additional Insurance. In addition to the requirements in Sections 13.1 through 13.4, Seller must acquire and maintain throughout the Term, the following additional types of insurance:

13.5.1. Workers' Compensation. Workers' compensation insurance in accordance with statutory requirements, including employer's liability insurance, with limits not less than **one million dollars ($1,000,000.00)** per occurrence and endorsement providing insurance for obligations under the U.S. Longshoremen's and Harbor Worker's Compensation Act and the Jones Act, where applicable.

13.5.2. Auto Liability. Automobile liability insurance including owned, non-owned, and hired automobiles with combined bodily injury and property damage limits of at least **two million dollars ($2,000,000.00)**.

13.5.3. Pollution Liability. Coverage for bodily injury, property damage, including clean-up costs and defense costs resulting from sudden, accidental, or gradual pollution conditions, including the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, hydrocarbons, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any water course or body of water will be maintained, with limits not less than **five million dollars ($5,000,000.00)** per occurrence or claim, except that, if Seller uses a "claims-made" policy, the policy must maintain continuous coverage in effect for at least five years beyond termination of this PPA through continuous renewal of the original policy or by purchasing extended discovery period retroactive insurance dated back to the Effective Date of this PPA.

13.5.4. All Risk Property. Replacement cost of the Facility. A deductible may be carried, which will be the absolute responsibility of Seller.

13.5.5. Umbrella/Excess. Umbrella/Excess Liability Insurance on an occurrence basis in excess of the underlying insurance identified in this Section 13.4 (*Required Insurance*), and which is at least as broad as each and every one of the underlying policies. The umbrella/excess liability policy must be written on a "drop-down-following form" basis. The amounts of insurance required may be satisfied by Seller purchasing coverage for the limits specified or by any combination of underlying and umbrella limits, so long as the total amount of insurance is not less than **twenty million dollars ($20,000,000.00)** any one occurrence and annually reinstating general aggregate.

13.6 Notice of Change or Cancellation. The required insurance policies will be endorsed with a provision requiring the insurance company to notify GPC at least 30 Days prior to the effective date of any cancellation, except for a 10 Days' notice for nonpayment of premium. If notice of cancellation is only commercially available to Seller's attention, then Seller will forward the 30-Day (or, for non-payment of premium, 10 Days') advance notice to GPC immediately upon receipt. Furthermore, Seller agrees to notify GPC at least 30 Days before the effective date of any known material change in a required policy.

13.7 Payment of Premiums. Seller must pay all premiums and other charges due on each insurance policy and will keep all coverage in force throughout the Term.

13.8 No Waiver of Liability. The provisions requiring Seller to acquire and maintain insurance under this PPA will not be construed as a waiver, restriction, or limitation of any liability imposed on Seller under this PPA, whether the liability is covered by insurance. It is the intent of the Parties, however, that to the extent there is insurance coverage available to cover the legal or contractually assumed liability of Seller, any payments due because of such liability will be made first from the proceeds of such policies.

PART 14. RISK AND CLAIMS

14.1 Liability for Facility. **As between the Parties, Seller retains all liability and risk regarding the Facility (including each Unit) and the Site. GPC: (i) assumes no duty, responsibility, obligation, or liability regarding Facility or Site condition or operation; (ii) is not liable for injury or damage associated with the Site or the Facility (including its operation, maintenance, repair, or replacement); and (iii) is not responsible for transmission, distribution, or control of electric energy within the Site or at the Facility.**

14.2 No Liability. **Neither Party is responsible for the other Party's equipment, including its condition or operation. Neither Party is responsible for the distribution or control of electric energy on the other Party's side of the POD. GPC is not responsible for physical damage to, or destruction of, Seller's property, nor will Seller seek recovery from GPC for property damage (including loss of use or electric service outage), except in the case of sole negligence or intentional wrongdoing by GPC. Without limiting the generality of the previous sentence, neither Party is liable to the other for damage arising from the simple failure (i.e., failure not caused by breach of contract, negligence, or intentional wrongful act) of a protective device or scheme.**

14.3 Scope of Indemnity. **To the fullest extent allowed by applicable law, Seller must indemnify, release, hold harmless, and, at GPC's request, defend GPC and any GPC-Related Party from or against a Claim caused by, arising out of, or related to an act or omission associated with the Facility or this PPA by a Seller Entity. If the Claim arose out of the joint, concurrent, or contributory acts of both Parties, Seller's liability under this Section 14.3 is proportional to the extent the Claim was attributable to a Seller Entity, unless the Claim is for personal or bodily injury (including death) to Seller Entity personnel or for damage to Seller Entity or Facility property, in which case Seller is fully responsible to GPC-Related Parties under this Section 14.3. If the Claim resulted from the sole negligence of a GPC-Related Party, Seller will not be**

liable under this Section 14.3. Seller's indemnity obligations are independent of its insurance obligations. The indemnity obligation expressly includes any Claim from any GPC customer or any third party arising from Seller's operation of the Facility.

14.4 Survival. Despite the expiration or termination of this PPA, Seller's indemnification obligations under this Part 14 (*Risk and Claims*) will survive and continue in full force and effect after such expiration or termination, by default or otherwise, regardless of whether such obligations accrue prior to or after such expiration or termination.

PART 15. FORCE MAJEURE

15.1 Definition of Force Majeure Event. For purposes of this PPA, a "**Force Majeure Event (FME)**" is an occurrence, nonoccurrence, or set of circumstances that; (i) first occurs after the Effective Date; (ii) prevents a Party, in whole or in part, from performing any PPA obligation or satisfying any PPA condition; (iii) is beyond the reasonable control of the Party claiming FME; (iv) is not reasonably foreseeable; and (v) is not caused by the Party's negligence, inaction, lack of due diligence, PPA breach, or failure to follow Prudent Industry Practices. **Force Majeure Exclusions.** FME excludes: (i) the inability to meet an applicable law or a change in an applicable law; (ii) any inability to obtain or maintain, or delay in obtaining, any required permit, approval, or other Consent from a Governmental Authority; (iii) a Site-specific strike, walkout, lockout, or other labor dispute at the Facility;(iv) any inability by GPC to receive energy at the POD, provided the inability is not caused by Seller's action or inaction; (v) ambient temperature or humidity at the Site; (vi) failure or inability to obtain or retain sufficient funds for any reason, including funds from a Governmental Authority, or Seller's loss of or inability to obtain or retain any tax credit or other incentive regarding any portion of the Facility; (vii) any event, including a change in any applicable law or accounting standard, that requires GPC to consolidate Seller or any Seller Affiliate or permitted assign as a VIE in GPC's financial statements**;** (viii) equipment failure or damage; (ix) a change in any market condition that affects the cost or availability of equipment, materials, supplies, or services, including the cost of power from resources other than the Facility; (x) any act or inaction of a Party's contractor, supplier, or vendor; (xi) Seller's inability to arrange or maintain interconnection service for deliveries to the POD; (xii) the interruption, curtailment, or unavailability of service for the transmission of energy from the Facility for any reason; (xiii) any directive from the Interconnection Provider or Transmission Service Provider to curtail deliveries of energy or disconnect the Facility from the Electric System; or (xiv) any: (a) inability by GPC to obtain Natural Gas supply; (b) failure by a Natural Gas transporter to deliver sufficient quantities of Natural Gas for GPC to perform its obligations under this PPA; or (c) inability by GPC to receive energy at the POD, so long as the inability is not caused by Seller's action or inaction. Despite the preceding clause, a Party claiming FME may be excused from PPA performance if: (a) a separate event that otherwise constitutes an FME directly and independently causes a circumstance described in subparts (viii) through (xiv); and (b) the Party satisfies all other conditions of this Part 15 (*Force Majeure*).

15.3 No Breach or Liability. If an FME occurs, subject to compliance with all provisions of this Part 15 (*Force Majeure*), the affected Party will be excused from performance of its obligations impacted by the FME, other than payment obligations that accrued before the declaration of the FME, and will not be construed to be in default regarding the obligations to the extent that, and only for so long as, the failure to perform is due to an FME. However, the suspension of performance due to an FME will be of no greater scope and of no longer duration than is required by the FME. Despite any other provision in this PPA, no FME will extend this PPA beyond the Term.

15.3.1. Burden of Proof and Supporting Documentation. The burden of proof as to whether an FME has occurred and as to the impact of an FME will be upon the affected Party. If the affected Party requests that its performance be excused because of an FME, then the affected Party must support its request with documentation demonstrating: (i) the existence of the FME; (ii) efforts by the affected Party to overcome or mitigate the effect of the FME; and (iii) following the conclusion of the FME, an analysis of the number of Days the FME delayed or otherwise prevented the performance of the affected Party's obligations or satisfaction of any condition of this PPA and, if the FME occurred after the COD, information reasonably required to determine the amount of Undelivered Force Majeure Energy. The affected Party must provide the required documentation by no later than five Business Days after the date the FME concludes.

15.3.2. Extension of RCOD. If an FME directly and substantially impacts a critical path item on the Milestone Schedule and, as a result, prevents Seller from achieving Commercial Operation by the RCOD, then the RCOD will be extended by the number of Days of the delay caused by the impact to the critical path item on the Milestone Schedule, so long as, as a condition to any such extension of the RCOD, Seller must comply with the requirements of this Part 15 (*Force Majeure*), including Seller undertaking all

commercially reasonable efforts to avoid, overcome, or otherwise mitigate the delay by revising, rearranging, expediting, or accelerating the Milestone Schedule.

15.4 Monthly Capacity Payments. In the case of an Unavailability Event caused by an FME declared by Seller in accordance with this Part 15 (*Force Majeure*), GPC's obligation to make a Monthly Capacity Payment for any Month will be excused pro rata, based on the number of the Days in the Month and the extent to which Seller is prevented on those Days from satisfying Scheduling Instructions from GPC because of the FME.

15.5 Notice of FME; Updates. Following the occurrence of an FME, and as a condition to relief under Section 15.2 (*Force Majeure Exclusions*), the affected Party will give the other Party notice of the FME, followed by written notice if the first notice is not written, as promptly as possible after the Party becomes aware of the FME, but in no event later than 10 Business Days after the occurrence of the FME. The notice must describe the particulars of the FME, including an estimate of the anticipated duration and effect of the FME (if reasonably estimable) upon the performance of the Party's obligations or satisfaction of any conditions under this PPA (including, if Seller is the affected Party, Seller must provide GPC with information reasonably required to determine the reduction of the Unit's generating capability), and discussing any actions being taken to avoid or minimize the effect of the FME. The affected Party will have a continuing obligation to deliver to the other Party regular updated reports and any additional documentation and analysis supporting its claim regarding an FME.

Despite the preceding sentences, if the affected Party fails to provide initial written notice within the 10 Business Day period or, following the affected Party's initial notice, the affected Party fails to provide reasonable reports and substantiation of the claimed FME as required by this Part 15 (*Force Majeure*), the event or condition will be deemed not to be an FME and the affected Party's performance will not be excused as a result of the FME.

15.6 Requirements for Relief. Following the occurrence of an FME, as a condition to relief under Section 15.3 (*No Breach or Liability*):

15.6.1. Timely Notice. The affected Party must comply with the notice requirements of Section 15.5 (*Notice of FME; Updates*).

15.6.2. Continued Performance of Obligations. The affected Party will continue to perform its obligations under this PPA to the extent not affected by the FME;

15.6.3. Reasonable Efforts to Mitigate. The affected Party will remedy its inability to perform as soon as reasonably practicable, but this Section 15.6 (*Reasonable Efforts to Mitigate*) will not require the settlement of any non-site specific strike, walkout, lockout, or other general labor dispute on terms which, in the sole judgment of the affected Party, are contrary to its interest; and

15.6.4. Resume Performance. When the affected Party can resume performance of its obligations under this PPA, the affected Party will promptly provide written notice to the other Party, promptly resume such performance, and provide the other Party with a written certification from an independent, registered engineer that the FME has been cured.

15.7 Extended FME.

15.7.1. Notice and Remedy Plan for Extended FME. If the affected Party has reason to believe that a suspension of performance due to a Force Majeure Event will continue for a period of six Months or longer following the initial suspension of performance resulting from the Force Majeure Event ("**Extended FME**"), the affected Party must notify the other Party promptly and will submit an "FME Remedy Plan" to the other Party no later than 30 Days after the affected Party's initial notice to the other Party. In addition, if the other Party has reason to believe that an FME will be an Extended FME, the other Party may request that the affected Party submit an FME Remedy Plan to the other Party, which the affected Party will submit to the requesting Party no later than 30 Days after the other Party's request. The FME Remedy Plan must set forth a plan and schedule for remedial measures (including a description of necessary repairs, improvements, changes to operations, or other actions) to cure the effects of the FME and to enable the affected Party to perform its obligations and resume full performance of the suspended obligations under this PPA as soon as reasonably practicable. The affected Party must diligently pursue the performance of the FME Remedy Plan to completion.

15.7.2. Monthly Status Reports and Updates to FME Remedy Plan. While an FME Remedy Plan is in effect, the affected Party must provide the other Party with Monthly status reports regarding the implementation of the FME Remedy Plan, any other measures to remedy the FME, any changes to the FME Remedy Plan, and the expected remaining duration of the Party's inability to perform its obligations, and any additional relevant information as may be reasonably requested by the other Party. The affected

Party must modify the FME Remedy Plan if and as needed to achieve the objective of resuming full performance of the suspended obligations under this PPA as soon as reasonably practicable.

15.7.3. Early Termination Resulting from an Extended FME. The Party not prevented from performing its obligations due to the FME may at any time terminate this PPA effective upon 10 Days prior written notice to the affected Party if: (i) the affected Party does not or cannot provide an FME Remedy Plan as required by this Section 15.7 (*Extended FME*); (ii) the affected Party does not or cannot carry out the FME Remedy Plan in a method reasonably designed to achieve the objective of resuming full performance of the suspended obligations under this PPA as soon as reasonably practicable; or (iii) the affected Party remains unable to perform the suspended PPA obligations 12 Months following the date of initial suspension of performance resulting from the FME. For purposes of subsection (iii) of this Section 15.7.3, the 12-Month period need not be continuous only if each period of suspension of performance comprising the 12-Month period is the result of a common cause such that, if the cause had been cured following the first suspension of performance, the additional suspensions of performance would not have occurred.

15.7.4. Liability following Termination. Upon any termination of this PPA as provided in Section 15.7.3 (*Early Termination Resulting from an Extended FME*), the Parties will have no further liability or obligation to each other except for any obligation arising prior to the date of the termination or as provided in Section 1.2 (*Survival*).

PART 16. DEFAULT AND REMEDIES

16.1 Default by Seller. The occurrence of any of the following events will constitute a Seller Event of Default:

16.1.1. Incorrect Representation or Warranty. Any Seller representation or warranty in this PPA or in any certificate or other document delivered to GPC in accordance with this PPA proves to be incorrect in any material respect when made, unless Seller promptly commences and diligently pursues action to cause the representation or warranty to become true in all material respects and does so within 30 Days after GPC provides Seller notice of the incorrect representation or warranty (unless the cure is not capable of being accomplished within the 30-Days, in which case Seller will have an additional 30-Days to perform the cure) and the cure removes any material adverse effect on GPC of the incorrect representation or warranty.

16.1.2. Involuntary Bankruptcy, Insolvency, or Reorganization. A court having jurisdiction enters: (i) a decree or order for relief in respect of Seller in an involuntary case or proceeding under any applicable Federal or state bankruptcy, insolvency, reorganization, or other similar law; or (ii) a decree or order, the entry of which was sought by an entity other than Seller, adjudicating Seller bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment, or composition of or in respect of Seller under any applicable Federal or state law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator, or other similar official of Seller or of any substantial part of its affairs.

16.1.3. Voluntary Bankruptcy, Insolvency or Reorganization. Seller: (i) commences a voluntary case or proceeding under any applicable federal or state bankruptcy, insolvency, reorganization, or other similar law or any other case or proceeding to be adjudicated bankrupt or insolvent; (ii) consents to the entry of a decree or order for relief in respect of Seller in any involuntary case or proceeding under any applicable federal or state bankruptcy, insolvency, reorganization, or other similar law or to the commencement of any bankruptcy or insolvency case or proceeding against Seller; (iii) files any petition, answer, or consent seeking reorganization or similar relief under any applicable federal or state law, which, if granted would have the effect of relieving Seller of any of its obligations; (iv) consents to the filing of any petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator, or similar official of Seller or of any substantial part of its property; (v) makes an assignment for the benefit of creditors; (vi) admits in writing its inability to generally pay its debts as they become due; or (vii) takes any action in furtherance of any of the preceding.

16.1.4. Failure to Comply with Performance Security Requirements. (i) Seller fails to comply or cause compliance with: (a) Performance Security requirements of Section 6.1 (*Performance Security*); or (b) the Upgrade Security requirements of Section 7.5 (*Grid Cost Improvements*); or (ii) Seller Guarantor breaches any of its obligations under the Seller Guaranty or if any representation or warranty Seller Guarantor made in the Seller Guaranty is incorrect in any material respect when made, unless Seller cures any of the

preceding by the end of the second Business Day following Seller's receipt of GPC's written notice of a failure under this Section 16.1.4.

16.1.5. Failure to Comply with Other Material PPA Terms. Seller fails to perform or observe any material obligation of Seller under this PPA, other than those obligations specifically addressed in this Section 16.1 (*Default By Seller*), which failure continues for a period of 30 Days after written notice thereof from GPC, unless the cure is not capable of being effected within a 30-Day period, in which case Seller will have an additional 30-Day period in which to perform the cure.

16.1.6. Failure To Comply with PPA Assignment Requirements. Seller violates the requirements of Part 18 (*Assignment, Transfers, and Changes of Control*) through an assignment or transfer of this PPA or an ownership interest in the Unit or Facility or through a Change of Control Transaction.

16.1.7. Failure to Pay Amounts Due to GPC. Seller fails, by the due date, to pay GPC any undisputed amount payable by Seller to GPC under this PPA fails to cure the failure to pay within 15 Days after receipt of written demand from GPC.

16.1.8. Failure to Maintain Availability Percentage. The Availability Percentage is below 75% for any: (i) one Summer Season; or (ii) one Winter Season; or (iii) six consecutive Months. However, Seller may, within 15 Days after the end of the Season or six-Month period, as applicable, submit a cure plan that is reasonably acceptable to GPC and expected to resolve the cause of the unsatisfactory Availability Percentage as soon as practicable, but in no event later than 180 Days from the end of the Season or six-Month period, as applicable. If Seller fails to submit a cure plan in a timely manner or fails to diligently pursue implementation of the cure plan, or if the unsatisfactory Availability Percentage is not, in fact, cured by the end of the 180-Day period, then GPC will have the right to declare an Event of Default. The cause of the unsatisfactory Availability Percentage will be cured only if: (i) Seller can resume performance of its obligations under this PPA and provides GPC with a written certification reasonably acceptable to GPC that the cause of the unsatisfactory Availability Percentage has been cured; and (ii) the MAP determined for the first full Month following GPC's receipt of such certification of successful completion of the cure plan is at least 75%. For the purposes of this Section 16.1.8, the "**Availability Percentage**" will mean the percentage calculated for the relevant period using the MAP formulas shown in Section 3.2 (Calculation of Monthly Availability Percentage) of Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), with the calculation applied to the total relevant period and with ARDH equal to zero.

16.1.9. Inadequate Tested Reliable Capacity; Curing. Despite any other PPA provision, if the Tested Reliable Capacity of the Unit, determined in accordance with a Performance Test, at any time after the Delivery Commencement Date, is below 70% of the Nominal Capability, and Seller fails to: (i) submit to GPC within 10 Days after determination by the Performance Test of the inadequate Tested Reliable Capacity a cure plan reasonably acceptable to GPC for the inadequate Tested Reliable Capacity; and (ii) cure the inadequate Tested Reliable Capacity within a reasonable period of time, not to exceed one 120 Days from the completion of the Performance Test ("Cure Period"), except that the Cure Period may be extended in accordance with Section 16.1.9(i) (*Cure Period*) if Seller elects to extend the Cure Period to cover (to the extent of the degraded capacity) GPC's Schedules through an Alternate Resource in accordance with Section 4.1.4(iii) (*Requirements for Exercising Delivery Right from an Alternate Resource*). GPC will have the right to declare an Event of Default if Seller fails to: (a) establish the cure plan within the required 10-Day period or, if applicable, establish the revised cure plan within the required 15-Day period under Section 16.1.9(i), or (b) diligently implement the cure plan (including implementation of such actions as GPC may reasonably request), or (c) cure the inadequate Tested Reliable Capacity within the Cure Period (as the Cure Period may be extended under Section 16.1.9(i)) as set forth in Section 16.1.9(ii) (*Requirements to Cure Inadequate Tested Reliable Capacity*).

(i) Cure Period Extension. If Seller establishes a cure plan in accordance with Section 16.1.9 (*Inadequate Tested Reliable Capacity; Curing*) but requires a Cure Period of more than 120 Days to cure the inadequate Tested Reliable Capacity, then the Cure Period will be extended for a reasonable additional period of time, which extension will not in any case exceed 420 Days, so long as, by no later than 15 Days before the expiration of the 120-Day Cure Period, Seller provides to GPC: (a) a revised cure plan setting forth a reasonable extension of the Cure Period, not to exceed 420 Days, which revised cure plan and extension will be reasonably acceptable to GPC, and (b) a written certification reasonably acceptable to GPC confirming that in order for Seller to cure the inadequate Tested Reliable Capacity Seller must be afforded such reasonable additional period of time; and (c) Seller's election for such extended Cure Period to cover (to the extent of

the degraded capacity) GPC's Schedules through an Alternate Resource in accordance with Section 4.1.4(iii) (*Requirements for Exercising Delivery Right from an Alternate Resource*). The total duration of the Cure Period, as extended, must not exceed 540 Days. Seller must satisfy all the preceding conditions for GPC to grant the extension.

(ii) Requirements to Cure Inadequate Tested Reliable Capacity. The cause of the inadequate Tested Reliable Capacity will be cured under Section 16.1.9 (*Inadequate Tested Reliable Capacity; Curing*) only if: (i) Seller provides GPC with a written certification reasonably acceptable to GPC confirming that the inadequate Tested Reliable Capacity has been cured; and (ii) the inadequate Tested Reliable Capacity is increased to a value equal to or greater than 70% of the Nominal Capability as demonstrated by the most recent Performance Test. Throughout the duration of any Cure Period, the Designated Capacity will be deemed to be the Tested Reliable Capacity determined by the most recent Performance Test.

(iii) GPC's Right to Select a Remedy. Despite Sections 16.1.9 (*Inadequate Tested Reliable Capacity; Curing*), 16.1.9(i) (*Cure Period*), and 16.1.9(ii) (*Requirements to Cure Inadequate Tested Reliable Capacity*), whenever the Tested Reliable Capacity of the Unit determined by a Performance Test at any time after the Delivery Commencement Date is below 70% of the Nominal Capability, GPC will have the unilateral right to elect the remedy specified in Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), Section 1.4 (*Tested Reliable Capacity Below Contracted Capacity Range; Capacity Buydown*), in which case, the remedy will be available for inadequate Tested Reliable Capacity above, at and below 70% of Nominal Capability. To elect such remedy GPC must notify Seller in writing of this election and must waive its right in the notice to declare a Seller Event of Default under Sections 16.1.9 (*Inadequate Tested Reliability Capacity; Curing*) and 16.1.9(i) (*Cure Period*) with respect to the specific event (but not any other additional events) of inadequate Tested Reliable Capacity.

16.1.10. Breach of Energy Delivery Obligation. Seller breaches its obligation to deliver energy in accordance with GPC's Schedule(s) to the extent that the Unit or a designated Alternate Resource, if applicable, is Available, and the breach continues for more than two Hours after GPC provides Seller with written notice of the breach.

16.1.11. Abandonment or Failure to Achieve RCOD. Seller abandons the development or construction of the Unit or Facility before COD, or Seller fails to achieve Commercial Operation of the Unit by no later than nine Months after the RCOD, or Seller notifies GPC that Seller has reasonably determined that Seller will not achieve Commercial Operation or that Commercial Operation will not be achieved by no later than nine Months after the RCOD.

16.1.12. Failure to Obtain Air Permit by Air Permit Threshold Date. Seller fails to obtain the Air Permit by the Air Permit Threshold Date, or Seller notifies GPC that Seller has reasonably determined that Seller will not obtain the Air Permit by the Air Permit Threshold Date.

16.1.13. Adjusting Meter or Interconnection Facilities without GPC's Consent. Seller or any Seller Representative willfully adjusts the Metering System or the Interconnection Facilities without GPC's written consent and which adjustment has the effect of falsely increasing the amounts owed by GPC under this PPA.

16.1.14. Breach of Covenant. Any failure of any covenant made by Seller in Section 2.1 (*Seller Representations, Warranties, and Covenants*), unless Seller promptly commences and diligently pursues action and cures the failure by no later than 30 Days after notice of the failure has been given to Seller by GPC, (unless the cure is not capable of being effected within the 30-Day period in which case Seller must submit a cure plan before the end of the 30-Day period outlining steps to assure GPC that the failure will be cured, which cure plan will be subject to GPC's approval, the approval not to be unreasonably withheld by GPC, but in no event will the total cure period exceed 180 Days) and the cure removes any adverse effect on GPC of the failure of such covenant. However, no Event of Default by Seller will occur in accordance with this Section 16.1.14 unless GPC cooperates with Seller during the cure period and, if applicable, takes commercially reasonable actions (without causing a material adverse effect on GPC) necessary to bring about a determination by GPC and its independent auditor that Seller does not constitute a VIE as because of this PPA.

16.1.15. VIE Consolidation. GPC is required by any applicable law or any accounting standard, including those implemented or administered by FASB, to consolidate Seller or any of its Affiliates or permitted

assigns as a VIE in GPC's or any of GPC's Affiliates' financial statements and the condition continues for a period of 30 Days after written notice from GPC unless the cure is not capable of being effected within the 30-Day period, in which case Seller will have an additional 30-Day period in which to commence the cure and then diligently pursues the cure and completes the cure within 60 Days. GPC may seek remedies in accordance with Section 16.3 (*Remedies*) for a Seller Event of Default caused under this Section 16.1.15. However, upon termination of this PPA, if Seller can clearly demonstrate that the Seller Event of Default was not caused by any direct or indirect action by Seller, Seller will have no further liability or obligation to GPC except for any obligation arising prior to the date of the termination. However, no Event of Default by Seller will occur under this Section 16.1.15 regarding: (i) Section 2.1.8 (*VIE Certification*) if Seller cooperates with GPC during the cure period and Seller takes commercially reasonable actions (without causing a material adverse effect on GPC) necessary to bring about a determination by GPC and its independent auditor that Seller does not constitute a VIE in GPC's or any of its Affiliates' financial statements for which GPC is the Primary Beneficiary as a result of this PPA; or (b) Section 2.1.14 (*Environmental Compliance Certification*) if GPC determines in its sole discretion, that the incorrect representation, warranty, or covenant is not material, Seller cooperates with GPC during the cure period, and Seller takes commercially reasonable actions (without causing a material adverse effect on GPC) necessary to correct the immaterial representation, warranty, or covenant to GPC's satisfaction. Despite the preceding subpart (i), if GPC becomes a Primary Beneficiary by no fault of Seller and a cure cannot be effected within the cure period, it will not be an Event of Default, but GPC may terminate this PPA and Seller will not have any further liability to GPC pursuant to this PPA.

16.1.16. Applicable Law Violation. Seller violates any applicable law and the violation would have a material adverse effect on Seller's ability to perform under this PPA and such violation is not cured within 30 days after written notice from GPC unless the cure is not capable of being effected within the 30-Day period, in which case Seller will have an additional 30-Day period in which to commence the cure and thereafter diligently pursues the cure and completes the cure within 60 Days and the cure removes any material adverse effect on Seller's ability to perform under this PPA. Seller will be deemed not to have committed an Event of Default hereunder if Seller has validly contested the alleged violation, the matter remains pending before the applicable Governmental Authorities, and any cease and desist order or other enforcement action due to an alleged violation of the applicable laws has been stayed.

16.2 Default by GPC. The occurrence of any of the following events will constitute a GPC Event of Default :

16.2.1. GPC Payment Default. GPC fails to pay Seller any undisputed amount payable by GPC to Seller in accordance with this PPA for 20 Business Days after the payment became due, and GPC fails to cure the failure to pay within 20 Days after GPC receives Seller's written demand for payment.

16.2.2. Failure to Comply with Other Material PPA Terms. GPC fails to perform or observe any material obligation of GPC under this PPA, other than those obligations included in this Section 16.2 (*Default by GPC*), which failure materially and adversely affects the ability of Seller or GPC to perform their respective obligations under this PPA and continues for a period of 30 Days after written notice thereof from Seller (unless the cure is not capable of being effected within the 30-Day period, in which case GPC will have an additional 30-Day period in which to perform the cure).

16.2.3. Incorrect Representation or Warranty. Any representation or warranty made by GPC in this PPA or in any certificate or other document delivered to Seller in accordance with this PPA proves to be incorrect in any material respect when made, unless GPC promptly commences and diligently pursues action to cause the representation or warranty to become true in all material respects and does so within 30 Days after Seller has given GPC notice (unless the cure is not capable of being effected within such 30-Day period in which case GPC will have an additional 30-Day period in which to perform the cure) and the cure removes any material adverse effect on Seller because of the representation or warranty having been incorrect.

16.2.4. Involuntary Bankruptcy, Insolvency, or Reorganization. A court having jurisdiction enters: (i) a decree or order for relief in respect of GPC in an involuntary case or proceeding under any applicable Federal or state bankruptcy, insolvency, reorganization or other similar law; or (ii) a decree or order adjudicating GPC bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or regarding GPC under any applicable Federal or state law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator, or other similar official of GPC or of any substantial part of its affairs.

16.2.5. Voluntary Bankruptcy, Insolvency, or Reorganization. GPC: (i) commences a voluntary case or proceeding under any applicable Federal or state bankruptcy, insolvency, reorganization, or other similar law or any other case or proceeding to be adjudicated bankrupt or insolvent; (ii) consents to the entry of a decree or order for relief in respect of GPC in any involuntary case or proceeding under any applicable Federal or state bankruptcy, insolvency, reorganization, or other similar law or to the commencement of any bankruptcy or insolvency case or proceeding against it; (iii) files any petition, answer or consent seeking reorganization or similar relief under any applicable Federal or state law, which, if granted would have the effect of relieving GPC of any of its obligations; (iv) consents to the filing of any petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator, or similar official of GPC or of any substantial part of its property; (v) makes an assignment for the benefit of creditors; (vi) admits in writing its inability to generally pay its debts as they become due; or (vii) takes any action in furtherance of any of the foregoing.

16.2.6. Failure to Comply with PPA Assignment Requirements. GPC violates the requirements of Part 18 (*Assignment, Transfers, and Changes of Control*) through an assignment or transfer of this PPA.

16.2.7. Material Violation of Applicable Law. GPC violates an applicable law and the violation would have a material adverse effect on GPC's ability to perform under this PPA and the violation is not cured within 30 Days after GPC receives Seller's written notice. If the cure is not capable of being effected within the 30-Day period, GPC will have an additional 30-Day period in which to commence the cure and after commencing the cure GPC will diligently pursue the cure and complete the cure within 60 Days. The cure must remove the material adverse effect(s) on GPC's ability to perform under this PPA. GPC will be deemed not to have committed an Event of Default under this PPA if GPC has validly contested the alleged violation, the matter remains pending before the applicable Governmental Authorities, and the cease and desist order or other enforcement action due to an alleged violation of the applicable laws has been stayed.

16.2.8. Breach of Covenant Regarding Designation of Alternate Resource. Any failure of any covenant made by GPC in Section 2.2.7 (*Designation of Alternate Resource as a Secondary Resource*), unless GPC promptly commences and diligently pursues action to cure the failure within 30 Days after notice thereof has been given to GPC by Seller, (unless the cure is not capable of being effected within such 30-Day period in which case GPC must submit a cure plan prior to the end of the 30-Day period outlining steps to assure Seller that the failure will be cured, which cure plan will be subject to Seller's approval, such approval not to be unreasonably withheld by Seller, but in no event will the total cure period exceed 180 Days) and the cure removes any adverse effect on Seller of the failure of such covenant.

16.3 Remedies.

16.3.1. Remedies for Event of Default. If an Event of Default occurs at any time during the Term, the Party not in default under this PPA ("**Non-Defaulting Party**") may, for so long as the Event of Default is continuing, subject to Part 19 (*Dispute Resolution*), take one or more of the following actions: (i) establish a date, no later than 10 Business Days after the Non-Defaulting Party delivers to the Party in default under this PPA ("**Defaulting Party**") written notice of the date, on which this PPA will terminate ("**Early Termination Date**"); (ii) proceed by appropriate proceedings in accordance with this PPA at law, in equity, or otherwise, to protect and enforce: (a) Non-Defaulting Party's right to actual or liquidated damages; or (b) where the Event of Default is one other than the failure to pay money, equitable relief, including specific performance; and (iii) immediately stop performance or withhold any payments, or both, due under this PPA.

16.3.2. Gains, Losses, Costs, or Damages. If an Early Termination Date has been established and Non-Defaulting Party has not successfully pursued an action for specific performance or is not excused from the payment of damages under Section 16.1.15 (*VIE Consolidation*), Non-Defaulting Party will in good faith calculate its Gains, Losses, or Costs resulting from the PPA termination, aggregate into a single net amount Gains, Losses, or Costs, and then notify Defaulting Party. If Non-Defaulting Party's aggregate Losses and Costs exceed Non-Defaulting Party's aggregate Gains, Defaulting Party will, unless Defaulting Party disagrees with the calculation, within 15 Business Days of receipt of such notice, pay to Non-Defaulting Party the net amount ("**Termination Payment**"). The Termination Payment will bear interest at the Interest Rate from the Early Termination Date until paid to Non-Defaulting party. If Non-Defaulting Party's aggregate Gains exceed aggregate Losses and Costs, if any, resulting from the PPA termination, Non-Defaulting Party may retain the Gains. If Defaulting Party disagrees with the calculation of the Termination Payment, the issue will be resolved in accordance with Part 19 (*Dispute Resolution*)

provisions applicable to Termination Payment disputes, and the resulting Termination Payment will be due by no later than three Business Days after the award. Despite any provision in this PPA, for any GPC PPA termination under Section 16.3.1 (*Remedies for Event of Default*) for a Seller Event of Default under Section 16.1.11 *(Abandonment or Failure to Achieve RCOD*) or Section 16.1.12 (*Failure to Obtain Air Permit by Air Permit Threshold Date*), rather than the application of a calculation of Gains, Losses, or Costs resulting from the PPA termination, the Termination Payment will be liquidated damages equal to the applicable amount shown in Exhibit F, (*Performance Security*), prorated based on the effective date of the termination, and Seller must pay to GPC all other damages specified in Section 7.3 (*Permitting*) or Section 7.4 (*Failure to Achieve Commercial Operation by the RCOD*).

16.3.3. Determining Gains, Losses, and Costs. Subject to Section 10.3.1 (*Alternative Determination of Capacity Payment*), Gains, Losses, or Costs will be determined by comparing the cost of the capacity and energy that, under this PPA, would be available under this PPA for the remainder of the Term had this PPA not been terminated to the market price of capacity and energy of equivalent reliability and Scheduling flexibility for the remaining Term (had this PPA not been terminated). Nothing in Part 6 (*Performance Security*) is intended to limit liability under this Section 16.3. To ascertain the market price, Non-Defaulting Party may consider, among other evidence, the settlement prices of NYMEX energy futures contracts, quotations from leading dealers in energy and gas swap contracts, offers for replacement capacity and energy, or bids to purchase the remaining capacity and energy that was to be sold in accordance with this PPA, in either case made by bona fide third-parties (including offers Non-Defaulting Party received in response to any request for proposals for capacity and energy contracts), all adjusted for the length of the remaining Term (as of the PPA termination date) and differences in locational basis (including costs of transmission investments and transmission service), reliability, Scheduling flexibility, and any other considerations affecting value. Neither Party will be required to enter into replacement transactions to determine the Termination Payment. As used in this Section 16.3.3: (i) "**Costs**" means: "Brokerage fees, commissions, and other similar transaction costs and expenses reasonably incurred by a Party either in terminating any agreement it has entered into to fulfill its obligations under this PPA or entering into new agreements which replace this PPA, and attorneys' fees, if any, incurred enforcing its rights under this PPA; (ii) "**Gains**" means: "An amount equal to the economic benefit determined on a mark to market basis (exclusive of Costs), if any, to the Non-Defaulting Party resulting from the termination of this PPA"; and (iii) "**Losses**" means: an amount equal to the economic loss determined on a mark to market basis (exclusive of Costs), if any, to the Non-Defaulting Party resulting from the termination of this PPA."

16.4 Rights of Specific Performance. For an Event of Default, the Parties recognize that a remedy at law may be inadequate because this PPA is unique or because the actual damages of the Non-Defaulting Party may exceed any guaranty or other collateral available to the Non-Defaulting Party. The Parties agree that in an Event of Default, Non-Defaulting Party will be entitled to pursue an action for specific performance, and Defaulting Party waives Defaulting Party's rights to assert as a defense to a specific performance action that the Non-Defaulting Party's remedy at law is adequate. The Non-Defaulting Party will not be entitled to receive both specific performance and a Termination Payment from the Defaulting Party.

16.5 Limitation of Remedies, Liability, and Damages. Each Party confirms that the express remedies and measures of damages provided in this PPA satisfy the essential purpose of this PPA for breach of any provision for which an express remedy or measure of damages is provided, the express remedy or measure of damages will be the exclusive remedy, subject to Section 19.6 (*Injunctive Relief*) regarding injunctive relief. Except to the extent expressly provided in Section 7.4 (*Failure to Achieve Commercial Operation by RCOD*), where an express remedy or measure of damage is provided, the Party's liability will be limited as set forth in the provision and all other remedies or damages at law or in equity are waived. However, if no remedy or measure of damages is expressly provided in this PPA, and subject to Section 19.6 (*Injunctive Relief*), a Party's liability will be limited to direct actual damages only. The direct actual damages will be the exclusive remedy and all other remedies or damages at law or in equity are waived. The Parties explicitly agree and intend that Section 7.4.1 (*Delay Liquidated Damages*), and Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), and #AdditionalSections will be fully enforceable by any court exercising jurisdiction over any dispute between the Parties arising under this PPA. Each Party irrevocably waives any defenses available to it under applicable law or equity relating to the enforceability of the liquidated damages provisions set forth in Section 7.4.1 and Exhibit B.

16.6 Waiver of Consequential Damages.Unless expressly provided in this PPA, neither Party nor its Affiliates will be liable for: (i) consequential, incidental, special, punitive, exemplary, treble, or indirect

damages (including lost profits; loss of use, income tax benefit, data, business opportunity or anticipated savings; idled equipment costs; or increased overhead, financing, or operating costs); or (ii) other business interruption damages arising out of this PPA, any damage or delay in connection with this PPA, a Party's act or failure to act, or a Party's performance or non-performance under this PPA, whether or not reasonable, foreseeable, contemplated, or avoidable and whether by statute, in tort or contract, under any indemnity provision, or otherwise. The preceding sentence will not apply: (a) for amounts owed to a third party for which this PPA requires indemnification; (b) to limit the liability of Seller for liquidated damages specified in this PPA; (c) to limit the liability of a Person whose actions giving rise to the liability constitute gross negligence or willful misconduct; or (d) to limit or reduce the amounts owed by a defaulting Party under Section 16.3 (*Remedies*), it being expressly agreed that no portion of any amount owed under Section 16.3 will be considered consequential damages and it being expressly agreed that the lost value of any investment tax credit (ITC), production tax credit (PTC), or any other similar Tax credit or benefit will be considered consequential damages. To the extent any damages required to be paid under this PPA are liquidated, the Parties acknowledge that: (I) the actual damages likely to be incurred are difficult or impossible to determine; (II) otherwise obtaining an adequate remedy is inconvenient; and (III) the liquidated damages do not constitute a penalty and are a reasonable approximation of the actual harm or loss. Despite any other provision in this PPA, in no event will GPC's liability to Seller for a termination payment under this PPA exceed an amount equal to the sum of any amounts then owed by GPC under this PPA plus the total of all remaining monthly capacity payments following termination that would have been payable to Seller under this PPA had the PPA remained in effect through the end of the Term. The limitations in Section 16.5 (*Limitation of Remedies, Liability, and Damages*) and this Section 16.6 apply regardless of fault and will survive PPA termination, cancellation, suspension, completion, or expiration.

16.7 Disclaimer of Warranties. **There are no warranties under this PPA except to the extent specifically set forth in this PPA. The Parties specifically disclaim and exclude all implied warranties, including the implied warranties of merchantability and of fitness for a particular purpose.**

16.8 No Interruption. Except as otherwise provided in this PPA, unless this PPA has been terminated, neither Party will, because of any breach or alleged breach by the other Party: (i) refuse to deliver, or suspend or delay any delivery of, capacity or associated energy to be provided under this PPA; (ii) refuse to take energy to the extent required under this PPA; or (iii) suspend, delay, or refuse to make any of the payments required under this PPA.

16.9 Duty to Mitigate. Despite any other provision of this PPA, each Party must: (i) mitigate damages; and (ii) use commercially reasonable efforts to minimize any damages it may incur because of the other Party's performance or non-performance.

PART 17. COMPLIANCE WITH LAWS

17.1 New GHG Law.

17.1.1. Reimbursement and Use of Credits. If a Governmental Authority enacts a New GHG Law, GPC will reimburse Seller for the required GHG Charges Seller paid under the New GHG Law for Greenhouse Gas emitted due to the Unit producing and delivering energy in accordance with GPC-issued Schedule Instructions. Seller must use GHG Credits, if any, to avoid or mitigate the GHG Charges in accordance with Section 17.1.3 (*Mitigation*). Despite the preceding sentences, GPC will not be responsible for GHG Charges associated with: (i) Greenhouse Gas emissions that exceed the GHG Cap; or (ii) the operation of the Unit other than in accordance with GPC-issued Schedule Instructions.

17.1.2. Conditions for Reimbursement. As a condition to GPC's obligation to reimburse Seller for GHG Charges under Section 17.1.1 (*Reimbursement and Use of Credits*), Seller must submit to GPC documentation, to GPC's reasonable satisfaction, of the GHG Charges that establishes: (i) the GHG Charges; (ii) Seller is responsible for the payment of the GHG Charges to a Governmental Authority in whose jurisdiction the Facility is located or that otherwise has jurisdiction over Seller or the Facility, and Seller has paid the GHG Charges to the Governmental Authority; (iii) Seller incurred GHG Charges for Greenhouse Gas emitted due to the Unit producing and delivering energy in accordance with GPC-issued Scheduling Instructions; and (iv) Seller took all reasonable steps to mitigate the cost or such GHG Charges, including utilizing GHG Credits in accordance with Section 17.1.3 (*Mitigation*).

17.1.3. Mitigation. Seller must use GHG Credits allocated to or for the Unit, or otherwise granted to or received by Seller for the Unit, to avoid or mitigate GHG Charges otherwise reimbursable by GPC under

Section 17.1.1 (*Reimbursement and Use of Credits*). If Seller is allocated, issued, or has the right to obtain GHG Credits for a portion of, or its entire fleet of, generating units, Seller must, at no cost to GPC, utilize a proportion of the GHG Credits to mitigate the GHG Charges otherwise reimbursable by GPC under Section 17.1.1 (*Reimbursement and Use of Credits*). For purposes of this Section 17.1.3, all references to "Seller" will be deemed to include Seller's Affiliates or other entity to which GHG Credits may be or have been allocated to or given rights to obtain for the Unit. The proportion of GHG Credits will be calculated based on the method, formula, or other similar calculation by which the Governmental Authority used to determine such GHG Credits attributable to each generating unit compared to the sum of all GHG Credits for all Seller's generating units. As a condition to GPC's obligation to reimburse Seller for GHG Charges under Section 17.1.1 (*Reimbursement and Use of Credits*), Seller must provide GPC with all information reasonably requested by GPC to document GHG Credits and Seller's compliance with this Section 17.1.3.

17.1.4. Alternate Resource GHG Charges. GPC will not be required to reimburse Seller for any GHG Charges that may be associated with an Alternate Resource or any other generating facility other than the Unit (including any energy produced by or fuel utilized by such Alternate Resource or other generating facility).

17.1.5. Transfer of Rights. Seller must not transfer or provide any other Person rights regarding GHG Credits that Seller is required to use to mitigate GHG Charges under Section 17.1.3 (*Mitigation*). If and to the extent that any GHG Credits for a calendar year addressed by Section 17.1.3 exceed those required for the production of energy by the Unit to satisfy GPC's Schedules for a calendar year, then, upon request by GPC and as permitted by applicable laws, Seller must transfer to GPC the GHG Credits at no additional cost to GPC.

17.2 Change of Law. Change of Law. "**Change of Law**" means: an applicable law enacted after the Effective Date, which requires Seller to install additional or different equipment at the Unit or otherwise modify the Unit to comply with applicable law.

"**Change of Law Capital Expenditures**" means: additional capital expenditures (determined in accordance with GAAP) reasonably incurred by Seller in accordance with Prudent Industry Practices for additional or different equipment installed at the Unit during the Term, or for other modifications to the Unit during the Term, as a direct result of a Change of Law and as necessary for the Unit as operated under this PPA to comply with such Change of Law during the Term. Capital expenditures will not constitute Change of Law Capital Expenditures unless GPC, using Prudent Industry Practices, would incur the same capital expenditures regarding its own generation facilities of the same type as the Unit as a result of the requirements of the Change of Law (taking into account differences in facility generating capacity and the frequency and duration of facility dispatch)."

Change of Law Capital Expenditures will be appropriately pro-rated based on the remaining Term divided by the useful life of the applicable capital addition or modification. Change of Law Capital Expenditures will be net of any cost savings to Seller resulting from the capital addition or modification.

17.2.1. Notice and Periodic Updates. If Seller determines that any Change of Law Capital Expenditures will be incurred because of a Change of Law (including costs less than the Threshold Amount), Seller must notify GPC of a Change of Law by no later than six Months after the enactment of the applicable Change of Law ("**Change of Law Notice**"). The Change of Law Notice must include: (i) a discussion of the relevant Change of Law; (ii) Seller's plan to comply with the Change of Law (including the additional or different equipment at the Unit or other modification of the Unit required to comply with the Change of Law); and (iii) reasonable documentation of Seller's determination of Change of Law Capital Expenditures (or estimate of Change of Law Capital Expenditures if actual costs are not known). Seller must provide GPC with periodic updates regarding Seller's compliance plan and Change of Law Capital Expenditures. Seller must provide additional relevant information as GPC may reasonably request.

17.2.2. Excess Change of Law Capital Expenditures. If one or more Change of Law(s) would cause Seller to incur Change of Law Capital Expenditures (in the aggregate) in excess of 10% of the Annual Capacity Price in any given Annual Period ("**Threshold Amount**"), and if Seller submitted a Change of Law Notice(s) for such Change of Law(s) in accordance with Section 17.2.1 (*Notice and Periodic Updates*), then Seller may, through written notice to GPC ("**Excess Capital Expenditures Notice**"), request GPC's approval, in GPC's sole discretion, of Seller's recovery of the incremental capital expenditures in excess of the Threshold Amount (the excess amount, "Excess Change of Law Capital Expenditures"), through an adjustment to the Annual Capacity Price, except no adjustment will be allowed to an Annual Capacity Price for any Annual Period prior to Seller incurring Excess Change of Law Capital Expenditures.

For purposes of calculating the adjustment to the Annual Capacity Price associated with capitalized additions or modifications to the Unit (determined in accordance with GAAP), the Parties will, each acting in good faith and in a commercially reasonable manner, establish an appropriate annual fixed charge rate for application to the original capital cost of the additions, modifications, or other capital expenditures. This calculation will represent the total cost associated with the identified addition or modification, including depreciation, carrying costs, and any other cost or expense item related to capital investments. Seller may not seek recovery of any Change of Law Capital Expenditures for which Seller did not submit a Change of Law Notice under Section 17.2.1 (*Notice and Periodic Updates*). The Excess Capital Expenditures Notice must supplement the Change of Law Notice, including addressing in detail the Excess Change of Law Capital Expenditures and setting forth Seller's calculations for the proposed increase in the Annual Capacity Price, as determined in accordance with this Section 17.2.2. Seller must demonstrate that: (i) Seller's proposed plan for complying with the Change of Law is reasonable and conforms with Prudent Industry Practices; and (ii) the Excess Change of Law Capital Expenditures are reasonable, consistent with Prudent Industry Practices, required for compliance with the Change of Law, and otherwise comply with this Section 17.2. Seller must promptly provide any other information reasonably requested by GPC concerning GPC's analysis of and response to Seller's Excess Capital Expenditures Notice.

17.2.3. Election Notice. By no later than 365 Days after receipt of Seller's Excess Capital Expenditures Notice, GPC will inform by written notice of whether GPC, in GPC's sole discretion, accepts or rejects Seller's proposed adjustment to the Annual Capacity Prices to recover Excess Change of Law Capital Expenditures ("GPC Election Notice"). If GPC does not notify Seller of GPC's decision within the 365-Day period, GPC will be deemed to have rejected Seller's proposed adjustment to the Annual Capacity Prices. Under no circumstances will GPC's rejection of a proposed adjustment to Annual Capacity Prices or Seller's recovery of Excess Change of Law Capital Expenditures constitute an Event of Default under Part 16 (*Default and Remedies*).

17.2.4. Seller Response Notice; GPC Response. If GPC, in its sole discretion, rejects or is deemed to have rejected Seller's request to recover Excess Change of Law Capital Expenditures addressed in Seller's Excess Capital Expenditures Notice, Seller must, by no later than the Seller Response Deadline, provide its Seller Response Notice of whether Seller elects to: (i) pay Change of Law Capital Expenditures (including Excess Change of Law Capital Expenditures); or (ii) terminate this PPA effective as of the date set forth in the Seller Response Notice (which date will be no earlier than 365 Days after the date of the Seller Response Notice). The "**Seller Response Deadline**" is the date that 30 Days after the earlier of: (a) the GPC Election Notice date; or (b) 365 Days after GPC's receipt of Seller's Excess Capital Expenditures Notice if GPC did not provide a GPC Election Notice. If Seller does not provide a Seller Response Notice by no later than the Seller Response Deadline, Seller will be deemed to have: (I) waived Seller's option to terminate this PPA because of the relevant Change of Law(s) and Change of Law Capital Expenditures; and (II) elected to pay for the Change of Law Capital Expenditures (including Excess Change of Law Capital Expenditures). Despite any provision in this PPA, if by the Seller Response Deadline Seller elects to terminate this PPA in a Seller Response Notice , GPC will have the right to elect by written notice, delivered to Seller within 60 Days after GPC receives the Seller Response Notice, to accept Seller's proposed adjustment to the Annual Capacity Price(s) as set forth in Seller's Excess Capital Expenditures Notice, and this PPA will not terminate and will continue in full force with the adjustment to Annual Capacity Price(s). If GPC does not provide written notice within the 60-Day period, then GPC will be deemed to have waived the election and this PPA will terminate in accordance with the Seller Response Notice (on the date set forth in the Seller Response Notice). The termination date will be no earlier than 365 Days after the date GPC receives the Seller Response Notice. Seller will be responsible for all Change of Law Capital Expenditures incurred before the effective date of the termination. Following the effective date of the termination, neither Party will have any further liability to the other Party except for any obligations incurred prior to the effective date of the termination.

17.2.5. Annual Capacity Price Adjustments. The Parties acknowledge that, except as provided in Sections 17.2.2 (*Excess Change of Law Capital Expenditures*), 17.2.3 (*Election Notice*), and 17.2.4 (*Seller Response Notice; GPC Response*), the Annual Capacity Prices will not be adjusted because of a Change of Law or Change of Law Capital Expenditures. If GPC has elected under Section 17.2.3 (Election Notice) or Section 17.2.4 (*Seller Response Notice; GPC Response*) to accept Seller's proposed adjustment to Annual Capacity Prices to recover Excess Change of Law Capital Expenditures, Seller may not seek any additional adjustment to Annual Capacity Prices for the same Change of Law(s) addressed in such GPC election (including for any additional or different Change of Law Capital Expenditures arising from such

Change of Law(s)). Any election by GPC under Section 17.2.3 (*Election Notice*) or Section 17.2.4 (*Seller Response Notice; GPC Response*) to allow Seller to recover Excess Change of Law Capital Expenditures will apply only to the Change of Law and Excess Change of Law Capital Expenditures addressed in GPC's election.

17.2.6. New or Different Changes in Applicable Law; Payments. Seller acknowledges and agrees that except as provided in this Part 17 (*Compliance with Laws*): (i) GPC will not be responsible for any costs or expenses incurred by Seller in connection with the Facility or the performance of Seller's obligations under this PPA that result from new or different or other changes in applicable law (including any change in an interpretation of any applicable law); and (ii) in no event will the payments required to be made by GPC under this PPA be increased because of any cost or expense that Seller incurs because of new or different or other changes in applicable law (including any change in an interpretation of any applicable law).

17.3 No Dedication. No undertaking by Seller under this PPA is intended to constitute: (i) the dedication to the public of the Facility or any part of the Facility; or (ii) affect Seller's status as an independent entity and not a public utility or public service company.

17.4 Compliance. Throughout the Term, Seller must comply with all applicable laws, including Environmental Laws (including all Consents and any applicable law pertaining to environmental emissions) regarding the design, construction, ownership, operation, maintenance, and decommissioning (if applicable) of the Unit or Facility, including all required Consents. Seller's compliance with Environmental Laws includes: (i) the performance of all studies required or recommended under Environmental Law to assess the impacts of the Unit or Facility on the environment, wildlife, or cultural resources; and (ii) the mitigation of environmental impacts, including all requirements to seek, obtain, maintain, comply with, and, as necessary, renew or modify from time to time, all applicable certificates, licenses, Permits, Governmental Authority approvals, environmental certificates, and environmental impact analyses, including any mitigation measures to reduce or avoid impacts to environmental, wildlife, or cultural resources, including any species conservation strategy or conservation agreement and any cultural resources treatment plan. Seller will be responsible for all costs, expenses, charges, and fees concerning all compliance required in this Section 17.4.

17.5 Compliance with Required BMPs and Recommended Best Practices. On a regular basis throughout the Term, or as otherwise may be required by any Governmental Authority, Seller must review and maintain, and comply with all Required BMPs regarding the design, construction, ownership, operation, maintenance, and decommissioning (if applicable) of the Unit or Facility. "**Required BMPs**" are those "Best Management Practices": (i) required or recommended by a Governmental Authority; or (ii) recommended by GPC, as made available at https://www.gadnr.org. If Seller: (a) is notified of its failure to comply with; (b) fails to comply with; or (c) otherwise becomes aware that it is not in compliance with, any Required BMPs, Seller will take steps to regain compliance in accordance with any requirements of any applicable Governmental Authority or otherwise as promptly as commercially practicable. Seller must review all updates to, and any new, Required BMPs on a regular basis during the Term and must take steps as may be required to comply with any new or updated Required BMPs in accordance with this Section 17.5. In addition, on a regular basis throughout the Term, Seller must review all "Recommended Best Practices" published by the Georgia DNR and made available at https://gadnr.org ("**Recommended Best Practices**") regarding the design, construction, ownership, operation, maintenance, and decommissioning (if applicable) of the Unit or Facility. Seller must, at all times, act in good faith and use all commercially reasonable efforts to maintain and comply with all Recommended Best Practices. Seller must review all updates to, and any new, Recommended Best Practices on a regular basis during the Term and will take steps to comply with the same in accordance with this Section 17.5. If, while acting in good faith and using all commercially reasonable efforts Seller is unable to comply with any Recommended Best Practices during the Term, Seller must notify GPC of this inability and the reasons it is not able to comply, and the Parties will meet to discuss steps that Seller may take to achieve compliance, or partial compliance to GPC's reasonably satisfaction.

17.6 Wildlife. If any species survey or study indicates that a direct or indirect taking of wildlife listed as threatened, endangered, or other special status under Environmental Laws, or any impacts to habitat of such wildlife, will occur as a result of development or construction activities (including due to grading, ground disturbance, tree clearing, or nest removal) or during operation of the Unit, Seller will consult with the relevant Governmental Authority to determine whether incidental take authorization or a species habitat conservation or management plan is required under Environmental Laws for the Facility or the Site. If required by any Permit, Seller will develop and share with GPC a plan for addressing such impacts. During development and construction of the Unit or Facility, any wildlife protected by Environmental Laws discovered on the Site must be reported by Seller in accordance with any applicable conservation or management plans.

17.7 Notices of Violations and Potential Violations; NOV Remediation Plan.

17.7.1. Notices of Violations. Within seven Days after receipt, Seller must provide GPC with copies of any written notification from any Governmental Authority alleging that Seller is in violation of any law, including any Environmental Law applicable to the Unit or Facility or the Site with respect to the design, construction, ownership, operation, maintenance, or decommissioning of the Unit or Facility (an "**NOV**").

17.7.2. NOV Remedy Plan. Upon GPC's request, Seller must prepare and submit to GPC an "**NOV Remedy Plan**" setting forth Seller's plan and schedule for mitigation and other remedial measures to cure such NOV as soon as reasonably practicable and in accordance with any requirements of any applicable Governmental Authority. Seller must diligently pursue the performance of such FME Remedy Plan to completion.

17.7.3. Monthly Status Reports and Updates to NOV Remedy Plan. While an NOV Remedy Plan is in effect, Seller must provide Monthly status reports to GPC, notifying GPC of the implementation of the NOV Remedy Plan, including the steps taken to remedy the NOV, any change to the NOV Remedy Plan, any impact on Seller's performance of its obligations under this PPA, as well as any additional relevant information as may be reasonably requested by GPC. Seller must modify the NOV Remedy Plan if and as required to comply with any requirement of any applicable law or Governmental Authority.

PART 18. ASSIGNMENT, TRANSFERS, AND CHANGES OF CONTROL

18.1 Assignment and Assumption of Obligations.

18.1.1. Seller Assignment Requirements.

(i) Seller Assignment. Seller must not assign to any Person this PPA in whole or in part without GPC's prior written consent. However, Seller may, without GPC's consent, assign this PPA to a financing party for collateral security purposes in connection with a financing or refinancing of the Unit or Facility, and GPC will execute a reasonable written consent to the collateral assignment in a form acceptable to GPC if the financing party reasonably requests the consent. Any proposed assignee of this PPA must: (i) agree to assume Seller's PPA obligations; (ii) deliver to GPC, on GPC's reasonable request, assurances regarding the assignee's Creditworthiness and the assignee's ability to perform all Seller obligations under this PPA.

(ii) Release. Any assignment of this PPA made in compliance with Section 18.1.1(i) (*Seller Assignment*) will constitute, as of the assignment effective date, assignee's acceptance and assumption of Seller's PPA obligations, and GPC's release and discharge of Seller from the obligations as of the assignment effective date.

(iii) Execution and Submission of Notice of Assignment Form. If GPC executes the written consent to assign this PPA, the assignee (new Seller) must execute and submit to GPC the notice of assignment (a form of which will be provided in conjunction with GPC's provision of written consent to the assignment), no later than five Business Days after the effective date of the assignment.

(iv) Estoppels Related to Financing or Purchasing of Interest. Upon Seller's reasonable request to GPC, GPC agrees to execute a written confirmation that, if true, then to the best of GPC's knowledge at the time of the request, Seller is not in default of this PPA.

18.1.2. GPC Assignment. GPC may not assign this PPA or any portion of this PPA to any Person except a Creditworthy Affiliate without the prior written consent of Seller.

18.2 Restrictions Regarding Assignment, Transfer, or Change of Control. Seller agrees that, except as permitted under Section 18.1.1(i) (*Seller Assignment*), without GPC's prior written consent there will be no: (i) assignment or transfer of any interest in the Unit or Facility; (ii) Change of Control Transaction regarding Seller; or (iii) delegation by Seller of the operational responsibility for the Facility.

18.3 Reimbursement for GPC's Costs. Seller agrees that, in the event Seller assigns or transfers an interest in the Facility or the PPA, as the transactions are described in Section 18.1.1 (*Seller Assignment Requirements*) and Section 18.2 (*Restrictions Regarding Assignment, Transfer, or Change of Control*), Seller must pay GPC twenty-five thousand dollars ($25,000.00) per occurrence for each and any proposed transaction and must pay to GPC ten thousand dollars ($10,000.00) per occurrence for each and any request for an estoppel in accordance with Section 18.1.1(iv) (*Estoppels Related to Financing or Purchasing of Interest*). If Seller requests GPC's

consent under Section 18.1.1 (*Seller Assignment Requirements*) or Section 18.2 (*Restrictions Regarding Assignment, Transfer, or Change of Control*), and GPC undertakes drafting of consent documents or amendments to provide consent, and Seller thereafter fails to consummate the proposed transaction, GPC reserves the right, in its sole discretion, to require Seller to provide reimbursement to GPC in accordance with this Section 18.3.

18.4 General Requirements. Each Party acknowledges that any consent required by Sections 18.1 (*Assignment and Assumption of Obligations*) or 18.2 (*Other Restrictions Regarding Assignment, Transfer, or Change of Control*) will not be unreasonably withheld, conditioned, or delayed, but, neither Party will be required to accept a limitation of its rights under this PPA or an expansion of the liability, risks, or obligations imposed on the Party under this PPA (including changes in accounting treatment). It will be reasonable for either Party to condition its consent required by this Part 18 (*Assignment, Transfers, and Changes of Control*) on the execution of amendments to this PPA that are reasonably determined by the Party to be necessary to preserve the value and protection afforded to the Party under this PPA. It will be a condition of any assignment, transfer, Change of Control Transaction, or other disposition regarding this PPA or the Unit under Section 18.1 (*Assignment and Assumption of Obligations*) or Section 18.2 (*Restrictions Regarding Assignment, Transfer, or Change of Control*) that Performance Security required under Section 6.1 (*Performance Security*), if applicable, must remain in place despite such disposition, or that replacement security in form, substance and amount in full compliance with this PPA or otherwise reasonably acceptable to GPC will have been provided prior to such disposition. Any purported assignment, transfer, Change of Control Transaction, or other disposition with respect to this PPA or the Unit that is not in compliance with the applicable provisions of Section 18.1 (*Assignment and Assumption of Obligations*) or Section 18.2 (*Restrictions Regarding Assignment, Transfer, or Change of Control*),, will be null and void, and of no force and effect.

18.5 Request for Consent. Seller must: (i) request GPC's consent to assignment, transfer, or Change of Control under Section 18.1.1 (*Seller Assignment Requirements*) or Section 18.2 (*Restrictions Regarding Assignment, Transfer, or Change of Control* by providing written notice under Section 20.4 (*Notice*) at least 40 Business Days before the anticipated effective date of the requested assignment, transfer, or Change of Control; and (ii) receive GPC's consent to the requested assignment, transfer, or Change of Control, as evidenced by GPC's execution of the written consent. GPC and Seller will cooperate to finalize the form of written consent between Seller, Seller's assignee, or lender and GPC, as applicable. Subject to Seller's satisfaction of Section 18.1.1 (*Seller Assignment Requirements*) or 18.2 (*Restrictions Regarding Assignment, Transfer, or Change of Control*), as applicable, and this Section 18.5 (*Request for Consent*), GPC will seek any required Consent from the Commission after GPC is satisfied that: (a) Seller's transaction is final but for such Consent; (b) a plan for any replacement of Eligible Collateral is satisfactory and sufficient; and (c) any required accounting determinations have been made by GPC and are acceptable.

18.6 Transferee Assurances. Before any: (i) assignment; (ii) transfer of: the Unit or any interest in the Facility or PPA; or (iii) Change of Control, Seller must obtain for GPC written assurances from the transferee of the limitations of and protections against liability following the proposed transfer at least equivalent to those afforded GPC or GPC's Affiliates under this PPA. Any transfer contrary to this Section 18.6, will make Seller the indemnitor of GPC or GPC's Affiliates against any liabilities incurred by GPC or GPC's Affiliates greater than those that would have been incurred had no transfer taken place. If Seller is not the sole owner of the Unit, Seller represents and warrants that Seller has, and throughout the Term Seller must properly maintain, written assurances from each other owner of the Unit limitations of and protections against GPC's or GPC's Affiliates liability regarding each other owner at least equivalent to those afforded GPC and GPC's Affiliates under this PPA. Any Seller breach of this Section 18.6 will make Seller the indemnitor of GPC and GPC's Affiliates against any liabilities incurred by any of them arising out of the breach.

PART 19. DISPUTE RESOLUTION

19.1 Notice. Either Party ("**Disputing Party**") has the right to give notice to the other Party ("**Responding Party**") that the Responding Party is not performing in accordance with the terms and conditions of this PPA. The notice ("**Notice of Dispute**") must describe with specificity the basis for the Disputing Party's belief and may propose a resolution of such dispute. Within 15 Business Days after receiving the Notice of Dispute, the Responding Party must provide the Disputing Party with a written response to the Notice of Dispute, which will describe with specificity the basis for the Responding Party's position and which may include additional issues (if any) regarding the dispute raised by the Notice of Dispute and may propose a resolution of the dispute ("**Dispute Response**"). Within five Business Days after the submission of the Dispute Response, the dispute must be submitted to a Seller designated senior Representative and a GPC designated senior Representative for resolution. If the designated senior Representatives are unable to resolve the dispute to the mutual satisfaction of the Parties within 20

Business Days after the submission to the designated senior Representatives, or any other period as the Parties may agree upon, then: (i) in the case of disputes described in Section 19.2 (*Expert Arbitration*), either Party may provide an written notice to the other Party declaring an impasse ("**Impasse Notice**") and, after notice is given, the Parties must arbitrate the disputes under Section 19.2; (ii) in the case of disputes described in Section 19.3 (*JAMS Arbitration*), either Party may provide an Impasse Notice and then the Parties must arbitrate the disputes under Section 19.3; or (iii) in the case of any dispute that is not described in Section 19.2 (*Expert Arbitration*) or Section 19.3 (*Jams Arbitration*), either Party may pursue rights and remedies as may be available under applicable law or in equity subject to the terms and conditions of this PPA.

19.2 Expert Arbitration. Upon the submission of an Impasse Notice, a dispute regarding: (i) the results of a Performance Test (under any provision of this PPA); (ii) a Capacity Shortfall under Section 4.1.7 (*Capacity Shortfall*); (iii) Imbalance Charges under Section 11.2.4 (*Imbalance Charges*); (iv) Seller Event of Default under Sections 16.1.8 (*Failure to Maintain Availability Percentage*) or 16.1.9 (*Inadequate Tested Reliable Capacity; Curing*); or (v) the development of Maintenance Schedules under Section 10.2.1 (*Maintenance Schedule Reporting and Approvals*) will be resolved by arbitration as set forth in this Section 19.2.

19.2.1. Selection of Expert. The Parties will attempt to agree upon the selection of an independent third-party expert to make a determination concerning the dispute. If the Parties cannot mutually agree on the selection of an expert within 15 Days after the submission of the Impasse Notice, GPC will provide Seller with a list of three qualified experts, and Seller will select one expert from the list. As a condition to appointment as a qualified expert, the expert must: (i) be competent and experienced in matters involving the electric energy business in the United States, with at least 10 years of experience in the electric industry; (ii) have no interest, financial or otherwise, in either Party or this PPA beyond payment of the fees and expenses for serving as the expert under this Section 19.2 (*Expert Arbitration*); and (iii) have not performed, or been employed by a firm that has provided services for either Party, and otherwise have not been previously or currently employed or engaged in any capacity by, and not have a personal or professional relationship with, either Party other than as the expert under this Section 19.2, unless the employment, engagement, or relationship has been disclosed in writing to the Parties before the appointment as an expert under this Section 19.2. The expert must not advise or otherwise communicate ex parte in any way with either Party following their appointment as an expert under this Section 19.2. The expert must also treat the details of this PPA and all expert activity under this PPA as private and confidential and must not publish or disclose any information related to the arbitration without the prior written consent of both Parties.

19.2.2. Expert Decision. No later than 15 Days after the selection of the expert, each Party must file with the expert written positions (with supporting documentation) concerning the dispute. The expert may request additional filings and will render a decision within 15 Days of receipt of all filings. In the case of any dispute resolved under this Section 19.2, the decision rendered by the independent expert will be final and binding upon Seller and GPC. Following the resolution of a dispute under this Section 19.2 regarding the Designated Capacity, Monthly Capacity Payment(s) billing will (if necessary and as soon as practicable) be adjusted retroactively (with interest at the Interest Rate) to reflect Designated Capacity equal to the expert's determination. For avoidance of doubt, this Section 19.2 does not apply to any dispute regarding GPC's application of the Performance Metrics, which will be resolved under Section 19.3 (*Jams Arbitration*).

19.2.3. Costs. If the independent expert adopts the position of one of the Parties, then the other Party will pay the fees and expenses of the expert. Otherwise, the Parties will share equally the fees and expenses.

19.3 JAMS Arbitration. Upon the submission of an Impasse Notice, the following disputes will be resolved by arbitration as set forth in this Section 19.3: (i) a dispute regarding the calculation of a Termination Payment in accordance with Section 16.3.3 (*Determining Gains, Losses, and Costs*); or (ii) a billing dispute under Section 5.2 (*Billing Disputes and Final Accounting*), including a dispute concerning the calculation of: (a) a Monthly Capacity Payment in accordance with Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), Part 2 (*Monthly Capacity Payment*), Part 3 (*Monthly Availability Adjustment*), or Part 4 (*Calculation of Replacement Costs;* or (b) a Monthly Energy Payment in accordance with Exhibit C (*Energy Payment Calculation*) (each, a "**Billing Dispute**").

19.3.1. JAMS. The Billing Dispute will be resolved under the Federal Arbitration Act by binding arbitration following the JAMS Comprehensive Arbitration Rules and Procedures ("**Rules**") of Judicial Arbitration and Mediation Services ("**JAMS**") then in effect, including its evidentiary and procedural rules, except as modified in this PPA. It is the Parties' intent that the arbitration, including the selection and qualification of

arbitrators, will be conducted in accordance with the Rules, as amended and supplemented, except where specifically modified by this PPA, and not by the terms of any state arbitration act or other applicable law.

19.3.2. Initiation of Arbitration; Selection of Arbitrators.

(i) Initiation of Arbitration; Selection of Party-Appointed Arbitrators. Within 10 Business Days after delivering an Impasse Notice, the delivering Party must contact JAMS to commence arbitration and must provide written notice to the other Party in accordance with Section 19.4 (*Location of Arbitration*). Arbitration will be deemed to be commenced when JAMS issues a Commencement Letter (as defined in the Rules) in accordance with the Rules. The Party initiating arbitration will nominate one arbitrator at the same time it initiates arbitration. The other Party will nominate one arbitrator within 10 Business Days of receiving the Commencement Letter. The two Party-nominated arbitrators will be deemed neutrals and not the representative of the appointing Party. The two arbitrators ("**Party-Appointed Arbitrators**") will appoint a third arbitrator ("**Third Arbitrator**"). The "**Arbitration Panel**" will include the two Party-Appointed Arbitrators and the Third Arbitrator. All arbitrators must: (i) be competent and experienced in matters involving the electric energy business in the United States, with at least 10 years of legal, engineering, or business experience in the electric industry; (ii) have no interest, financial or otherwise, in the Parties or this PPA beyond payment of their fees and expenses for serving on the Arbitration Panel; and (iii) have not performed, or been employed by a firm that has provided, services for either Party, and otherwise have not been previously or currently employed or engaged in any capacity by, and not have a personal or professional relationship with, either Party other than as a member of the Arbitration Panel, unless the employment, engagement, or relationship has been disclosed in writing to all Parties prior to the selection of the Arbitration Panel. Arbitrators must not advise or otherwise communicate ex parte in any way with either Party following appointment to the Arbitration Panel and must treat the details of this PPA and all Arbitration Panel activity as private and confidential, and not publish or disclose any information related to the arbitration without the prior written consent of both Parties. Further, the Third Arbitrator will be independent of the Parties and the Party-Appointed Arbitrators. Each Party will pay the fees and expenses incurred by its Party-Appointed Arbitrator and the fees and expenses of the Third Arbitrator will be divided equally between the Parties.

(ii) Appointment of Third Arbitrator. If the Party-Appointed Arbitrators are unable to agree on the Third Arbitrator within 10 Business Days from initiation of arbitration, then the Third Arbitrator will be selected by JAMS with due regard given to the selection criteria in Section 19.3.2(i) (*Initiation of Arbitration; Selection of Party-Appointed Arbitrators*) and input from the Parties and the Party-Appointed Arbitrators. Parties will undertake to request JAMS to complete selection of the Third Arbitrator no later than 60 Days after initiation of arbitration. Costs charged by JAMS for this service will be borne by the Parties equally. If JAMS should fail to select the Third Arbitrator within 60 Days after initiation of arbitration, then either Party may petition a court of competent jurisdiction in Atlanta, Fulton County, Georgia to select the Third Arbitrator. Due regard will be given to the selection criteria in Section 19.3.2(i) (*Initiation of Arbitration; Selection of Party-Appointed Arbitrators*) and input from the Parties and the Party-Appointed Arbitrators. If, before the conclusion of the arbitration, any member of the Arbitration Panel becomes incapacitated or otherwise unable to serve, then a replacement arbitrator will be appointed in the manner set forth in this Section 19.3.2.

19.3.3. Discovery; Hearing. Discovery and other pre-hearing procedures will be conducted as agreed by the Parties, including at least one corporate representative deposition, or if they cannot agree, as determined by a majority of the Arbitration Panel. So long as, all pre-hearing discovery must be completed within 90 Days after selection of the Third Arbitrator. Within 15 Business Days after completion of the pre-hearing discovery, each Party will submit, either individually or jointly, by overnight delivery to the other Party and the Arbitration Panel a separate, precise statement for each issue in dispute, that Party's proposed means of resolving each issue, and the factual or legal support for such proposal ("Proposed Resolutions"). No later than 30 Business Days after all pre-hearing discovery has been completed, a hearing will be conducted at which Seller and GPC will each present evidence and witnesses as it may choose. Arbitration will be conducted in accordance with the Rules, as amended and supplemented, except where specifically modified by this PPA.

19.3.4. Confidential Proceeding. Each Party must maintain the confidentiality of the arbitration proceedings, except as reasonably necessary to effectively represent itself in the proceeding to enforce

the arbitration award or determination, or as otherwise required by law. All discovery materials will remain confidential in accordance with Section 20.16 (*Confidentiality*).

19.3.5. Arbitration Cost. Each Party will be responsible for its own legal and arbitration expenses incurred in connection with the arbitration proceeding, including attorneys' fees, investigation, or discovery (including e-discovery) costs, and expert, consultant or arbitrator fees and expenses.

19.3.6. Arbitrator Decisions.

(i) Considerations. The Arbitration Panel will consider the terms and conditions of this PPA, including all relevant evidence and testimony, and will render its decision within 30 Days following conclusion of the hearing by means of a written reasoned decision. However, the Arbitration Panel is expressly and specifically limited to selecting one of the Proposed Resolutions provided by Seller and GPC for each issue in dispute. The Arbitration Panel will have no authority to award consequential, special, indirect, treble, exemplary, incidental, or punitive damages of any type under any circumstance, regardless of whether such damages may be available under applicable state law, federal law, the Federal Arbitration Act, or any other applicable law.

(ii) Decision of Arbitration Panel. The written decision rendered by a majority of the Arbitration Panel will be provided to the Parties. The decision may be filed in a court of competent jurisdiction and may be enforced by Seller or GPC as a final judgment in such court.

19.4 Location of Arbitration. Any arbitration under Section 19.2 (*Expert Arbitration*) or Section 19.3 (*JAMS Arbitration*) will take place in Atlanta, Fulton County, Georgia.

19.5 Mandatory Arbitration. Subject to Section 19.3 (*JAMS Arbitration*), each Party understands and agrees that when arbitration is required under this Part 19, arbitration is mandatory and each party waives any right to seek judicial relief or file court proceedings to determine the specified matters under Section 19.2 (*Expert Arbitration*) or Section 19.3, other than the right to seek judicial relief to compel arbitration, to confirm an arbitration award, or to seek injunctive relief under Section 19.6 (*Injunctive Relief*) in accordance with this PPA.

19.6 Injunctive Relief. Despite any other provision of this Part 19 (*Dispute* Resolution), the Parties acknowledge that an award of damages may not afford complete relief or furnish an adequate legal remedy as between them (such as when Seller's Event of Default arises from Seller's actions designed to achieve an economic gain by selling energy, capacity, or Ancillary Services to a third party in violation of this PPA). Accordingly, the Parties agree that a Party will be permitted to seek at any time, in accordance with applicable laws, procedures, and the terms of this PPA, injunctive relief relating to the performance of this PPA from an arbitrator, a Governmental Authority of appropriate jurisdiction, or a court of competent jurisdiction located in Atlanta, Fulton County, Georgia. The Parties expressly agree that this Section 19.6 does not present a question of substantive arbitrability and waive any right to have an arbitrator decide whether preliminary injunctive relief is available in court. In the event of entry of any interlocutory injunctive relief, the Party against whom such relief is entered waives the right to have a bond or security posted pending resolution of the dispute giving rise to the issuance of the injunction.

19.7 Continued Performance. The Parties agree to continue performing their respective obligations under this PPA while the dispute is being resolved, unless and until such obligations are terminated or expire in accordance with the provisions of this PPA.

PART 20. MISCELLANEOUS PROVISIONS

20.1 Amendments. This PPA may be amended only by a written document duly executed by authorized representatives of GPC and Seller, each of GPC and Seller having received all approvals of Governmental Authorities necessary for the effectiveness of the Amendment.

20.2 Binding Effect. This PPA and any extension will inure to the benefit of and will be binding upon the Parties and their respective permitted successors and permitted assigns.

20.3 Counterparts. This PPA may be executed in two or more counterparts and by electronic transmission of signatures in portable document format (PDF) or another electronic format, each of which will be deemed an original but all of which together will constitute one and the same agreement.

20.4 Notice. All notices, requests, consents, claims, demands, waivers and other communications under this PPA must be in writing. Exhibit N (*Notices*) lists each Party's point-of-contact for PPA notices and correspondence. Each Party will provide notice to the other as provided in Exhibit N. Notice under this Section 20.4 must include

the GPC project identification number referenced in this PPA's title and Unit and Facility name and must be by: (i) personal delivery (effective the date of delivery); (ii) if the Party has provided an email address for official notice purposes, email delivery (effective that date if sent by 5:00 p.m. (recipient's time); otherwise, the next Business Day; (iii) repaid nationally- or internationally- recognized commercial overnight courier (receipt requested; effective the next Business Day); or (iv) registered or certified U.S. mail, with proper postage (effective after the fourth Business Day). In all instances, notice to the respective Parties should be directed as specified in Exhibit N.

20.5 Entire Agreement This PPA constitutes the entire understanding between the Parties and replaces any previous or contemporaneous oral or written discussion, representation, promise, arrangement, understanding, or agreement between the Parties related to the subject matter of this PPA. The Parties have entered into this PPA in reliance upon the representations and mutual undertakings contained in this PPA and not in reliance upon any oral or written representations or information provided by one Party to the other Party not contained or incorporated in this PPA.

20.6 Governing Law. The validity, interpretation, and performance of this PPA, and each of its provisions, will be governed by the laws of the state of Georgia, without giving effect to any conflict of law principles that would require the application of the laws of another jurisdiction. Subject to the provisions of Part 19 (*Dispute Resolution*) regarding arbitration, each Party agrees that the state and federal courts, as applicable, of the state of Georgia will have exclusive jurisdiction for resolution of disputes under this PPA and each Party irrevocably consents to the jurisdiction of and venue in those courts.

20.7 Time of Essence; No Waiver. Time is of the essence with respect to performance under this PPA. A Party's failure to enforce a PPA provision, or to require at any time performance by the other Party of any of the provisions under this PPA, does not constitute a waiver of that, or any other PPA provision or any right o or remedy in the future. Acquiescence to or acceptance of late performance, with or without reservation does not waive a future right to require timely performance. No modification or waiver of all or any part of this PPA will be valid unless it is reduced to a writing, signed by both Parties, that expressly states that the Parties agree to a waiver or modification, as applicable.

20.8 Liability. Neither Party will be responsible for the other Party's performance, non-performance, or delay in performance under this PPA.

20.9 GPC's Agent. Wherever this PPA requires Seller to provide information, schedules, notice or the like to, or to take direction from, GPC, Seller will provide information, schedules, notice, or the like to, or receive from, GPC or such agent of GPC as GPC may direct from time to time pursuant to a written notice given to Seller in accordance with Section 20.4 (*Notice*).

20.10 No GPC Affiliate Liability. Notwithstanding any other provision of this PPA, no Affiliate of GPC (including any Affiliate of GPC acting as GPC's agent where GPC's agent is given certain authorities) will have any liability whatsoever for any performance, nonperformance, or delay in performance under this PPA, except in the event of an assignment of this PPA to an Affiliate of GPC pursuant to Section 18.1. (*GPC Assignment*), in which case, such assignee will be liable for GPCs obligations arising under this PPA from and after the date of assignment.

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

20.12 Third Parties. Except as provided in Section 14.3 (*Scope of Indemnity*), nothing in this PPA will be construed to create any duty, obligation or liability of GPC or Seller to any Person not a party to this PPA.

20.13 Agency. This PPA will 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 will 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.

20.14 Severability. If any term or provision of this PPA or its application to any Person or circumstance is determined to any extent to be invalid or unenforceable, the remainder of this PPA, or the application of such term or provision to Persons or circumstances other than those as to which it is invalid or unenforceable, will not be affected by such determination, and each term and provision of this PPA will be valid and enforceable to the fullest extent permitted by law. The Parties agree to negotiate in good faith to modify this PPA to replace or modify such term or provision so as to effect the original intent of the parties as closely as possible.

20.15 Negotiated Agreement. This PPA will be considered for all purposes as prepared through the joint efforts of the Parties and will not be construed against one Party or the other because of the preparation, substitution, or other event of negotiation, drafting or execution of this PPA.

20.16 Confidentiality.

20.16.1. Confidentiality Obligations. Each Party acknowledges that portions of this PPA contain Confidential Information and may require the Parties to disclose additional Confidential Information to one another. Each Party agrees that it will not, without the written consent of the other Party or as otherwise provided in this PPA, disclose a disclosing Party's Confidential Information to any third party, except that receiving Party may disclose Confidential Information: (i) to its Affiliates, consultants, agents, or advisors who: (a) need to know such information in connection with the receiving Party's performance of its obligations under this PPA; and (b) are subject to an obligation in writing or pursuant to a legally recognized fiduciary of professional duty to maintain confidentiality of Confidential Information; and (ii) to the extent required by applicable law. Seller acknowledges and agrees that all price and payment information provided by GPC to Seller is Confidential Information.

20.16.2. Disclosure of Confidential Information to the Commission. Each Party agrees to request confidential treatment of the Confidential Information in this PPA from the Commission in accordance with the Commission's rule regarding trade secrets, but Seller understands and acknowledges that certain terms, conditions, and provisions of this PPA will need to be disclosed concerning GPC's regulatory obligations before the Commission, including the application for the Commission Certificate. No assurance or commitment is made regarding GPC's ability to obtain the requested confidential treatment from the Commission. Each Party agrees that if Confidential Information is required to be disclosed in accordance with applicable law, the disclosing Party will make reasonable efforts to obtain protection from disclosure under the trade secret provisions of the Governmental Authority or court to ensure the Confidential Information is protected from public disclosure.

20.16.3. FERC. The Parties agree to seek confidential treatment of the Confidential Information in this PPA from FERC but acknowledge that certain Confidential Information may be made publicly available by FERC.

20.16.4. Public Statements. Any public statement or other announcement by a Party concerning the transaction described in this PPA will be reviewed and agreed upon by the Parties before release, which agreement will not be unreasonably withheld, conditioned, or delayed. Seller and its Affiliates must not issue any public statement (including any news release, internet, website, social media posting, or other publication) concerning: (i) this PPA or the transactions described in this PPA; (ii) the Facility concerning this PPA; or (iii) Seller's relationship with GPC without the communication first being reviewed and agreed upon by the Parties before release to the public. In addition, Seller is responsible for ensuring that its contractors, Affiliates, and contractual counterparties, and each of their respective employees, contractors, and agents, fully comply with this Section 20.16.4.

20.16.5. Designation of Confidential Information. Confidential Information not designated by this PPA as Confidential Information must be designated in writing as confidential by the disclosing Party to the receiving Party contemporaneously with the supply of the information to the receiving Party. In addition to information designated as Confidential Information in other sections of this PPA, the Parties designate the following information as Confidential Information: (i) PPA pricing and payment information; (ii) non-public Electric System information; and (iii) GPC technical requirements.

20.16.6. GPC's Use of Unit Operational Data. Despite any other provision in this PPA, GPC may share Unit operational data (but not pricing information) including actual generation data, generation forecast data, weather station data, and loss and efficiency data with third parties for the purpose of analysis, modeling, model development and validation, and forecasting.

20.16.7. Survival of Confidentiality Obligations. Despite any other PPA provision, the terms of this Section 20.16.7 will survive for a period of three years after the termination or expiration of this PPA, except that, to the extent any Confidential Information constitutes a "trade secret" under any applicable law, the receiving Party's obligations under Section 20.16 (*Confidentiality*) will apply for the life of such trade secret.

20.17 Contract Interpretation. Each exhibit, attachment, appendix, schedule, regulatory requirement, policy, procedure, standard, or other document attached to or referenced in this PPA (expressly including the *Schedule of Defined Terms*) is incorporated into, and is integral to, this PPA as if included in the main body. In this PPA and

in all attached or incorporated documents: (i) whenever the term "**include**," "**including**," or "**e.g.**" is used in connection with a listing of items included within or an example of the prior reference, the listing will be interpreted to be illustrative only, and will not be interpreted as a limitation on or exclusive listing of the items included in the prior reference; and (ii) "**or**" means either or all (i.e., "A or B" means "A or B or both A and B").

Unless otherwise specified, a reference to a given agreement or document, and all the schedules, exhibits, appendices, and attachments to the agreement or document, will be a reference to that agreement or document as modified, amended, supplemented, or restated, and in effect from time to time. Whenever the term "**consent**" or "**approval**" is used, the consent or approval will not be unreasonably withheld, conditioned, or delayed by the consenting or approving Party, unless this PPA provides that the consent or approval is in the sole discretion of the consenting Party. If the Party has provided email contact information, "**written**" or "**in writing**" includes email communication, absent express statement otherwise.

Reference to: (i) a Party or Person includes any allowed successor or assign; (ii) a regulatory authority includes an authority succeeding to the same function; and (iii) an applicable law is to the law as modified or amended and then effective. Reference to a PPA part by caption or number includes all separate sections , clauses, and part and reference to a section by caption or number includes all separate clauses within that section. To the extent there is a conflict between CPT and ET, CPT will prevail.

A defined term may be singular or plural, as the context requires, and, absent an express statement otherwise, each defined term has the same meaning in all PPA documents. Captions are for convenience only and do not affect PPA interpretation.

20.18 Replacement Index. Should any index or tariff referenced in this PPA be discontinued, no longer published, or deemed unrepresentative, the Parties will cooperate in establishing substitute benchmarks through reference to equivalent indices or tariffs.

20.19 Recording. Each Party acknowledges and consents to the tape or electronic recording of all telephone conversations between the Parties, and that any recordings will be retained in confidence, secured from improper access, and may be submitted in evidence in any proceeding or action relating to this PPA. Each Party waives any further notice of such monitoring or recording and agrees to notify its officers and employees of any monitoring or recording and to obtain any necessary consent of such officers and employees.

20.20 Further Assurances. Each Party agrees to provide reasonable cooperation to the other Party as necessary to give effect to the terms of this PPA.

20.21 Transfer of Information Acknowledgement. Seller agrees to execute contemporaneous with the execution of this PPA, the Transfer of Information Acknowledgement attached as Exhibit L (*Transfer of Information Acknowledgement*), and GPC agrees to the limited use and confidential treatment of the information a set forth in Exhibit L.

[Signature Page Follows]

Each Party agrees to all terms and conditions of this PPA as of the Effective Date. The Parties may exchange counterparts of this PPA as a scanned image (e.g., .pdf or .tiff file extension) as an attachment to email. An electronic or scanned signature is an original signature for all purposes.

Georgia Power Company	**#SellerLegalName#**
By: _____	By: _____
#Name #Title	#SellerSignatureName #SellerSignatureTitle
Date: _____	Date: _____

EXHIBIT A – FACILITY DESCRIPTION AND ADDITIONAL DETAILS

Table A-1 **Facility, Site, and Seller Information**	
Site	#Street Address# #City, #State, #ZipCode
GPS Coordinates	#Latitude latitude and #Longitude longitude
IC Number	IC-#InterconnectionID#
Facility Description	The #Number CT(s) at Seller's #Name electric generating plant, interconnected to the Electric System at the POI. The Facility includes, without limitation, the #Number #Describe CT Units, specifically identified as #IdentifyCTs, #AddCTs, and all auxiliary equipment and facilities necessary or used for the production, control, delivery, or monitoring of electricity produced on the Site. All equipment and facilities installed on Seller's side of the POI and the Gas Delivery Point at the Site will be considered to be part of the Facility.
Facility Name	#FacilityName
Unit Description	One or more of the #Number CTs at the Facility that are designated to meet Seller's power supply obligations pursuant to this PPA.
Seller Information	#SellerName, #a***OR***#an #OrgState# #limited liability company***OR***#OtherOrgStructure

Table A-2 **Term, RCOD, and Earliest Delivery Commencement Date**	
Term	#Number Annual Periods **[NOTE TO BIDDERS: Term of 5, 10, 15, or 20 Annual Periods based on Delivery Commencement Date.]**
RCOD	#Month #Day, #Year
Earliest Delivery Commencement Date	#DateNineMonthsBeforeRCOD

Table A-3 **Additional Facility and Operating Information**	
Air Permit Minimum Operating Hours Requirement	At least #Number Hours per calendar year.
Daily Fuel Oil Price Location	#AddLocation
GHG Rate	Either: (i) regarding CO2, #Weight lbs. of CO2 / MMBtu; or (ii) regarding any other Greenhouse Gas, a rate established by GPC that is equal to the average emissions rate for the applicable Greenhouse Gas from GPC's own combined cycle electric generation facilities.
Nominal Capability	#Value MW per Unit for a total of #Number MW for the Facility.
Gas Delivery Point Pipeline Name	#GasDeliveryPointPipelineName
Gallons Purchase Amount	#GallonsPurchaseAmount to be sold to GPC from Seller's
Fuel Oil Storage Tank Capacity	#FuelStorageTankCapacity gallons
Upper Limit Fuel Oil Inventory Level	#UpperLimitFuelOilInventoryLevel
Maximum Hourly Replenishment Capability	#Number gallons per Hour
Selected Southern Transmission Interface	#AddSelectedSouthernTransmissionInterface

EXHIBIT A-1 – KEY MILESTONES AND REQUIRED KEY MILESTONE DATES

Key Milestone	Key Milestone Date	Required Substantiation[1]
Interconnection Interconnection request Study agreements and studies completed, including feasibility study, system impact study and facilities study. IA execution		Copies of: • Interconnection request • Executed study agreements • Interconnection study results • Executed copy of IA reflecting a commercial operation date no later than the RCOD
Achieve site control		
EPC Contract execution		A copy of the executed EPC Contract reflecting a substantial completion date that supports the RCOD
Full execution of all major equipment procurement agreements, including those between Seller and applicable suppliers and vendors for: • #AddEquipment • #AddEquipment • #AddEquipment • #AddEquipment and issuance of any applicable full notice to proceed.		A copy of each executed major equipment procurement agreement, with pricing redacted, including: (i) a description of the country of origin for all equipment and components to be supplied under the agreement; (ii) any applicable full notice to proceed; and (iii) schedules with required delivery dates consistent with the RCOD.
EPC Contract Schedule Complete		A copy of the EPC Contract schedule, which must be at least a level 3 critical path method schedule that supports the RCOD.

[1] Without limiting any other PPA requirement, as a condition to achieving each Critical Milestone on or before the Required Milestone Date, Seller must provide evidence satisfactory to GPC demonstrating that Seller achieved each Key Milestone by the Key Milestone Date, including the items described in this table.

Key Milestone	Key Milestone Date	Required Substantiation[1]
Air Permit Threshold		A matrix of required Permits, copies of applications submitted, and a copy of Permits obtained.
All other Permits required for Facility construction and Commercial Operation. • Applications submitted • All Permits obtained		A matrix of required Permits, copies of applications submitted, and a copy of Permits obtained.
Financial Closing		A letter from an officer of Seller certifying that Financial Closing has occurred: i. Seller has obtained and closed on all financing arrangements necessary to obtain funds for the anticipated cost of Facility construction; ii. all conditions precedent to the availability of funds in accordance with financing arrangements have been satisfied or waived by the applicable Persons (other than customary conditions to each drawdown of a construction loan) and the funds will be made available for disbursement to Seller; and one of Seller's officers has provided GPC with an executed certification that the foregoing (i) and (ii) have occurred.
Interconnection Notice to Proceed	The date by which the IA notice to proceed must be issued for commercial operation (as defined in the IA) to be achieved in time to support RCOD.	An executed copy of the Interconnection Notice to Proceed
EPC Notice to Proceed		A copy of the EPC Notice to Proceed.
Delivery of Major Equipment to the Facility site by dates required to		

Key Milestone	Key Milestone Date	Required Substantiation[1]
support COD by Required COD under the PPA.		
Achievement of EPC Contract key milestones: • Site mobilization • Mechanical Completion • Substantial Completion • Initial synchronization		
RCOD		

EXHIBIT A-2 – PERFORMANCE SECURITY AND LIQUIDATED DAMAGES

PART 1 PERFORMANCE SECURITY

Time Period			Eligible Collateral ($/kW)[2]
Post Execution Period > Two Years Before anticipated Delivery Commencement Date			
Post Execution Period < Two Years Before anticipated Delivery Commencement Date			
Delivery Commencement Date through PPA Term	Annual Period	1-5	
		6-10	
		11-15	
		16-20	

PART 2 LIQUIDATED DAMAGES

[Note to Bidder: The liquidated damages table will be populated with the applicable delay liquidated damages stated in Attachment 2 (Delay Liquidated Damages Summary) of RFP Exhibit E (*Summary of Fees, Costs, Security, and Deadlines*)]

Liquidated Damages	
Month	**Amount ($/kW-month)[3]**

[2] All amounts shown as $/kW will be calculated based on the Facility's Nominal Capability.

EXHIBIT B – CAPACITY; CAPACITY PAYMENTS AND PAYMENT REDUCTIONS; BUYDOWN

PART 1 CONTRACTED CAPACITY; TESTED RELIABLE CAPACITY; DESIGNATED CAPACITY; CAPACITY BUYDOWN; CAPACITY PRICING

1.1 Contracted Capacity Cap; Contracted Capacity Range.

A. Contracted Capacity Cap. The "**Contracted Capacity Cap**" will equal 102.5% of the Nominal Capability. However, GPC, in its sole discretion, may elect to accept an offer from Seller to increase the Contracted Capacity Cap to an amount equal to a Tested Reliable Capacity that is greater than 102.5% of the Nominal Capability in accordance with Section 1.2 (*Tested Reliable Capacity; Performance Tests*) of this Exhibit B.

B. Contracted Capacity Range. The "**Contracted Capacity**" will include an upper limit and a lower limit as described in this Section 1.1.B. Subject to Section 1.4 (*Tested Reliable Capacity Below Contracted Capacity Range; Capacity Buydown*), the upper limit of the Contracted Capacity range for the Term will be the Contracted Capacity Cap. Subject to Section 1.4, the lower limit of the Contracted Capacity range for the Term will be 92% of the Nominal Capability.

1.2 Tested Reliable Capacity; Performance Tests.

A. Facility Performance Testing. Seller must conduct Performance Testing of the Unit in accordance with Exhibit E (*Performance Testing Procedures*) to determine the capacity that will reliably and consistently be available to meet GPC's Schedules.

B. Establishing Initial Tested Reliable Capacity. Before the Delivery Commencement Date, but no earlier than 90 Days before the Delivery Commencement Date, Seller must establish the initial Tested Reliable Capacity in accordance with a Performance Test. However, if Seller cannot perform the Performance Test during the 90-Day period because of ambient conditions, Seller must perform the Performance Test as soon as practicable with appropriate ambient conditions after the Delivery Commencement Date, and in the interim period after the Delivery Commencement Date, the Nominal Capability will be applicable until the initial Tested Reliable Capacity is determined through a Performance Test.

C. Request to Redetermine Tested Reliable Capacity. Following the establishment of the initial Tested Reliable Capacity, each Party will have the right to request a Performance Test to re-determine the Tested Reliable Capacity to be performed during the period from March 15 to April 15 of each Annual Period upon 10 Business Days prior written notice to the other Party. However, upon consent by each Party, the Performance Test may be performed outside the period of March 15 to April 15 of each Annual Period. Despite the preceding sentence, no Performance Test may be scheduled during: (i) a period of Scheduled Outage; (ii) a period of Maintenance Outage; (iii) an FME; or (iv) a Forced Outage. The Tested Reliable Capacity determined by an additional Performance Test will become the new Tested Reliable Capacity.

D. Tested Reliable Capacity Greater Than Effective Contracted Capacity Cap. If a Performance Test results in a Tested Reliable Capacity that is greater than the then-effective Contracted Capacity Cap, Seller may offer to increase the Contracted Capacity Cap to the new Tested Reliable Capacity and GPC, in GPC's sole discretion, will accept or reject Seller's offer. If GPC accepts Seller's offer, the Contracted Capacity Cap will be reset to the Tested Reliable Capacity resulting from the Performance Test. If GPC does not accept Seller's offer, the Contracted Capacity Cap will not change.

E. Cost Responsibility for Fuel Required for Performance Test(s) for initial Tested Reliable Capacity; Purchase of Test Energy. Seller will be responsible and bear all costs and expenses to obtain and deliver fuel required for the Performance Test(s) required to determine the initial Tested Reliable Capacity. GPC will receive and purchase the test energy at the Test Energy Price. "**Test Energy Price**" means (i) the product of AIER; *times* (ii) 90%, as shown in the following equation:

(Test Energy Price = AIER x 0.90)

F. Fuel Costs for Subsequent Performance Tests. For all subsequent Performance Tests, the requesting

Party will bear the costs and expenses of the subsequent Performance Test. However, Seller must bear costs and expenses of: (i) any Performance Test GPC request if the Tested Reliable Capacity (because of the Performance Test) is determined to be less than the Tested Reliable Capacity immediately before the Performance Test; (ii) any Performance Test performed under Section 1.4 (*Tested Capacity Below Contracted Capacity Range; Capacity Buydown*); or (iii) any Performance Test performed due to a reliability issue under Exhibit E (*Performance Testing Procedures*), Part 3 (*Testing*). If GPC is responsible for the fuel costs for a Performance Test, GPC will purchase test energy at the applicable price under Exhibit C (*Energy Payment Calculation*) for energy delivered from the Unit in accordance with GPC's Schedule. If Seller is responsible for the fuel costs for a Performance Test, GPC will purchase test energy at the lesser of: (a) the Test Energy Price; and (b) the applicable price under Exhibit C for energy delivered from the Unit in accordance with GPC's Schedule.

1.3 Designated Capacity.

A. Designated Capacity. Unless Seller designates a Designated Capacity that is less than the Tested Reliable Capacity as set forth in Section 1.3.B (*Seller's Election to Designate a Designated Capacity Less Than the Tested Capacity*) the Designated Capacity will be deemed to be the Tested Reliable Capacity. However, despite any other provision in this PPA, the Designated Capacity may not exceed the Contracted Capacity Cap.

If the Tested Reliable Capacity under a Performance Test is greater than the then-effective Contracted Capacity Cap and Seller does not offer, or GPC rejects an offer, to increase the Contracted Capacity Cap to the Tested Reliable Capacity under Section 1.2 (*Tested Reliable Capacity; Performance Tests*), then the Designated Capacity will be deemed to be the Contracted Capacity Cap, unless Seller designates a Designated Capacity that does not exceed the Contracted Capacity Cap, as set forth in Section 1.3.B (*Seller's Election to Designate the Designated Capacity Below the Tested Capacity*).

B. Seller's Election to Designate the Designated Capacity Less Than the Tested Capacity. By no later than 10 Business Days after establishment of the Tested Reliable Capacity through a Performance Test, Seller may elect, by written notice to GPC, to designate a Designated Capacity that is less than the Tested Reliable Capacity resulting from the Performance Test, so long as the Designated Capacity does not exceed the Contracted Base Capacity Cap. If Seller does not so designate a Designated Capacity within the 10 Business Days as described in the preceding sentence, the Designated Capacity will be determined as set forth in Section 1.3.A (*Designated Capacity*).

C. Compliance with IA Reactive Power Purchase Requirements. Despite any other provision in this PPA, if the IA requires Seller to produce reactive power for the Electric System, the Designated Capacity must not exceed the capability of the Unit assuming that the maximum production of reactive power is being supplied to satisfy the IA requirements.

D. Effectiveness of Changes to Designated Base Capacity or Designated Supplemental Capacity. Any change to the Designated Capacity will take effect on the first day of the Month immediately after the Month the new Designated Capacity is determined and designated in accordance with this Section 1.3 (*Designated Capacity*).

E. Capacity Shortfall Standard. Despite any provision in this PPA, this Section 1.3 (*Designated Capacity*) is subject to the determination of a Capacity Shortfall in accordance with PPA Section 4.1.7 (*Capacity Shortfall*).

F. Designated Seasonal Base Capacity. For use in accordance with Exhibit C (*Energy Payment Calculation*), Section 1.4 (*Monthly Fuel Adjustment*), a Designated Seasonal Capacity will be determined for each Season to allocate energy the Unit produced. For the Winter Season, the Designated Seasonal Capacity will be calculated as the Tested Base Capacity adjusted to: (i) Reference Conditions for the Winter Seasonal Period (i.e., 40ºF and 75% relative humidity); and (ii) the reactive power output obligation imposed by Seller's IA. For all other Seasons, the Designated Seasonal Capacity will be set to the Designated Capacity.

1.4 Tested Reliable Capacity Below Contracted Capacity Range; Capacity Buydown.

A. Cure Plan and Cure Period. In addition to and without limiting the remedies available to GPC under PPA Section 16.1.9 (*Inadequate Tested Reliable Capacity*), if a Performance Test indicates that the Unit's Tested Reliable Capacity is less than the lower end of the then-effective Contracted Capacity range but greater than or equal to 70% of the Nominal Capability or any other percentage if GPC makes the election provided under PPA

Section 16.1.9(iii) (*GPC's Right to Select a Remedy*), Seller will have 10 Days to submit to GPC a cure plan for increasing the Unit's capacity which will be reasonably acceptable to GPC and will include a reasonable cure period during which Seller may conduct additional Performance Tests. The cure period must not exceed 120 Days.

(i) Cure Period Extension. If Seller establishes a cure plan under this Section 1.4.A (*Cure Plan and Cure Period*) but requires a cure period of more than 120 Days to cure the inadequate Tested Reliable Capacity, then the cure period will be extended for a reasonable additional period of time, but the extension must not exceed 420 Days. As a condition to GPC granting the cure period extension, by no later than 15 Days before the expiration of the 120Day cure period, Seller must provide to GPC:

(a) A revised cure plan reasonably acceptable to GPC setting forth a reasonable extension of the cure period, not to exceed 420 Days;

(b) A written certification reasonably acceptable to GPC confirming that, for Seller to cure the inadequate Tested Reliable Capacity, Seller must be given a reasonable additional period; and

(c) Seller's election for the extended cure period to cover (to the extent of the degraded capacity) GPC's Schedules through an Alternate Resource in accordance with PPA Section 4.1.4(iii) (*Requirements for Seller's Election to Provide Energy from an Alternate Resource*).

The total duration of any cure period, as extended, may not exceed 540 Days.

B. Cured Inadequate Tested Reliable Capacity. The inadequate Tested Reliable Capacity will be deemed cured under this Section 1.4 (*Tested Reliable Capacity Below Contracted Capacity Range; Capacity Buydown*)only if: (i) Seller provides GPC with a written certification reasonably acceptable to GPC confirming that the inadequate Tested Reliable Capacity has been cured; and (ii) the Tested Reliable Capacity, as demonstrated by the most recent Performance Test, is increased to a value equal to or greater than the lower limit of the original Contracted Capacity range as set forth in Section 1.1 (*Contracted Capacity Cap; Contracted Capacity Range*). Throughout the duration of any cure period, the Designated Capacity will be deemed to be the Tested Reliable Capacity determined in accordance with the most recent Performance Test.

C. Buydown Liquidated Damages. If Seller fails to: (i) establish the cure plan within the required 10-Day period set forth in Section 1.4.A (*Cure Plan and Cure Period*) or, if applicable, establish the revised cure plan within the required 15-Day period set forth in Section 1.4.A (i) (*Cure Period Extension*) for a cure period extension; (ii) diligently implement the cure plan (including implementation of actions as GPC may reasonably request); or (iii) cure the inadequate Tested Reliable Capacity within the applicable cure period, Seller must pay GPC, as liquidated damages, the buydown payment for the corresponding Annual Period as shown in Table B-1 (*Buydown Payment for Capacity Reduction Below the Minimum Guarantee*) corresponding to the Annual Period immediately following the Annual Period in which the most recent Performance Test was conducted, based on the difference (in kW) between the then-effective lower limit of the Contracted Capacity range and the then-effective Tested Reliable Capacity. Additionally, upon Seller making the required buydown payment under this Section 1.4.C: (a) the lower limit of the then-effective Contracted Capacity range will be reset at the Tested Reliable Capacity demonstrated in the most recent Performance Test; and (b) the upper limit of the then effective Contracted Capacity range will be lowered by the same amount that the lower limit has been reduced. However, any resetting of the lower and upper limits of the Contracted Capacity range will not limit or modify GPC's rights or remedies under PPA Section 16.1.9 (*Inadequate Tested Reliable Capacity; Curing*). Subject to PPA Section 16.1.9, Seller's payment of buydown liquidated damages in accordance with this Section 1.4.C will be GPC's sole remedy for a reduction of the Tested Reliable Capacity below the lower end of the Contracted Capacity range.

[NOTE TO BIDDERS: Table B-1 will be populated using the applicable amounts stated in Table #Number (#*Title*) of RFP Exhibit A (*Performance Security Amounts*).]

Table B-1
Buydown Payment for Capacity Reduction Below Minimum Guarantee

Annual Period	Buydown Payment ($/kW)
1-5	#Amount
#6-10	#Amount
#11-15	#Amount
#16-20	#Amount

If the cure plan fails to restore the capacity to a value equal to or greater than the lower limit of the original Contracted Capacity range as set forth in Section 1.1.B (*Contracted Capacity Range*) and the Contracted Capacity range is reset (lowered) as set forth above in this Section 1.4.C, and following the Contracted Capacity range reset, Seller restores the capacity to a value equal to or greater than the lower limit of the original Contracted Capacity range as set forth in Section 1.1.: (I) GPC will not be required to refund to Seller any buydown liquidated damages Seller paid under this Section 1.4.C; and (II) Seller must offer to GPC the restored capacity increment at the Annual Capacity Price and in accordance with the capacity payment terms set forth in this Exhibit B. If GPC accepts Seller's offer, the Contracted Capacity range will be reset (raised) by an amount equal to the portion of the restored capacity increment that GPC accepted. If GPC does not accept the offer, the Contracted Capacity range will not be reset, but Seller will be free to sell the restored capacity increment to third parties, despite the provisions of PPA Sections 4.1.5 (*Designated Capacity and GPC's Scheduling Right for Facility Energy Output and Ancillary Services*) and 12.2.3 (*Records and Energy Scheduling*) that require Seller to deliver the entire output to GPC. However, in such event, GPC will, at all times during the remainder of the Term, has the right to Schedule the entire energy output of the Unit times a fraction the numerator of which is the upper limit of the reset (lowered) Contracted Capacity range and the denominator of which is the most recent Tested Reliable Capacity.

1.5 Capacity Pricing.

A. Annual Capacity Price. Beginning on the Delivery Commencement Date, the Annual Capacity Price for the first Annual Period will be $#Price/kW-year and will increase per Table B-2 (*Annual Capacity Price*) on December 1 of each Annual Period after the first Annual Period.

Table B-2 Annual Capacity Price	
Annual Period	**($/kW-year)**

The Annual Capacity Price will include all fixed costs, including fixed operation and maintenance charges.

PART 2 MONTHLY CAPACITY PAYMENT

2.1 Calculation of Monthly Capacity Payment. For each Month of each Annual Period, subject to the provisions of this PPA, the "**Monthly Capacity Payment (MCP)**" will be determined as follows:

MCP = MCF – MAA

Where:

MCF = The Monthly Capacity Fee for the Month calculated by taking the product of: (i) the Designated Capacity; *times* (ii) the Annual Capacity Price; *times* (iii) the Monthly Value Factor, as shown in the following equation:

DC * ACP * MVF * 1000

Where:

DC = Designated Capacity for the Month, as determined in accordance with Section 1.3 (*Designated Capacity*).

ACP = The applicable Annual Capacity Price from Table B-2 (*Annual Capacity Price*).

MVF = The applicable Monthly Value Factor from Table B-3 (*Monthly Value Factor*).

MAA = The Monthly Availability Adjustment for the Month determined in accordance with Part 3 (*Monthly Availability Adjustment*).

If the Delivery Commencement Date occurs on a Day other than the first Day of a Month, or if the last Day of the Term occurs on a Day other than the last Day of a Month, the calculation of the Monthly Capacity Payment and Monthly Availability Adjustment will be determined on a pro rata basis.

If the amount of the MCP for a Month is negative (i.e., the amount of the Monthly Availability Adjustment exceeds the amount of the Monthly Capacity Fee for the Month), then the Monthly Capacity Payment for the Month will be deemed to be zero dollars ($0) and GPC will not be required to pay Seller a Monthly Capacity Payment for the Month.

GPC will not owe Seller any payment or other compensation, for the capacity of the Facility for any Month before the Month of the Delivery Commencement Date, even if Seller achieves Commercial Operation of the Facility before the RCOD.

Table B-3
Monthly Value Factor (MVF)

Month	MVF
December	0.10
January	0.45
February	0.05
March	0.03
April	0.03
May	0.03
June	0.04
July	0.09

August	0.09
September	0.03
October	0.03
November	0.03

Despite the Monthly Value Factors in Table B-3 (*Monthly Value Factor (MVF)*), for any given Annual Period, GPC has the right, in GPC's sole discretion, to modify the MVF for any Month by providing notice to Seller, so long as: (i) GPC provides Seller the notice no later than 180 Days before the commencement of the Annual Period; (ii) each Monthly Value Factor must be at least equal to 0.01; and (iii) the sum of all MVFs for each Annual Period must equal 1.0.

PART 3 MONTHLY AVAILABILITY ADJUSTMENT

3.1 Calculation of Monthly Availability Adjustment. For each Month of each Annual Period, GPC will determine the "Monthly Availability Adjustment (MAA)" by taking the *sum* of: (i) the product of : (a) the Monthly Capacity Fee; times (b) the Monthly Availability Factor; *plus* (ii) Replacement Costs, as shown in the following equation:

MAA = (MCF * MAF) + (Replacement Costs)

Where:

MCF = The Monthly Capacity Fee for the Month determined in accordance with this Section 2.1 (*Calculation of Monthly Capacity Payment*).

MAF = The Monthly Availability Factor for the Month from Table B-4 (*Monthly Availability Factor*) based on the MAP for the Month, as determined in accordance with this Part 3 (*Monthly Availability Adjustment*).

MAP = The Monthly Availability Percentage for the Month as determined in accordance with this Part 3 (*Monthly Availability Adjustment*).

Replacement Costs = The total Replacement Costs determined in accordance with Part 4 (*Calculation of Replacement Costs)*

3.2 Calculation of Monthly Availability Percentage. For each Month of each Annual Period, the Monthly Availability Percentage (MAP) for a Month will be determined as follows:

$$MAP = 100\% * \left(1.0 - \frac{(FOH + EFDH - ARDH)}{MH}\right)$$

Where:

FOH = The sum of Unplanned (Forced) Outage Hours for the Month.

EFDH = The sum of Equivalent Unplanned (Forced) Derated Unit Hours for the Month. The following are two example calculations for EFDH:

Example 1: If a Unit with a Designated Capacity of 500 MW was derated by 200 MW for 20 Hours, EFDH = 20 Hours * 200 MW/ 500 MW = 8 Hours.

Example 2: If a unit with a Designated Capacity of 500 MW was derated by 200 MW for 10 Hours and 100 MW for another 10 Hours, EFDH = (10 * 200 MW/ 500 MW) + (10 * 100 MW / 500 MW) = 6 Hours

ARDH = The sum of Alternate Resource Delivery Hours for the Month, which are the Unplanned (Forced) Outage Hours or Equivalent Unplanned (Forced) Derated Hours for the Month in which delivery is made from an Alternate Resource in accordance with PPA Section 4.1.4 (*Unavailability*).

MH = The total Hours during the applicable Month.

The calculation of the MAP will not include energy Scheduled during any period of: (i) Scheduled Outages or Maintenance Outages; (ii) Unit ramping; (iii) an FME declared by Seller in accordance with PPA Part 15 (*Force Majeure*) for which Seller has not elected Alternate Delivery in accordance with PPA Section 4.1.4(iii) (*Requirements for Exercising Delivery Right from an Alternate Resource*); or (iv) Unavailability Events to the extent they are directly caused by the acts or omissions of GPC.

3.3 Monthly Availability Factor (Applicable to both AGC and Non-AGC Scheduling)

Seller guarantees a minimum MAP of 96% for each Month of each Annual Period.

The Monthly Availability Factor (MAF) for each Month of each Annual Period will be determined in accordance with Table B-4 (*Monthly Availability Factor (MAF)*), based on the MAP for the applicable Month.

Table B-4
Monthly Availability Factor (MAF)

MAP	MAF
Greater than or equal to 96%	0
Less than 96% but at least 75%	(96% – MAP) * 1.5
Less than 75%	1.0

For an MAP greater than or equal to 96%, the MAF will equal zero. There will be no increase in the Monthly Capacity Payment for an MAP equal to or greater than 96%.

For a MAP of at least 75% but less than 96%, the MAF is equal to: (i) one and one-half; *times* (ii) each percent or fraction of MAP shortfall below 96%. For example, if the MAP is 95.2%, there will be an 0.8% shortfall below 96%, and the MAF will be 1.2% (i.e., 1.5 * 0.8% = 1.2%).

If the MAP is less than 75%, the Monthly Capacity Fee is reduced to zero and the Monthly Capacity Payment will equal zero dollars ($0) for such Month.

PART 4 CALCULATION OF REPLACEMENT COSTS

4.1 Calculation of Replacement Costs.

For any given Hour for which there is Undelivered Energy, "**Replacement Costs**" will be calculated as follows:

The sum of: (i) the product of: (a) the Undelivered Energy for the Hour as determined by GPC; *times* (b) the difference of: (I) the Replacement Price for the Hour; minus (II) the Energy Price for the Hour; *plus* (ii) all documented energy imbalance charges, transmission costs, penalties, charges, and other costs and expenses that GPC incurs because of the non-delivery of such Undelivered Energy or because of purchasing energy to replace Undelivered Energy, including in accordance with applicable transmission or other tariffs. If the sum of (i) and (ii) is a negative amount for a given Hour, then the Replacement Costs for the Hour will be deemed to be equal to zero dollars ($0).

Where:

Energy Price = For a given Hour, the applicable price of the Undelivered Energy for such Hour as determined in accordance with Exhibit C (*Energy Payment Calculation*), if the Undelivered Energy had been delivered from the Facility in accordance with to this PPA.

Replacement Price = For any given Hour for which there is Undelivered Energy, the greater of: ((i)

the product of: (a) GPC System Incremental Cost for the Hour; *times* (b) 110%; or (ii) (a) if GPC determines in GPC's sole discretion to purchase energy to replace any portion of Undelivered Energy for the Hour, the price for which GPC purchases energy to replace the Undelivered Energy (or the applicable portion), plus documented costs and fees reasonably incurred by GPC in purchasing the replacement energy (e.g., broker fees), plus documented transmission charges and transmission losses, if any, reasonably incurred by GPC to deliver the replacement energy to the POD or Alternate Delivery Point, as applicable, and administrative costs, if any, reasonably incurred by GPC for the replacement energy (in each case stated in terms of $/MWh of replacement energy); or (b) if GPC determines in GPC's sole discretion not to purchase energy to replace any portion of Undelivered Energy for the Hour, the market price for which GPC would have been able to purchase at the POD energy to replace the Undelivered Energy (or the applicable portion), as reasonably determined by GPC. However, GPC will not be required to enter into any transaction or agreement to purchase energy with any Person to determine the Replacement Price.

GPC System Incremental Cost = For a given Hour, the incremental cost, measured in dollars per MWh, for GPC and its Affiliates to supply the next MWh of energy, after serving the requirements of all of GPC's and its Affiliates' native load customers, all other power sales of GPC and its Affiliates (including both firm and non-firm sales), and all contractual obligations of GPC and its Affiliates during such Hour. GPC System Incremental Cost will include marginal replacement fuel cost, variable operation and maintenance costs, fuel handling costs, emission allowance replacement costs, compensation for transmission losses, delivered cost of energy purchases from others, start-up and unit commitment costs, and any other energy-related costs, all as determined by GPC after the applicable Hour.

Energy Price = For a given Hour, the applicable price of the Undelivered Energy for the Hour as determined in accordance with Exhibit C (*Energy Payment Calculation*), if the Undelivered Energy had been delivered from the Unit in accordance with this PPA.

Undelivered Energy = For a given Hour, the amount of energy GPC Scheduled for delivery during the Hour that Seller does not deliver in accordance with this PPA, excluding energy that is not provided because of an FME declared by Seller in accordance with Part 15 (*Force Majeure*) for which Seller has not elected Alternate Delivery in accordance with Section 4.1.4(iii) (*Requirements for Exercising Delivery Right from an Alternate Resource*), but including energy that is not delivered because of a Forced Outage or a Forced Derate. However, solely for purposes of this variable, Undelivered Energy for any Hour must not exceed the difference (if positive) of: (i) the Designated Capacity for the Hour; minus (ii) Delivered Energy for the Hour, so long as if the difference is negative, the Undelivered Energy for the Hour will be equal to zero MWh.

Delivered Energy = For any Hour, the quantity of energy (expressed in MWh) that Seller delivered to the POD or Alternate Delivery Point, as applicable, in accordance with GPC's Schedule, excluding test energy and including ramp energy delivered to GPC at the POD.

Seller acknowledges and agrees that neither GPC nor its Affiliates will be required to utilize or change their utilization of their individually or collectively owned or controlled assets (including electric generation facilities), purchased power, or market positions to minimize the Replacement Price or Replacement Costs for any given Hour. Further, Seller acknowledges and agrees that GPC will have the right (but will not be required) to purchase energy to replace any Undelivered Energy from any Person(s) in GPC's reasonable discretion and that the purchase may be utilized in the determination of the Replacement Price or Replacement Costs under this Section 4.1 (*Calculation of Replacement Costs*).

4.2 Calculating Monthly Availability Adjustment for Billing Purposes. To determine the Monthly Availability Adjustment (MAA) for billing purposes, GPC will provide to Seller, as soon as practicable after, then end of each Month during, each Annual Period, a written statement that sets forth the amount of Replacement Costs, including the Replacement Price for each applicable Hour, except that the calculations may be based on an estimate of the GPC System Incremental Cost for the applicable Hours during the Month. If the calculations are based on an estimate of the GPC System Incremental Cost, GPC subsequently will recalculate the actual Replacement Costs based on the actual GPC System Incremental Cost for each applicable Hour, recalculate the MAA for the applicable Month based on the actual Replacement Costs, and recalculate the MCP for the applicable Month based on the

actual MAA. GPC will then true-up the MCP as follows:

A. Previously Paid or Billed MCP > Recalculated MCP. If the previously paid or billed MCP (based on estimated values of GPC System Incremental Cost) is greater than the recalculated MCP (based on actual values of GPC System Incremental Cost), the true-up will be implemented through a credit provided to GPC in the corresponding amount of the difference, which will be applied in future invoices for MCP under PPA Part 5 (*Billing and Collections*), or if at end of Term, Seller will pay to GPC in accordance with PPA Part 5.

B. Previously Paid or Billed MCP < Recalculated MCP. If the previously paid or billed MCP (based on estimated values of GPC System Incremental Cost) is less than the recalculated MCP (based on actual values of GPC System Incremental Cost), the true-up will be implemented through an additional amount billed to GPC in the corresponding amount of the difference, which GPC will pay in accordance with PPA Part 5 (*Billing and Collections*).

EXHIBIT C – ENERGY PAYMENT CALCULATION

PART 1 MONTHLY ENERGY PAYMENT

1.1 Monthly Energy Payment Calculation. The "**Monthly Energy Payment (MEP)**" is determined by taking the sum of: (i) the Monthly Energy Payment for the Facility; *plus* (ii) the Monthly Energy Payment for the Alternate Resource, as showing in the following equation:

$$MEP = MEP_{FAC} + MEP_{AR}$$

To the extent that energy is being provided from the Unit:

$$MEP_{FAC} = MVOM_{GAS\text{-}FAC} + MVOM_{OIL\text{-}FAC} + MSC_{GAS\text{-}FAC} + MSC_{OIL\text{-}FAC} + MFA_{GAS} + MFA_{OIL}$$

To the extent energy is being provided from an Alternate Resource:

$$MEP_{AR} = MVOM_{GAS\text{-}AR} + MVOM_{OIL\text{-}AR} + MSC_{GAS\text{-}AR} + MSC_{OIL\text{-}AR} + MFC_{GAS\text{-}AR} + MFC_{OIL\text{-}AR}$$

Where:

MEP = Monthly Energy Payment.

$MVOM_{GAS\text{-}FAC}$ = Monthly Variable O&M Charge for energy provided from the Unit when dispatched on Natural Gas determined in accordance with Section 1.2 (*Monthly Variable O&M (MVOM) Charges*).

$MVOM_{OIL\text{-}FAC}$ = Monthly Variable O&M Charge for energy provided from the Unit when dispatched on Fuel Oil determined in accordance with Section 1.2 (*Monthly Variable O&M (MVOM) Charges*).

$MVOM_{GAS\text{-}AR}$ = Monthly Variable O&M Charge for energy provided from Alternate Resources when the Unit would have been dispatched on Natural Gas determined in accordance with Section 1.2 (*Monthly Variable O&M (MVOM) Charges*).

$MVOM_{OIL\text{-}AR}$ = Monthly Variable O&M Charge for energy provided from Alternate Resources when the Unit would have been dispatched on Fuel Oil determined in accordance with Section 1.2 (*Monthly Variable O&M (MVOM) Charges*).

$MSC_{GAS\text{-}FAC}$ = Monthly Startup Charge for energy provided from the Unit when dispatched on Natural Gas determined in accordance with Section 1.3 (*Monthly Startup Charges (MSC)*).

$MSC_{OIL\text{-}FAC}$ = Monthly Startup Charge for energy provided from the Unit when dispatched on Fuel Oil determined in accordance with Section 1.3 (*Monthly Startup Charges (MSC)*).

$MSC_{GAS\text{-}AR}$ = Monthly Startup Charge for energy provided from Alternate Resources when the Unit would have been dispatched on Natural Gas determined in accordance with Section 1.3 (*Monthly Startup Charges (MSC)*).

$MSC_{OIL\text{-}AR}$ = Monthly Startup Charge for energy provided from Alternate Resources when the Unit would have been dispatched on Fuel Oil determined in accordance with Section 1.3(*Monthly Startup Charges (MSC)*).

MFA_{GAS} = Monthly Fuel Adjustment for operation on Natural Gas determined in accordance with Section 1.4.A (*Monthly Fuel Adjustment*). The Monthly Fuel Adjustment for operation on Natural Gas does not apply when Seller is delivering energy from Alternate Resources.

MFA_{OIL} = Monthly Fuel Adjustment for operation on Fuel Oil determined in accordance with Section 1.4.B (Monthly Fuel Adjustment ("MFA_{OIL}") for Operation on Fuel Oil). The Monthly Fuel Adjustment for operation on Fuel Oil does not apply when Seller is delivering energy from Alternate Resources.

MFC_{GAS-AR}= Monthly Fuel Charge for Natural Gas for energy provided from Alternate Resources determined in accordance with Section 1. (*Monthly Fuel Charge*).

MFC_{OIL-AR}= Monthly Fuel Charge for Fuel Oil determined in accordance with Section 1.5 (*Monthly Fuel Charge*) with respect to deliveries from Alternate Resources.

GHR_{GAS} = The applicable Guaranteed Heat Rate in MMBtu/MWh when the Unit would have been dispatched on Natural Gas in accordance with Exhibit F (*Guaranteed Heat Rates*). The GHR for an Hour will be based upon the MW Scheduled across the Hour.

GHR_{OIL} = The applicable Guaranteed Heat Rate in MMBtu/MWh when the Unit would have been dispatched on Fuel Oil in accordance with Exhibit F (*Guaranteed Heat Rates*). The GHR for an Hour will be based upon the MW Scheduled across the Hour.

DFP_{GAS} = Daily Fuel Price for Natural Gas in $/MMBtu.

FRP_{OIL} = Daily Fuel Oil Replacement Price in $/MMBtu. Defined as the Daily Fuel Oil Replacement Price in $/Gal multiplied by a factor of 7.21 Gal/MMBtu.

If GPC disputes any Monthly Energy Payment as calculated by Seller, GPC will make a minimum Monthly Energy Payment for the applicable Month equal to the amount not disputed by GPC. Any undisputed payment made by GPC will remain subject to further adjustment in accordance with PPA Section 5.2 (*Billing Disputes and Final Accounting*).

1.2 Monthly Variable O&M (MVOM) Charges. The Monthly Variable O&M (MVOM) Charges will be the sum of the Hourly Variable O&M Charges for each delivered output level (from the Unit or Alternate Delivery) that is Scheduled during a given Month. The Variable O&M Charges for each delivered or Scheduled output level is the product of the delivered or Scheduled output level and the corresponding Variable O&M Rate. Variable O&M charges also apply to energy delivered from the Unit during ramping.

The Monthly Variable O&M Charges will be determined as follows:

$$MVOM_{GAS-FAC} = \sum [(SE_{GAS-FAC} * VOM_{GAS})_{Hour_1} \ldots (SE_{GAS-FAC} * VOM_{GAS})_{Hour_N}]$$

$$MVOM_{OIL-FAC} = \sum [(SE_{OIL-FAC} * VOM_{OIL})_{Hour_1} \ldots (SE_{OIL-FAC} * VOM_{OIL})_{Hour_N}]$$

$$MVOM_{GAS-AR} = \sum [(SE_{GAS-AR} * VOM_{GAS})_{Hour_1} \ldots (SE_{GAS-AR} * VOM_{GAS})_{Hour_N}]$$

$$MVOM_{OIL-AR} = \sum [(SE_{OIL-AR} * VOM_{OIL})_{Hour_1} \ldots (SE_{OIL-AR} * VOM_{OIL})_{Hour_N}]$$

Where:

$SE_{GAS-FAC}$ = Amount of energy Seller delivered from the Unit each Hour (in MWh) for operation on Natural Gas (in accordance with GPC's Schedules) including energy produced during ramping of the Unit.

$SE_{OIL-FAC}$ = Amount of energy Seller delivered from the Unit each Hour ((in MWh) for operation on Fuel Oil (in accordance with GPC's Schedules) including energy produced during ramping of the Unit.

SE_{GAS-AR} = Scheduled Energy in MWh delivered in each Hour from Alternate Resources when the Unit would have been dispatched on Natural Gas in a given Month.

SE_{OIL-AR} = Scheduled Energy in MWh delivered in each Hour from Alternate Resources when the Unit would have been dispatched on Fuel Oil in a given Month.

VOM_{GAS}= Variable O&M Energy Rate for operation on Natural Gas is **[ ]** $/MWh escalated at actual GDPIPD. Other than escalation, VOM_{GAS} is a constant value and will not vary based upon the Unit's Hours of operation or MWh output.

VOM_{OIL}= Variable O&M Energy Rate for operation on Fuel Oil is **[ ]** $/MWh escalated at actual GDPIPD. Other than escalation, VOM_{OIL} is a constant value and will not vary based upon the Unit's Hours of operation or MWh output.

1.3 Monthly Startup Charges (MSC). If Seller delivers energy from the Unit when dispatched on Natural Gas, the Monthly Startup Charge will be determined as follows:

$$MSC_{GAS-FAC} = \sum [FSR_{GAS} + O\&MSR_{GAS}]$$

If Seller delivers energy from the Unit when dispatched on Fuel Oil, the Monthly Startup Charge will be determined as follows:

$$MSC_{OIL-FAC} = \sum [FSR_{OIL} + O\&MSR_{OIL}]$$

If Seller delivers energy from Alternate Resources, the Monthly Startup Charge will be determined as follows:

$$MSC_{GAS-AR} = \sum [FSR_{GAS} + O\&MSR_{GAS}]$$

If Seller delivers energy from Alternate Resources when the Unit would have been dispatched on Fuel Oil, the Monthly Startup Charge will be determined as follows:

$$MSC_{OIL-AR} = \sum [FSR_{OIL} + O\&MSR_{OIL}]$$

The Monthly Startup Charge will be the sum of two components of Startup Charges during a given Month: (i) a fuel cost component associated with each Startup Event; *plus* (ii) an O&M cost component associated with each Startup Event.

Where:

$\sum$= Summation from startup 1 to startup N.

FSR_{GAS} = Fuel Startup Rate (in $/Startup Event) when dispatched on Natural Gas, as shown in Table C-1 (*Startup Rates ($/Startup Event) for Operation on Natural Gas*).

FSR_{OIL} = Fuel Startup Rate (in $/Startup Event) when dispatched on Fuel Oil, as shown in Table C-2 (*Startup Rates ($/Startup Event) for Operation on Fuel Oil*).

$O\&MSR_{GAS}$ = O&M Startup Rate (in $/Startup Event) when dispatched on Natural Gas, as shown in Table C-1 (*Startup Rates ($/Startup Event) for Operation on Natural Gas*).

$O\&MSR_{OIL}$ = O&M Startup Rate (in $/Startup Event) when dispatched on Fuel Oil, as shown in Table C-2 (*Startup Rates ($/Startup Event) for Operation on Fuel Oil*).

For purposes of determining Monthly Startup Charge, a "**Startup Event**" means: a charge created by a change in Unit output from 0 MWh to output greater than 0 MWh according to the Tables C-1 and C-2 in accordance with GPC's Scheduling Instructions. Additionally, PPA Sections 12.2.3.1 (*Day-Ahead Scheduling Instructions and Deadlines*) and 12.3 (*AGC*) will govern the number of starts assessed to GPC when Seller's operation of the Unit deviates from GPC's Schedule.

Energy produced by Seller and delivered to GPC from startup to Minimum Capacity and from Minimum Capacity to offline will be paid for at the Guaranteed Heat Rate at Minimum Capacity.

Table C-1		
Startup Rates ($/Startup Event) for Operation on Natural Gas		
Fuel Startup Rate ($/event)	Hot	#Value
	Warm	#Value
	Cold	#Value
O&M Startup Rate ($/event)		#Value

Table C-2		
Startup Rates ($/Startup Event) for Operation on Fuel Oil		
Fuel Startup Rate ($/event)	Hot	#Value
	Warm	#Value
	Cold	#Value
O&M Startup Rate ($/event)		#Value

1.4 Monthly Fuel Adjustment. If Seller delivers energy from the Unit in accordance with GPC's Schedule or in response to an AGC signal provided by GPC (if the Unit is capable of operating on AGC), GPC will determine the

Daily Guaranteed Fuel quantity by multiplying the Guaranteed Heat Rate of the Scheduled amount or the AGC instructed output (if the Unit is capable of operating on AGC), as the case may be, in accordance with Exhibit F (*Guaranteed Heat Rates*) and PPA Part 12 (*Energy Scheduling and Transmission*) by the amount of energy that was delivered to GPC. The Operating Representatives will develop procedures for determining energy produced and delivered in accordance with GPC's Schedule during ramping of the Unit, including (i) from synchronization to Minimum Capacity (Startup Energy), and (ii) from Minimum Capacity to Base Operating Mode Schedule. The ramping energy will be *times* the appropriate (GHR) in accordance with Exhibit F to determine the Daily Guaranteed Fuel quantity during ramping. The GHR for ramping from synchronization to Minimum Capacity shall be the GHR for Minimum Capacity.

If the actual heat rate is different than the applicable GHR, then a Monthly Fuel Adjustment shall be made to GPC's next invoice.

A. Monthly Fuel Adjustment ("MFA_{GAS}") for Operation on Natural Gas. The Monthly Fuel Adjustment ("MFA_{GAS}") for operation on Natural Gas will be determined as follows:

$$MFA_{GAS} = \sum\{[(DGF_{GAS} - DAF_{GAS}) * DFC_{GAS}]_{DAY\ 1} \ldots [(DGF_{GAS} - DAF_{GAS}) * DFC_{GAS}]_{DAY\ N}\}$$

The Monthly Fuel Adjustment ("MFA_{GAS}") will be the sum of the daily fuel adjustments for each Gas Day or partial Gas Day in the Month. The daily fuel adjustment is the product of the difference of Daily Guaranteed Fuel and Daily Actual Fuel in MMBtu and the corresponding Daily Fuel Cost in $/MMBtu.

Where:

DGF_{GAS} = The Daily Guaranteed Fuel quantity in MMBtu for operation on Natural Gas.

DAF_{GAS} = The Daily Actual Fuel quantity allocated to GPC's consumption (to generate energy in accordance with GPC's Schedules) in MMBtu for operation on Natural Gas as measured at the Gas Delivery Point.

DFC_{GAS} = The Daily Fuel Cost in $/MMBtu for operation on Natural Gas.

The Daily Guaranteed Fuel quantity for operation on Natural Gas will be the sum of the Hourly MMBtus that would have been burned using the appropriate GHR multiplied by the corresponding Hourly delivered energy, including energy produced during ramping, by Seller in accordance with GPC's Schedule.

$$DGF_{GAS} = \sum [(GHR_{GAS\ hr\ 1} * SE_{GAS\text{-}FAC}) \ldots (GHR_{GAS\ hr\ N} * SE_{GAS\text{-}FAC\ hr\ N})]$$

The "**Daily Actual Fuel**" quantity for operation on Natural Gas will be the sum of the Hourly MMBtus allocated to Seller each Day corresponding to the actual amount of

Natural Gas consumed in the Unit to meet GPC's Schedules on each Day and any greater or lesser adjustment to account for differences between the total gas measured at the Gas Delivery Point and the actual total consumption at the Unit.

The **Daily Fuel Cost (DFC_{GAS})** for operation on Natural Gas will be determined as follows:

DFC_{GAS} = (SGD + VTA + IT)

Where:

SGD = The Gas Day's "Gas Daily" midpoint price for its Daily Price Survey for [(e.g., Louisiana – Onshore South, Sonat)].

VTA = The Variable Transportation Adders will be [(e.g., SNG's Zone 3)] maximum firm transportation variable charges including all fuel retention and surcharges.

IT = The Interruptible Transportation for [e.g., SNG Zone 1 to Zone 3] for any amount needed above the Firm Capacity.

If the Monthly Fuel Adjustment for operation on Natural Gas is positive, GPC will pay Seller the amount of the Monthly Fuel Adjustment for operation on Natural Gas. If the Monthly Fuel Adjustment for operation on Natural Gas is negative, Seller will pay GPC the absolute value amount of the Monthly Fuel Adjustment for operation on Natural Gas.

B. Monthly Fuel Adjustment ("MFA_{OIL}") for operation on Fuel Oil. The Monthly Fuel Adjustment ("**MFA_{OIL}**") for operation on Fuel Oil will be determined as follows:

MFA_{OIL} = $\sum\{[(DGF_{OIL} - DAF_{OIL}) \times FRP_{OIL}]_{DAY\ 1} \ldots [(DGF_{OIL} - DAF_{OIL}) \times FRP_{OIL}]_{DAY\ N}\}$

The Monthly Fuel Adjustment ("**MFA_{OIL}**") will be the sum of the daily fuel adjustments for each Day or partial Day in the Month. The daily fuel adjustment is the product of the difference of Daily Guaranteed Fuel and Daily Actual Fuel in MMBtu and the corresponding Daily Fuel Oil Replacement Price in $/MMBtu.

Where:

DGF_{OIL} = The Daily Guaranteed Fuel Oil quantity in MMBtu.

DAF_{OIL} = The Daily Actual Fuel Oil quantity consumed by the Unit (to generate energy in accordance with GPC's Schedules) in MMBtu as measured by the Fuel Oil flow meters located at each unit.

The Daily Guaranteed Fuel Oil quantity ("**DGF_{OIL}**") will be the sum of the Hourly MMBtus that would have been burned at the appropriate GHR for operation on Fuel Oil in accordance with Exhibit F (*Guaranteed Heat Rates*) multiplied by the corresponding Hourly delivered energy, including energy produced during ramping, in accordance with GPC's Schedule.

$$DGF_{OIL} = \sum [(GHR_{OIL\ hr\ 1} \times SE_{OIL\text{-}FAC\ hr\ 1}) \ldots (GHR_{OIL\ hr\ N} \times SE_{OIL\text{-}FAC\ hr\ N})]$$

The Daily Fuel Oil Replacement Price ($/MMBtu) shall be determined for a given Day per the definition of Daily Fuel Oil Replacement Price.

If the Monthly Fuel Adjustment for operation on Fuel Oil is positive, GPC will pay Seller the amount of the Monthly Fuel Adjustment for operation on Fuel Oil. If the Monthly Fuel Adjustment for operation on Fuel Oil is negative, the Seller must pay GPC the absolute value amount of the Monthly Fuel Adjustment for operation on Fuel Oil.

1.5 Monthly Fuel Charge.

A. Monthly Fuel Charge for operation on Natural Gas. If Seller delivers energy from Alternate Resources, the Monthly Fuel Charge will be determined as follows:

$$MFC_{GAS\text{-}AR} = \sum [(DGF_{GAS\text{-}AR} * DFP_{GAS})_{DAY\ 1} \ldots (DGF_{GAS\text{-}AR} * DFP_{GAS})_{DAY\ N}]$$

The Monthly Fuel Charge will be the sum of the daily fuel charges for each Day or partial Gas Day in the Month when delivering from an Alternate Resource. The daily fuel charge is the product of the Daily Guaranteed Fuel in MMBtus and the corresponding Daily Fuel Price in $/MMBtu.

Where:

$DGF_{GAS\text{-}AR}$ = Daily Guaranteed Fuel quantity in MMBtus for energy delivered from Alternate Resources.

The Daily Guaranteed Fuel ("**DGF**") will be the sum of the Hourly MMBtus that would have been burned at the appropriate Guaranteed Heat Rate in accordance with Exhibit F (*Guaranteed Heat Rates*) multiplied by the corresponding Hourly delivered energy in accordance with GPC's Schedule, excluding ramping.

If Seller is delivering from an Alternate Resource, the following equation would apply:

$$DGF_{GAS\text{-}AR} = \sum [(GHR_{GAS\ hr\ 1} * SE_{GAS\text{-}AR\ hr\ 1}) \ldots (GHR_{GAS\ hr\ N} * SE_{GAS\text{-}AR\ hr\ N})]$$

The Daily Fuel Price ($/MMBtu) will be determined for a given Day in a Month as follows:

$DFP_{GAS\text{-}AR}$ =

The Gas Day's "Gas Daily" midpoint price for its Daily Price Survey for [(e.g., Louisiana - Onshore South, Sonat)]

B. Monthly Fuel Charge for operation on Fuel Oil. If Seller delivers energy from an Alternate Resource in an Hour for which GPC Schedules the Unit on Fuel Oil, the **$MFC_{OIL\text{-}AR}$** will be determined as follows:

$$MFC_{OIL\text{-}AR} = \sum[(DGF_{OIL\text{-}AR} * FRP_{OIL})_{DAY1} \ldots (DGF_{OIL\text{-}AR} * FRP_{OIL})_{DAYN}]$$

The MFC_{OIL} will be the sum of the daily fuel charges for each Day or partial Day in the Month when delivering from an Alternate Resource. The daily fuel charge is the product of: (i) the Daily Guaranteed Fuel in MMBtus; ***times*** (ii) the corresponding Daily Fuel Oil Replacement Price in $/MMBtu.

Where:

$DGF_{OIL\text{-}AR}$ = The Daily Guaranteed Fuel quantity in MMBtu for energy delivered from Alternate Resources.

FRP_{OIL} = Daily Fuel Oil Replacement Price in $/MMBtu. Defined as the Daily Fuel Oil Replacement Price in $/Gal multiplied by a factor of 7.21 Gal/MMBtu.

The Daily Guaranteed Fuel ("**DGF**") will be the sum of the Hourly MMBtus that would have been burned at the appropriate Guaranteed Heat Rate in accordance with Exhibit F (*Guaranteed Heat Rates*) multiplied by the corresponding Hourly delivered energy, Seller in accordance with GPC's Schedule, excluding ramping.

If Seller is delivering from an Alternate Resource, the following equation would apply:

$$DGF_{OIL\text{-}AR} = \sum [(GHR_{OIL\ hr\ 1} * SE_{OIL\text{-}AR\ hr\ 1}) \ldots (GHR_{OIL\ hr\ N} * SE_{OIL\text{-}AR\ hr\ N})]$$

EXHIBIT D – TECHNICAL LIMITS AND SCHEDULE PROCEDURES

[NOTE TO BIDDERS: The following is based on one manufacturer's recommendations. To the extent that bidders are proposing technology from another manufacturer, bidder should propose values consistent with such other manufacturer's recommendations.]

The following Technical Limits and Schedule apply to the operation of both Natural Gas and Fuel Oil.

PART 1 TECHNICAL LIMITS

1.1 General Requirements. Subject to the Technical Limits set forth in Sections 1.2 (*Minimum Capacity Limits; Net Output)*, 1.3 (*Maximum Ramp Rates*), 1.4 (*Minimum Schedule and Minimum Down Times*), 1.5 (*Starts*), and 1.6 (*Required Startup Notification*), the Unit must be capable of meeting GPC's Schedules at all times during the Term following the Delivery Commencement Date, twenty-four Hours per Day, seven Days per week. Seller may propose modifications or changes to the Technical Limits based on specifications and recommendations, as may be modified during the Term, of the equipment manufacturers of the CT and CT generator, so long as: (i) any modifications or changes that in GPC's sole judgment may adversely affect GPC's Scheduling flexibility (including without limitation, magnitude, duration and response time) under this PPA will be subject to the prior written approval of GPC's Operating Representative; and (ii) in the event such changes limit GPC's Scheduling flexibility more than the limits as set forth in this Exhibit D, Seller must make commercially reasonable efforts to minimize the effect of any equipment manufacturer's specifications or recommendations on Seller's ability to deliver energy in response to GPC's Schedules. The Parties will develop procedures for the testing contemplated in this Exhibit D, but reasonable demonstration of the capabilities from prior testing or operation may be used instead.

1.2 Minimum Capacity Limits / Net Output. Minimum output level will be established at the Minimum Capacity. Each Unit is estimated to have a Minimum Capacity of approximately #MinimumCapacityValue MW, subject to emissions limitations and ambient conditions.

1.3 Maximum Ramp Rates. Maximum Ramp Rate will be 12 MW per minute per Unit from minimum load to maximum load.

1.4 Minimum Schedule and Minimum Down Times. The minimum Schedule time for the Base Operating Mode two consecutive Hours. Start-up and ramping will be accomplished before the Scheduled Hours. The minimum down is four Hours.

1.5 Starts. The maximum number of turbine starts is one start per turbine per Day, except that GPC has the right to start one turbine (and HRSG) twice a Day not to exceed a total of 30 Days per Annual Period.

1.6 Required Startup Notification. Plant start times are as specified in the following table:

Plant Start Times		
Start Classification (Off-line Hours)	**Start Time to Minimum (1) (Hours)**	**Start Time to Full Load (1) (Hours)**
Hot (< 8 Hours)	#Value	#Value
Warm (8 < Hours < 48)	#Value	#Value
Cold (> 48 Hours)	#Value	#Value
Winter Cold (2) (> 48 Hours)	#Value	#Value

Notes:
1. Start Time equals time of notice. Seller must provide GPC with copies of results of any tests that demonstrate the ability of the Unit to meet the above start times.
2. Winter cold applies when operator has taken freeze mitigation actions, but Seller must promptly notify GPC before implementing any planned freeze mitigation actions and afford GPC a reasonable opportunity to Schedule the Unit in lieu of implementing such freeze mitigation actions.

1.7 Natural Gas Pipeline Pressure. Natural Gas deliveries under this PPA will be at a pressure that is greater than or equal to the lower of (i) [____] psig, or (ii) the minimum pressure recommended by the manufacturer to operate a Unit on Natural Gas, as such modification may be modified from time to time.

PART 2 SCHEDULE PROCEDURES

This Part 2 sets forth the procedures to be followed by GPC and Seller for notification and Scheduling the Unit when required by GPC. The procedures specified are subject to change upon mutual agreement of the Parties.

2.1 Notification Communication.

A. Seller Contacts for Scheduling Energy. Three Months before the Delivery Commencement Date, Seller will supply the Scheduling Center with the names of the personnel who can be called to Schedule energy. Seller must provide GPC a single phone number that will be answered 24 Hours a Day and corresponding fax number and email address. Seller will keep this information current.

B. Scheduling Center Contacts for Unit Availability and Energy Schedules. Three Months before the Delivery Commencement Date, the Scheduling Center will supply Seller with the names of individuals to be contacted concerning availability of the Unit and energy Schedules. The Scheduling Center will provide Seller with a single phone number that will be answered 24 Hours per Day and corresponding fax number and email address. The Scheduling Center will keep this information current.

2.2 Scheduling and Notification Procedures.

A. Scheduling Period. By 12:00 p.m. (noon) CPT of each Business Day, or by 9:00 a.m. CPT if Seller has elected to deliver from an Alternate Resource, the Scheduling Center will contact Seller if it anticipates submitting a Schedule for the next Business Day and any subsequent Days which are not Business Days (the period covered by such Schedule being referred to as a "Scheduling Period"). The Scheduling Center will provide a Schedule for each Hour of the Scheduling Period in accordance with Part 12 (*Energy Scheduling and Transmission*). The Scheduling Center will also provide a good faith, non-binding estimate for the next Scheduling Period. The Scheduling Center is not obligated to contact Seller if it does not plan to submit a Schedule for a Scheduling Period.

B. Unit De-Rating Notice. By no later than 1:30 p.m. CPT, Seller must inform the Scheduling Center if the Unit or in the case of Alternate Delivery, the Alternate Resource, will be de-rated during the next Scheduling Period. Seller must provide an estimate of the time and degree to which the generation levels will be reduced. Unless due to the declaration of an FME, the Seller notification does not preclude GPC from requesting any amount of energy from the Unit or relieve Seller of its obligation to deliver energy in accordance with any Scheduling Instructions.

C. Equipment Problem or Unplanned Outage Notice. Seller must promptly inform the Scheduling Center of any equipment problems or unplanned outages and the expected time and degree to which generation levels will be reduced. During Unit Outages, Seller must continue to keep GPC informed regarding the expected date when the Unit, or in the case of Alternate Delivery, the Alternate Resource, will be returned to service for dispatch.

D. Intra-Day Scheduling. Intra-Day Scheduling will be permitted in accordance with Part 12 (*Energy Scheduling and Transmission*).

E. Alternate Resource Scheduling. Procedures will be established as needed for the Scheduling of energy delivered from an Alternate Resource, so long as Seller bears the ultimate responsibility for all tagging and other transmission arrangements regarding the deliveries.

EXHIBIT E – PERFORMANCE TESTING PROCEDURES

PART 1 OBJECTIVE

The purpose of this Exhibit E is to provide an agreed upon method for the determination of Tested Reliable Capacity. Consistent, past performance of the Unit in reliably meeting the Designated Capacity and in reliably meeting the Scheduling Instructions will be deemed as acceptable demonstration of the capability of the Unit.

During the Performance Test for purposes of determining the Tested Reliable Capacity, the Unit's actual net plant output will be corrected to at the Site.

PART 2 OPERATING CONDITIONS

During the Performance Test, the Unit will be operated within the normal design limits, consistent with continuous operation, and in accordance with Prudent Industry Practices, as confirmed by available Unit operating data. The gas turbines will be operated at Base Operating Mode for the duration of the test. All auxiliary systems will be operated as appropriate for the actual ambient conditions existing during the test period.

PART 3 TESTING

On the date of the Performance Test, the Unit will be brought to maximum load using Natural Gas. The test will be scheduled between the weekday Hours of 7:00 a.m. and 7:00 p.m. CPT and as close as practical with GPC's Scheduling requirements. During the test period data will be collected for a minimum of two Hours once the CT has achieved stable operations at Base Operating Mode. To the extent the Unit experiences equipment malfunction, unsteady operation or unreliability during any test or its historical operating records show difficulty or unreliability during testing of the Unit or deficiencies in meeting GPC's Schedules, GPC may request that Seller perform additional testing of the Unit at Seller's expense to demonstrate to GPC's reasonable satisfaction the reliability of the Unit.

Testing will be performed in accordance with ASME Performance Test Code and other applicable industry standards and all applicable laws. All Performance Test activities will be conducted by, or under the supervision of, Seller and its contractors. GPC will have the right to have a representative present to witness Performance Tests conducted in accordance with this PPA. Each Party will notify the other of its intent to conduct any test with a six Business Day advanced written notice as specified in Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*).

Actual net output of the Unit will be metered with the Metering System. No commercial test tolerances or measurement uncertainties will be applied to test results.

PART 4 REDUCTION OF DATA

Actual tested capacity will be adjusted to the Reference Conditions, using correction curves provided by Seller or its engineer in accordance with the following equation:

Tested Reliable Capacity = Measured Base Load Net Output x Fwetblb x Fbaro x Fpf1

Where:

Measured Base Load Net Output = actual net Unit output measured during the test conducted at Base Operating Mode.

Fwetblb = correction factor for dry bulb temperature and relative humidity from actual conditions to Reference Conditions. Fwetblb for the Unit = Figure E1 (*Power Output vs. Dry Bulb Temperature and Relative Humidity*).

Fbaro = correction for barometric pressure from actual test conditions to Reference Conditions. Fbaro for the Unit = Figure E2 (*Power Output vs. Barometric Pressure*).

Fpf = correction for reactive power output from actual test conditions to Reference Conditions. Fpf for the Unit = Figure E3 (*Power Output vs. Generator Reactive Power Output*).

[To be provided by Bidder]

Figure E1: Power Output vs. Dry Bulb Temperature and Relative Humidity

[To be provided by Bidder]

Figure E2: Power Output vs. Barometric Pressure

[To be provided by Bidder]

Figure E3: Power Output vs. Generator Reactive Power Output

EXHIBIT F – GUARANTEED HEAT RATES

Energy produced by Seller and delivered to GPC from synchronization to Minimum Capacity and from Minimum Capacity to offline will be paid for at the Guaranteed Heat Rate at Minimum Capacity. Guaranteed Heat Rate will be established at Reference Conditions for each mode of operation. ***GPC recognizes that this may not completely compensate bidders for the cost incurred to reach minimum output. Therefore, bidders should include any shortfall in the fuel startup charge.***

Guaranteed Heat Rate (in MMBtu/MWh) = Ap + B + C/p

Where p = net output from the Facility

EXHIBIT G – FORM OF GUARANTY

This **Guaranty Agreement** ("**Guaranty**"), effective as of _____, 20__ ("**Effective Date**"), is entered into by _____ ("**Guarantor**") in favor of Georgia Power Company ("**Beneficiary**"). Guarantor acknowledges:

- Beneficiary and _____ ("**Company**"), [an Affiliate of Guarantor], have entered into an **Power Purchase Agreement for Firm Capacity, Firm Energy, and Ancillary Services from a Combustion Turbine Facility for 2029-2031 All-Source Capacity Needs** dated as of _____, 20__ with Project Number GPC-#Project Number# (**#FacilityName#**) (as amended, restated, supplemented or otherwise modified from time to time, the "**PPA**") regarding combined cycle facility located in #FacilityCity, #FacilityState, as further described in Exhibit A (*Facility Description and Additional Details*);
- Beneficiary has required, as an inducement to its entry into the PPA, that Guarantor deliver to the Beneficiary this Guaranty or other Eligible Collateral as and when required under the PPA;
- Guarantor qualifies as a Seller Guarantor under the PPA, and this Guaranty qualifies as Eligible Collateral under the PPA; and
- Guarantor will derive substantial direct and indirect benefit from the transactions contemplated by the PPA.

To induce Beneficiary to enter into and perform its obligations under the PPA, and for and in consideration of the foregoing premises, the mutual agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Guarantor agrees as follows:

PART 1 DEFINITIONS

1.1 Definitions. Unless otherwise defined in this Guaranty, capitalized terms have the meanings specified or referred to in the PPA.

PART 2 GUARANTY

2.1 Guaranty. Guarantor unconditionally and irrevocably guarantees to Beneficiary and Beneficiary's successors and assigns, that Guarantor will make prompt and full payment of any obligations of Company to Beneficiary when due, whether by acceleration or otherwise, with any interest as may accrue under the PPA or under any other documents or instruments now or in the future evidencing, securing, or otherwise relating to the PPA ("**Guaranteed Obligations**"), except that Guarantor's liability under this Guaranty will in no event exceed the aggregate amount of Eligible Collateral that Company must provide in accordance with PPA Part 6 (*Performance Security*) (plus costs of enforcement of this Guaranty as provided in Section 4.4 (*Expenses*)). Guarantor must immediately pay for any obligation of Company upon demand by Beneficiary.

2.2 Guaranty Absolute.

2.2.1. Guarantor Guarantees. Guarantor absolutely guarantees that the Guaranteed Obligations will be paid strictly in accordance with the terms of the PPA, regardless of any law or regulation in effect now, or that may come into effect in the future, in any jurisdiction affecting any of the terms or the rights of Beneficiary regarding the PPA. This Guaranty constitutes a guarantee of payment and not of collection. The obligations of Guarantor under this Guaranty are primary obligations and are several from Company or any other Person, and Guarantor is the principal obligor under this Guaranty. Guarantor's liability under this Guaranty will be direct and immediate and not conditional or contingent upon the pursuit of any remedies against Company or any other person, nor against securities or liens available to Beneficiary or Beneficiary's successors or assigns. **Guarantor's liability under this Guaranty will be irrevocable, absolute, and unconditional irrespective of, and Guarantor unconditionally and irrevocably waives any defenses it may now have or later acquire in any way relating to:**

(i) any change in the time, manner, or place of payment of, or in any other term of, any of

the Guaranteed Obligations, or any other amendment, modification, or waiver of, or any consent to departure from, the terms of any Guaranteed Obligations, or any compromise, settlement, release, or termination of any of the Guaranteed Obligations;

(ii) any change, restructuring, or termination of the corporate structure or existence of Company or any of its subsidiaries, including Guarantor's disposal of any part of Guarantor's interest in Company, or Guarantor's alteration of Guarantor's investment in Company in any manner;

(iii) any lack of validity or enforceability, in whole or in part, of the Guaranteed Obligations, the PPA, or any agreement or instrument relating the Guaranteed Obligations or the PPA;

(iv) any failure of Beneficiary to disclose to either Company or Guarantor any information relating to the business, condition (financial or otherwise), operations, performance, properties, or prospects of either Company or any of its subsidiaries now or in the future known to Beneficiary (Guarantor waiving any duty on the part of Beneficiary to disclose the information);

(v) any failure, omission, delay, or lack on the part of Beneficiary to enforce, ascertain, or exercise any right, power, or remedy under or pursuant to the terms of the PPA, the Guaranteed Obligations, or this Guaranty;

(vi) any failure by Beneficiary to commence an action against Company, including as contemplated by O.C.G.A. Section 10-7-24, as amended; any lack of due diligence by Beneficiary in the collection or protection of or realization upon any collateral securing the Guaranteed Obligations;

(vii) the bankruptcy, insolvency, winding up, dissolution, liquidation, administration, reorganization, or other similar or dissimilar failure or financial disability of Guarantor or Company, or any legal limitation, disability, incapacity, or other circumstance relating to Guarantor or Company;

(viii) the addition, substitution or partial or entire release of any guarantor, maker, or other Parson (including Company) primarily or secondarily liable or responsible for the payment and observance of the Guaranteed Obligations or by any extension, waiver, amendment, or other action or instrument that may release or discharge (in whole or in part) a guarantor, maker, or other Person (other than as a result of the indefeasible payment of the Guaranteed Obligations in full);

(ix) the taking, variation, renewal, addition, substitution, subordination, or partial or entire release of any security or other credit support for the Guaranteed Obligations, or the enforcement or neglect to perfect or enforce the security or support; or

(x) except as provided in Section 2.3 (*Waivers and Acknowledgements*), any other circumstance whatsoever (including any statute of limitations) or any act of Beneficiary or any existence of or reliance on any representation by Beneficiary that might otherwise constitute a legal or equitable defense available to, or a discharge of, Guarantor.

2.2.2. Guarantee Effectiveness. This Guaranty will continue to be effective or must be reinstated by Guarantor, as applicable, if at any time any payment of the Guaranteed Obligations should for any reason subsequently be asserted or declared to be void or voidable, or is unwound in any way under any state or federal law, including any provision of the U.S. Bankruptcy Code related to fraudulent conveyance or preference (each, a "**Voidable Transfer**"). Beneficiary or any other person is not required to repay or restore, in whole or in part, any Voidable Transfer, and any attempt to repay or restore any Voidable Transfer will be construed as though the payment had not been made.

2.2.3. No Release of Guaranty. No action that Beneficiary takes or fails to take in connection with the Guaranteed Obligations, or any security for the payment of any of the Guaranteed Obligations, nor any course of dealing with Company or any other person, will release Guarantor's obligations under this Guaranty, affect this Guaranty in any way, or give Guarantor any recourse against Beneficiary.

2.2.4. Enforcement following PPA Event of Default. In the case of an Event of Default under the PPA or regarding any of the Guaranteed Obligations, Guarantor agrees that Beneficiary will have the right to enforce its rights, powers, and remedies under the PPA and Guaranty or under any other instrument now or in the future evidencing, securing, or otherwise relating to the Guaranteed Obligations, and apply any payments or credits received by Company or Guarantor or realized from any security, in any manner and in any order as Beneficiary, in its sole discretion, sees fit, and all rights, powers, and remedies available to Beneficiary in that event will be nonexclusive and cumulative of all other rights, powers, and remedies provided under the PPA, this Guaranty, by law, or in equity. If the Guaranteed Obligations are partially paid at the election of Beneficiary or Beneficiary's successors or assigns, to pursue any of the remedies available to Beneficiary, or if the indebtedness is otherwise partially paid, this Guaranty will nevertheless remain in full force and effect, and Guarantor will remain liable for the entire balance of the Guaranteed Obligations even though any rights that Guarantor may have against Company may be destroyed or diminished by the exercise of the remedy.

2.3 Waivers and Acknowledgments.

2.3.1. Guarantor Notice Waiver. Guarantor unconditionally and irrevocably waives promptness, diligence, presentment, demand of payment, acceptance, notice of acceptance, protest, notice of dishonor, and any other notices regarding any of the Guaranteed Obligations and this Guaranty.

2.3.2. Guarantor Waiver of Guaranty and Acknowledgement of Continuing Obligations. Guarantor unconditionally and irrevocably waives any right to revoke this Guaranty and acknowledges that this Guaranty is continuing in nature and applies to all Guaranteed Obligations, whether existing now or in the future. This Guaranty will extend and be applicable to any modification of the PPA.

2.3.3. Waiver of Rights and Remedies. Guarantor unconditionally and irrevocably waives all rights and remedies accorded by application of law to sureties or guarantors and Guarantor must not assert or take advantage of those rights or remedies, including:

(i) any right to require Beneficiary to proceed against Company or any other person or to proceed against or exhaust any security held by Beneficiary at any time or to pursue any other remedy in Beneficiary's power before proceeding against Guarantor;

(ii) any defense that may arise because of the incapacity, lack of authority, death, or disability of any other Person or the failure of Beneficiary to file or enforce a claim against the estate (in administration, bankruptcy, or any other proceeding) of any other Person; or

(iii) any defense arising because of the exercise of any right or remedy available to, or election made by, Beneficiary under the U.S. Bankruptcy Code, whether as an unsecured or under secured creditor, seeking adequate protection or otherwise.

2.3.4. Guarantor's Waiver of Defenses Based on Set-Off or Counterclaim. Guarantor unconditionally and irrevocably waives any defense based on any right of set-off or counterclaim against or concerning the obligations of Guarantor under this Guaranty.

2.3.5. Guarantor Waiver of Defenses, Claims, and Discharges. Guarantor unconditionally and irrevocably waives all defenses, claims, and discharges of Company, or any other obligor regarding the Guaranteed Obligations. Without limiting the generality of the preceding sentence, Guarantor will not assert, plead, or enforce against Beneficiary or any other Person any defense of waiver, release, statute of limitations, res judicata, statute of frauds, fraud, incapacity, minority, usury, illegality, or unenforceability that may be available to Company or any other person liable concerning any indebtedness, or any setoff available against Beneficiary to Company or any other Person, whether or not on account of a related transaction. Guarantor expressly waives reliance on any anti-deficiency statute(s). If a foreclosure proceeding is commenced, Guarantor expressly agrees that Guarantor will be and remain unconditionally liable, to the fullest extent permitted by applicable law, for any deficiency remaining after foreclosure of any mortgage or security interest securing indebtedness, whether or not the liability of Company or any other person for the deficiency is discharged under statute or judicial decision.

2.4 Subrogation. Despite any payment or payments made by Guarantor under this Guaranty, Guarantor unconditionally and irrevocably waives any rights of subrogation to the rights of Beneficiary against Company and any rights of reimbursement, assignment, indemnification, or implied contract or any similar rights (including any statutory rights of subrogation under U.S. Bankruptcy Code Section 509 (11 U.S.C. § 509)) against Company or against any other guarantor of all or any part of the Guaranteed Obligations until when the Guaranteed Obligations have been indefeasibly performed in full. If, despite the preceding sentence, any amount will be paid to Guarantor on account of the subrogation or similar rights at any time when all of the Guaranteed Obligations will not have been indefeasibly paid in full, those amounts will be held by Guarantor in trust for Beneficiary and Guarantor must turn over to Beneficiary those amounts in the exact form received by Guarantor, to be applied against the Guaranteed Obligations in the order that Beneficiary may determine in Beneficiary's sole discretion.

2.5 Contribution, Indemnification, Reimbursement. Guarantor unconditionally, irrevocably, and absolutely waives all right of contribution, indemnification, reimbursement, or similar rights against Company regarding the Guaranty, whether the rights arise under an express or implied contract or by operation of law, and it is the intention of Guarantor and Company that Guarantor will not be deemed to be a "creditor" (as defined in U.S. Bankruptcy Code Section 101 or any other applicable law) of Company because of the existence of this Guaranty if Company becomes a debtor in any proceeding under the U.S. Bankruptcy Code or any other applicable law.

2.6 Agreement regarding Bankruptcy of Company. So long as any Guaranteed Obligations are owed to Beneficiary, Guarantor must not, without the prior written consent of Beneficiary, commence, or join with any other person in commencing, any bankruptcy, reorganization or insolvency proceeding against Company.

PART 3 REPRESENTATIONS AND WARRANTIES

Guarantor hereby represents and warrants as follows:

3.1 Organization. Guarantor is #a ***OR*** #an #GuarantorEntityType# organized, validly existing, and in good standing under the laws of the state of #GuarantorEntityRegistrationState.

3.2 Authorization; No Conflict. The execution and delivery by Guarantor of this Guaranty, and the performance by Guarantor of its obligations under this Guaranty: (i) are within Guarantor's #GuarantorEntityType# powers; (ii) have been duly authorized by all necessary #GuarantorEntityType# action; (iii) do not contravene its #bylaws ***OR*** #operating agreement ***OR*** #OtherOrganizationalDocument or any law or regulation applicable to or binding on Guarantor or any of its properties; and (iv) do not require the consent or approval of any Person that has not already been obtained or the satisfaction or waiver of any conditions precedent to the effectiveness of this Guaranty that have not been satisfied or waived.

3.3 Enforceability. This Guaranty constitutes the legal, valid, and binding obligation of Guarantor, enforceable against Guarantor in accordance with its terms, except to the extent that that enforceability may be limited by applicable bankruptcy, insolvency, dissolution, reorganization, moratorium, liquidation, or other similar laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

3.4 No Bankruptcy Proceedings. There are no bankruptcy proceedings pending or being contemplated by Guarantor or, to Guarantor's knowledge, threatened against it.

3.5 No Legal Proceedings. There are no legal proceedings that would be reasonably likely to materially adversely affect Guarantor's ability to perform this Guaranty.

PART 4 - MISCELLANEOUS

4.1 Continuing Guaranty; Assignment. This Guaranty is a continuing guaranty and will: (i) remain in full force and effect until all of the Guaranty Obligations have been satisfied; (ii) consistent with the terms of this Guaranty, apply to all Guaranteed Obligations whenever arising; (iii) be binding upon Guarantor, its successors and assigns; and (iv) inure to the benefit of, and be enforceable by, Beneficiary and its permitted assignees under this Guaranty. Guarantor must not assign or delegate Guarantor's rights or obligations

under this Guaranty without: (i) the prior written consent of Beneficiary, which consent may be withheld in Beneficiary's sole discretion; and (ii) a written assignment and assumption agreement in form and substance reasonably acceptable to Beneficiary. Without prejudice to the survival of any of the other agreements of Guarantor under this Guaranty, the agreements and obligations of Guarantor contained in Section 4.4 (*Expenses*) (regarding enforcement expenses) and the last sentence of Section 2.2.1 (*Guarantor Guarantees*) will survive the payment in full of the Guaranteed Obligations and all of the other amounts payable under this Guaranty.

4.2 Notices. All notices, requests, demands and other communications that are required or may be given under this Guaranty must be in writing and will be deemed to have been given when actually received if: (i) personally delivered; (ii) transmitted by facsimile, electronic, or digital transmission method; or (iii) if sent by certified or registered mail, return receipt requested. In each case, notice will be to the contacts identified in this Section 4.2 or to the other place and with the other copies as Beneficiary or Guarantor may designate for itself by written notice to the other under this Section 4.2. Delivery by facsimile of an executed counterpart of a signature page to any amendment or waiver of any provision of this Guaranty will be effective as delivery of an original executed counterpart to the amendment or waiver.

Notice to GPC:

Georgia Power Company
c/o Southern Company Services, Inc.
Attn: Assistant Treasurer, BIN SC 1407
30 Ivan Allen Junior Boulevard, NW
Atlanta, GA 30308
G2GPCERG@southernco.com

With Copy to:

Georgia Power Company Legal Dept.
Attn: Commercial & Transactions, Bin 10180
241 Ralph McGill Blvd., N.E.
Atlanta, GA 30308

Notice to Guarantor:
#CompanyName
Attn: #IndividualName
#Title
#StreetAddress
#City, #State #ZipCode
#Email#

4.3 Delay and Waiver. No failure on the part of Beneficiary to exercise, and no delay in exercising, any right under this Guaranty will operate as a waiver any right under this Guaranty; nor will any single or partial exercise of any right under this Guaranty preclude any other or further exercise of the right under this Guaranty or the exercise of any other right. The remedies provided in this Guaranty are cumulative and not exclusive of any remedies provided by law.

4.4 Expenses. Guarantor agrees to pay or reimburse Beneficiary and any permitted assignees of Beneficiary on demand for its reasonable costs, charges, and expenses (including reasonable fees and expenses of counsel) incurred in connection with the enforcement of this Guaranty or caused by any breach by Guarantor of any of its obligations under this Guaranty, including any actions taken in any bankruptcy or insolvency proceedings, if Guarantor is required to pay under this Guaranty.

4.5 Entire Agreement; Amendments; Other Guarantees. This Guaranty and any agreement, document, or instrument attached to this Guaranty or referred to in this Guaranty integrate all the terms and conditions mentioned in or incidental to this Guaranty and supersede all oral negotiations and prior writings in respect to the subject matter of this Guaranty. In the event of any conflict between the terms and conditions of this Guaranty and any related agreement, document, or instrument, the terms and conditions of this Guaranty will prevail. This Guaranty may only be amended or modified by an instrument in writing signed by each of Guarantor and Beneficiary and any permitted assignees of Beneficiary. Without limiting the preceding in this Section 4.5: (i) this Guaranty will not release, modify, revoke, or terminate any other guaranty existing previously, now, or in the future executed by Guarantor; nor will any other guaranty previously, now, or in the future executed by Guarantor release, modify, revoke, or terminate this Guaranty; and (ii) all of Guarantor's liabilities and obligations and Beneficiary's rights and remedies under this

Guaranty are in addition to and cumulative with those under any other guaranty executed by Guarantor in favor of Beneficiary or any affiliate of Beneficiary on or about the Effective Date or at any other time.

4.6 Headings. The headings of the various Sections of this Guaranty are for convenience of reference only and will not modify, define, or limit any of the terms or provisions in this Guaranty.

4.7 Governing Law; Consent to Jurisdiction.

4.7.1. Governing Law. This Guaranty will be construed and interpreted, and the rights of the parties determined, in accordance with the laws of the state of Georgia, without giving effect to principles of conflicts of law that would require the application of the laws of another jurisdiction.

4.7.2. Consent to Jurisdiction. Guarantor irrevocably and unconditionally: (i) agrees that the exclusive jurisdiction for any suit, action, or other legal proceeding arising out of this Guaranty will be brought in the United States District Court for the Northern District of Georgia or in any Georgia State court of general jurisdiction in Fulton County, Atlanta, Georgia; (ii) consents to the jurisdiction of those courts in those suits, action, or proceeding; and (iii) waives any objection that the Person may have to the laying of venue of the suit, action, or proceeding in the court.[**Applicable Only to Foreign Guarantor:** Guarantor and Beneficiary further agree that a final judgment in any action or proceeding arising out of or relating to this Guaranty will be conclusive and may be enforced in any other jurisdiction within or outside the Untied States by suit on the judgment, a certified or exemplified copy of which will be conclusive evidence of the fact and the amount of indebtedness or liability therein described, or in any other manner provided by applicable law.]

4.7.3. [Applicable Only to Foreign Guarantor: Guarantor's Process Agent. Guarantor irrevocably designates, appoints and empowers [_____ Georgia, ____ United States of America] as its authorized agent to receive on its behalf and on behalf of its property service of copies of the summons and complaint and any other process which may be served in any action or proceeding between Beneficiary and Guarantor arising out of or relating to this Guaranty. The service may be made by mailing or delivering a copy of the process in care of theprocess agent, and Guarantor irrevocably authorizes and directs its designated process agent to accept the service on its behalf. Guarantor further agrees that failure by a process agent appointed in accordance with this section to notify Guarantor of the process will not invalidate the process or service or the proceeding concerned. Despite the preceding sentences, nothing in this Guaranty will affect the rights of either party to serve process in any other manner permitted by applicable law. Guarantor will maintain the process agent, or any other Person located within the State of Georgia as may be acceptable to Beneficiary, as its agent for service of process in the State of Georgia during the duration of this Guaranty and twelve months after, at Guarantor's sole cost and expense. If for any reason, the appointed process agent is no longer acting as process agent, Guarantor must promptly (and in any event within seven Days) appoint a replacement agent in the State of Georgia as its authorized agent to receive on its behalf and on behalf of its property, service of copies of the summons and complaint and any other process which may be served in any action or proceeding between Beneficiary and Guarantor arising out of or relating to this Guaranty. If Guarantor fails to appoint a replacement process agent as provided in this Section 4.7.3, Beneficiary may appoint the replacement process agent on behalf of Guarantor, at Guarantor's sole cost and expense.]

4.7.4 [Applicable Only to Foreign Guarantor: Payment in U.S. Dollars; Judgement Currency. This Guaranty is made by the Guarantor regarding a transaction in which the specification of payment in United States Dollars ("**Dollars**") and payment at the designated place of payment is of the essence, and Dollars will be the currency of accounting in all events. The payment obligations of the Guarantor under this Guaranty will not be discharged by any amount paid in another currency or in another place, whether in accordance with a judgment or otherwise, to the extent that any amount paid on conversion to Dollars and transferred to the designated place of payment under normal banking procedures does not yield the amount of Dollars due under this Guaranty.]

4.7.5 [Applicable Only to Foreign Guarantor: Withholding Taxes.

a. Each payment by Guarantor to Beneficiary in accordance with this Guaranty must be made free and clear of, and without deduction or withholding for or on Beneficiary of, any present or

future taxes, duties, assessments, fees, deductions, withholding, levies, imposts, or charges of whatsoever nature (other than taxes imposed on income or gross revenue), together with any liabilities (including penalties, interest and expenses) in regarding the preceding imposed or levied by or on behalf of the government of any jurisdiction(s) in which the Guarantor is organized, headquartered, or conducting business, or any political subdivision of the government or any authority or agency of the government having the power to tax ("**Withholding Taxes**"), unless the deduction or withholding is required by the laws of any jurisdiction(s) in which the Guarantor is organized, headquartered, or conducting business, or any province or political subdivision of the jurisdiction(s) or by the administrative practice of any taxing authority. If any such deduction or withholding is required, or if no such deduction or withholding is required but Withholding Taxes are otherwise payable concerning the payment, Guarantor must:

i. Pay any additional amount to Beneficiary as may be necessary to ensure that Beneficiary receives and retains a net sum after such deduction, withholding, or payment of Withholding Taxes (including any deduction, withholding, or payment of Withholding Taxes regarding the additional amount), free from any liability regrading the Withholding Taxes, equal to the sum that Beneficiary would have received and retained had no such deduction or withholding of Withholding Taxes been made or required to be made and had no such Withholding Taxes been payable;

ii. Deduct the Withholding Taxes from the payment:

iii. Pay the full amount deducted to the relevant authority on account of the Withholding Taxes within the time provided under, and otherwise in accordance with applicable law or any jurisdiction; and

iv. Promptly after the date the Withholding Taxes are due under the applicable law of any jurisdiction, deliver to Beneficiary the forms prescribed by the relevant authority of the Withholding Taxes.

b. Without duplication of Section 4.7.5.a above, Guarantor agrees to indemnify and hold harmless Beneficiary for any Withholding Taxes that may become payable by Beneficiary concerning any payment made by Guarantor under this Guaranty. Without limiting the generality of the preceding sentence, if:

i. Guarantor or Beneficiary is assessed or reassessed by any applicable taxing authority for any Withholding Taxes regarding any payment made by the Guarantor under this Guaranty, Guarantor must pay the Withholding Taxes together with interest or penalties on the Withholding Taxes to the taxing authority on behalf of Beneficiary and without recourse against Beneficiary within 30 Days of demand by Beneficiary; or

ii. Beneficiary pays any Withholding Taxes regarding any payment made by Guarantor under this Guaranty, Guarantor agrees to indemnify Beneficiary upon receipt of the notice called or in Section 4.7.5.d. below.

c. Without duplication of Section 4.7.5.a. or b. above, Guarantor agrees to indemnify and hold harmless Beneficiary for any additional taxes on net income that Beneficiary may be obligated to pay because of the receipt by it or payment by Guarantor of any amount under this Section 4.7.5.

d. Beneficiary will promptly notify Guarantor of any Withholding Taxes that Beneficiary has paid or received an assessment or reassessment from any applicable taxing authority and for which the Guarantor is required to indemnify it in accordance with this Section 4.7.5 and of the amount payable to it by Guarantor this Section 4.7.5, and Guarantor will indemnify Beneficiary within 60 Days of receipt of such notice. Beneficiary will reasonably determine the amount payable to it, will contest in good faith any taxes that Beneficiary believes in good faith are not assessable, and the determination will, absent manifest error, be final and binding on Guarantor.

e. Guarantor's obligations under this Section 4.7.5 will survive for one year following termination of this Guaranty and the payment of all amounts payable under other provisions of this Guaranty.

4.7.6. [Applicable Only to Foreign Guarantor: Waiver of Objection to Venue. GUARANTOR HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR PROCEEDING BETWEEN THEM ARISING OUT OF OR RELATING TO THIS GUARANTY BROUGHT IN ANY COURT IN OR OF THE STATE OF GEORGIA, AND HEREBY FURTHER IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY COURT IN OR OF THE STATE OF GEORGIA HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.]

4.7.7. [Applicable Only to Foreign Guarantor: Waiver of Immunity. TO THE EXTENT THAT THE GUARANTOR HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT IN THE STATE OF GEORGIA OR FROM ANY LEGAL PROCESS THEREIN, GUARANTOR HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, SUCH IMMUNITY, AND AGREES NOT TO ASSERT, BY WAY OF MOTION, AS A DEFENSE, OR OTHERWISE, IN ANY SUCH SUIT, ACTION OR PROCEEDING, THE DEFENSE OF SOVEREIGN IMMUNITY, OR ANY CLAIM: (1) THAT IS NOT PERSONALLY SUBJECT TO THE JURISDICTION OF THE COURTS IN THE STATE OF GEORGIA BY REASON OF SOVEREIGN IMMUNITY OR OTHERWISE; (2) THAT IT IS IMMUNE FROM ANY LEGAL PROCESS (WHETHER THROUGH SERVICE OR NOTICE, ATTACHMENT PRIOR TO THE JUDGMENT, ATTACHMENTS IN AID OF EXECUTION, EXECUTION OR OTHERWISE) REGARDING ITSELF OR ITS PROPERTY, BY REASON OF SOVEREIGN IMMUNITY; (3) THAT ANY ACTION IS BROUGHT IN AN INCONVENIENT FORUM; (4) THAT THE VENUE OF ANY ACTION IS IMPROPER; OR (5) THAT THIS GUARANTY MAY NOT BE ENFORCED IN OR BY A FEDERAL COURT IN THE STATE OF GEORGIA. THE GUARANTOR EXPRESSLY ACKNOWLEDGES THAT THE FOREGOING WAIVERS AND SUBMISSIONS TO JURISDICTION ARE INTENDED TO BE IRREVOCABLE UNDER THE LAWS OF THE STATE OF GEORGIA AND OF THE UNITED STATES OF AMERICA AND OF THE LAWS APPLICABLE TO THE GUARANTOR, INCLUDING THE LAWS OF THE JURISDICTION IN WHICH THE GUARANTOR IS ORGANIZED.]

4.7.8. Waiver of Right to Jury Trial. GUARANTOR UNCONDITIONALLY AND IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT, OR OTHERWISE) ARISING OUT OF OR RELATING TO, THIS GUARANTY, OR THE ACTIONS OF BENEFICIARY IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE OR ENFORCEMENT OF THIS GUARANTY.

4.8 Severability. Any provision of this Guaranty that is prohibited or unenforceable will be ineffective to the extent of the prohibition or unenforceability without invalidating the remaining provisions of this Guaranty.

4.9 Execution and Attestation.

4.9.1. Electronic Signature. This Guaranty may be executed by handwritten signature or Electronic Signature. An "**Electronic Signature**" means any electronic sound, symbol, or process attached to or logically associated with a record and executed and adopted by a Person with the intent to sign the record, including facsimile or e-mail electronic signatures. Guarantor acknowledges that electronic records and Electronic Signatures may be used in connection with the execution of this Guaranty and Electronic Signatures transmitted by electronic mail in so-called ".pdf" format will be legal and binding and will have the same full force and effect as if a paper original of this Guaranty had been delivered and signed using a handwritten signature. Guarantor: (i) agrees that an Electronic Signature, whether digital or encrypted, is intended to authenticate this Guaranty and to have the same effect as a handwritten signature; (ii) intends to be bound by the signature (whether original, faxed, or electronic) on any document sent or delivered by facsimile, electronic mail, or other electronic means; (iii) is aware that Beneficiary will rely on the signatures; and (iv) waives any defenses to the enforcement of the terms

of this Guaranty based on the forms of signature described in this Section 4.9. If Guarantor executes this Guaranty by Electronic Signature, Guarantor expressly consents under the Electronic Signatures in Global and National Commerce Act ("**E-SIGN**"), and Uniform Electronic Transactions Act as enacted in the State of Georgia ("**UETA**"), that a signature by fax, email, or other electronic means will constitute an Electronic Signature to an Electronic Record under both E-SIGN and UETA regarding this transaction.

4.9.2. Digital or Electronic Signature. In addition to his Guaranty, any other documents to be delivered in connection with this Guaranty may be executed by handwritten signature or Electronic Signature. Guarantor acknowledges that any digital or Electronic Signature (including pdf, facsimile, or electronically imaged signatures provided by DocuSign or any other digital signature provider) appearing on this Guaranty or other documents to be delivered in connection with this Guaranty are the same as handwritten signatures for the purposes of validity, enforceability, or admissibility, and that delivery to Beneficiary of an Electronic Signature, or a signed copy of, this Guaranty and related documents may be made by facsimile, email, or other electronic transmission.

Guarantor has caused this Guaranty to be executed and delivered under seal by its authorized representative as of Effective Date.

#GuarantorLegalName#

By: _____

Name

Printed: _____

Title: _____

Date: _____

EXHIBIT H – FORM OF STANDBY LETTER OF CREDIT

[Bank Letterhead]

Date of issuance: _____, 20__

Irrevocable Standby Letter of Credit No:_____

"Issuer": _____

Address: _____

"Beneficiary": Georgia Power Company

Address: C/O Southern Company Services, Inc.
Attn: Assistant Treasurer
BIN SC1407
30 Ivan Allen Jr. Blvd., NW
Atlanta, GA 30308

Project ID: GPC-[Add Project ID]

Program ID: 2029-2031 All-Source RFP

"Account Party": _____

Address: _____

"Expiry Date": _____, 20__, and any automatically extended date, as herein provided [(but in no event later than _____, 20__)]

"Total Amount": _____United States Dollars (U.S. $_____)

We, the Issuer, hereby establish in your favor, for the account of the Account Party, our irrevocable standby letter of credit ("**Standby Letter of Credit**"), in the aggregate amount not exceeding the Total Amount.

Funds under this Standby Letter of Credit are available to you on or before the Expiry Date by presentation of your demand signed by one of your officers or authorized representatives, and delivered to us in substantially the form attached as Annex 1 (*Form of Sight Draft*) and referring thereon to the number and date of this Standby Letter of Credit, accompanied by a written and completed certificate signed by a person purporting to be one of your officers or authorized representatives, in the form attached as Annex 2 (*Form of Certificate*), with appropriate insertions.

This Standby Letter of Credit is effective immediately and expires at 5:00 p.m. (Eastern Time) on the Expiry Date. It is a condition of this Standby Letter of Credit that the Expiry Date will be deemed automatically extended without amendment for a period of one year from the present or any future Expiry Date, unless we notify you not less than ninety (90) days prior to any such date, in accordance with the notice provisions set forth herein, that we have elected not to extend the Expiry Date for such additional period.

Delivery of demands and certificates will be made on any day that is a business day for us at or prior to 5:00 p.m. (Eastern Time) at our office located at _____, or at any other office in the United States of America that is designated by us in a written notice delivered to you. If such demand and such certificate are received at any such office on or prior to the Expiry Date, we hereby agree with you that we will duly honor the same within three (3) business days

of such presentation. Notwithstanding the foregoing, you may demand payment under this Standby Letter of Credit by facsimile or electronic transmission when promptly confirmed by written demand; however, actual disbursement of funds under a demand presented by facsimile or electronic transmission may not occur until we are presented with the original Standby Letter of Credit.

Partial drawings and multiple presentations may be made under this Standby Letter of Credit, provided, however, that each such demand that is paid by us will reduce the amount available under this Standby Letter of Credit.

Except as is expressly set forth herein, payment of demands made under this Standby Letter of Credit is not subject to any agreement, condition or qualification. The obligation of the Issuer under this Standby Letter of Credit is the individual obligation of the Issuer and is in no manner contingent upon reimbursement with respect thereto.

Funds available for drawing under this Standby Letter of Credit may not directly or indirectly constitute funds or collateral deposited with the Beneficiary, or for the Issuer's account by the Account Party, or pledged with or for the Issuer's account by the Account Party.

This Standby Letter of Credit is transferable and can be successively transferred to any transferee that Beneficiary states in writing to us has succeeded such Beneficiary under this Letter of Credit; provided that such transfer to such transferee is in compliance with applicable U.S. laws and regulations. Transfer of this Standby Letter of Credit to any transferee will be effected by the presentation to us of this Standby Letter of Credit accompanied by a certificate in the form attached as Annex 3 (*Form of Instruction to Assign in Entirety*), with appropriate insertions, signed by a person purporting to be an officer or authorized representative of the Beneficiary. Upon such presentation, we will forthwith issue an irrevocable letter of credit to such transferee with provisions therein consistent with this Standby Letter of Credit.

We will not modify, revoke or terminate this Standby Letter of Credit without your written consent. This Standby Letter of Credit sets forth in full the terms of our undertaking, and such undertaking may not be modified, annulled or amplified by reference to any other document, instrument or agreement referred to herein or in which the Standby Letter of Credit is referred or to which the Standby Letter of Credit relates, and any such reference may not be deemed to incorporate herein by reference any document, instrument or agreement.

To the extent not contrary to the express terms hereof, this Standby Letter of Credit will be governed by the International Standby Practices ("**ISP98**"). This Standby Letter of Credit will be deemed to be a contract made under the laws of the state of Georgia and will, as to matters not governed by the ISP98, be governed by and construed in accordance with the laws of the state of Georgia.

Notices concerning this Standby Letter of Credit may be sent to a party by courier, certified mail, registered mail, facsimile, electronic transmission or similar communications facility to its respective address set forth herein. Any notice, demand, request or other communication is deemed to have been received by the party to whom it is sent at the time of its delivery. Each party may notify the other of any change of address in the manner provided above.

[ISSUING BANK]

By:_____
Authorized Signature

ANNEX 1

FORM OF SIGHT DRAFT

[Insert Place], [Insert Date]

Amount: [Insert Currency] [Insert Amount in Numbers]
[Insert Amount in Letters]

Drawn under Irrevocable Standby Letter of Credit No. _____ of [Insert Name of Issuing Bank]

At Sight

Pay to the Order of [Name of Beneficiary]

In reference to: Irrevocable Standby Letter of Credit No. _____, dated _____.

To: [Insert Name of Issuing Bank]
[Insert Address]

[BENEFICIARY]

By:_____

Title:_____

ANNEX 2

FORM OF CERTIFICATE

Re: [Insert Name of Agreement] dated _____, 20__ ("**Agreement**") between [Name of Account Party] ("[**Account Party**]") and [Name of Beneficiary] ("[**Beneficiary**]").

The undersigned, an officer or authorized representative of [Beneficiary], hereby certifies to [ISSUING BANK] ("**Bank**") with reference to irrevocable standby letter of credit no. ("**Standby Letter of Credit**"), issued by the Bank for the account of [Account Party] in favor of [Beneficiary] that:

(1) (Insert one of the following, as applicable)

Under the Agreement, Beneficiary is entitled to demand payment under the Standby Letter of Credit in the amount of the sight draft accompanying this certificate.

or

[Beneficiary] has received written notice from the Bank in accordance with the terms of the Standby Letter of Credit that the Bank has elected not to extend the Expiry Date of the Standby Letter of Credit for an additional period past its then Expiry Date and the Account Party has failed to deliver a substitute letter of credit in accordance with the terms of the Agreement.

(2) The undersigned is an officer or authorized representative of [Beneficiary] and is authorized to execute and deliver this certificate and to draw upon the Standby Letter of Credit.

IN WITNESS WHEREOF, the undersigned has executed and delivered this Certificate as of this __ day of _____ , 20__.

[BENEFICIARY]

By:_____

Title:_____

ANNEX 3

FORM OF INSTRUCTION TO ASSIGN IN ENTIRETY

Re: Irrevocable Standby Letter of Credit No.

Ladies/Gentlemen:

For value received, the undersigned beneficiary hereby irrevocably assigns to:

[Name of Assignee]

[Address]

all rights of the undersigned beneficiary to demand payment under the above Standby Letter of Credit in its entirety.

By this assignment, all rights of the undersigned beneficiary in such Standby Letter of Credit are transferred to the assignee and the assignee will hereafter have the sole rights as beneficiary thereof. The Account Party will be responsible for all fees and expenses related to the assignment.

The Account Party will be responsible for all fees and expenses related to this assignment.

The Standby Letter of Credit is returned herewith and in accordance therewith we ask you to issue a new irrevocable Standby Letter of Credit in favor of the assignee with provisions consistent with the Standby Letter of Credit.

Sincerely,

[Beneficiary]

By:_____

Title:

EXHIBIT I – FORM OF COMMERCIAL OPERATION COMPLETION CERTIFICATE

Georgia Power Company
Capacity Procurement Manager
Bin #BinNumber#
241 Ralph McGill Blvd.
Atlanta, Georgia 30308

Re: Commercial Operation Completion Certificate – **Power Purchase Agreement for Firm Capacity, Firm Energy, and Ancillary Services from a Combustion Turbine Facility for 2029-2031 All-Source Capacity Needs at GPC-#ProjectID# (#FacilityName#)** dated_____ ___, 20__ between **Georgia Power Company** ("**GPC**") and **#SellerLegalName#** ("**Seller**") ("**PPA**").

In accordance with PPA Section 7.1.3 (*Commercial Operation*), Seller certifies to GPC that Seller fully satisfied the following criteria for Commercial Operation of the Facility:

(i) The Unit is capable of producing and delivering, on a reliable basis, all of the energy to the Electric System and meets GPC's AGC requirements.

(ii) Seller has delivered to GPC a certificate from the IA counterparty or a responsible officer of Seller that is reasonably acceptable to GPC certifying that Seller is in compliance with the IA requirements; (b) the Facility is otherwise in compliance with the IA; and (c) the Facility has demonstrated reliability of its communication systems with the Scheduling Center.

(iii) Seller has successfully completed Performance Testing in accordance with PPA Section 9.1 (*Tested Reliable Capacity and Designated Capacity*) including a Tested Reliable Capacity higher than 70% of the Nominal Capability under Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), Section 1.4 (*Tested Reliable Capacity Below Contracted Capacity Range; Capacity Buydown*) or GPC determined to its reasonable satisfaction through any combination of testing and examination of Unit data that the Unit is fully capable of successfully completing a Performance Test.

(iv) GPC can receive energy at the Point of Delivery on a reliable basis in accordance with Prudent Industry Practices.

(v) Seller has provided to GPC a certificate reasonably acceptable to GPC confirming that the Facility has been designed, engineered, constructed, and tested in accordance with Prudent Industry Practices and can perform in accordance with the terms of this PPA.

(vi) Seller has delivered to GPC all as-built drawings concerning the Facility, as may be requested by GPC.

(vii) Seller has delivered to GPC a certificate certifying that Seller has obtained Government Approvals for construction, ownership, operation, and maintenance of the Facility in accordance with the PPA.

(viii) If the Facility is interconnected to an Electric System outside the SBAA, Seller has delivered to GPC a certificate from a responsible officer of Seller that is reasonably acceptable to GPC confirming that Firm Transmission Service has been procured from the COD throughout the Term.

Seller certifies that the Project achieved Commercial Operation as of **#CommercialOperationDate#**. Seller agrees to provide photographs of the Facility and Site at GPC's request. The electrical inspection documentation in support of Seller's certification of Commercial Operation is attached. Seller grants to GPC and its agents, affiliates, successors, and assigns an irrevocable, worldwide, royalty-free, and unrestricted right and license to use, duplicate, modify, sublicense, distribute, display, and otherwise engage the photographs and related intellectual property, including the creation of derivative works. Seller represents and warrants that it has the exclusive right to grant the license to GPC for the purposes stated in the PPA.

#SellerLegalName#

By: _____

Name

Printed: _____

Title: _____

Date: _____

EXHIBIT J – VIE CERTIFICATION

AGREEMENT – Power Purchase Agreement for Firm Capacity, Firm Energy, and Ancillary Services from a Combustion Turbine Facility for 2029-2031 All-Source Capacity Needs at GPC-#ProjectID# (#FacilityName#) dated #Month #Day, #Year between Georgia Power Company ("**GPC**"), and **#SellerLegalName#** ("**Seller**") ("**PPA**"). Capitalized terms used herein will have the meaning assigned in the PPA.

The undersigned individual, being the Chief Financial Officer of Seller[1] and having responsibilities for financial accounting matters associated with this PPA, certifies that this PPA WILL (_____)/WILL NOT (_____) require Seller, over the Term and based on U.S. Generally Accepting Accounting Principles in effect as of the date of this certificate, to deconsolidate on its books and records any assets, liabilities, cash flow, profits, or losses of Seller as a result of GPC being determined to be the Primary Beneficiary. My determination of the most likely accounting treatment of this transaction results from my personal consideration after necessary discussions with relevant officers of Accounting Standards Codification ("**ASC**") Topic 810, Consolidation, and the following factual matters:

1) Seller's accounting policies, procedures, and internal controls are sufficient to provide GPC with an appropriate basis for confirming the information contained herein.

_____Yes

_____No (please explain)

*Explain:*_____

2) Seller qualifies for one of the scope exceptions listed in paragraphs 810-10-15-12 and 810-10-15-17 of ASC Topic 810.

_____Yes (please explain)

_____No (please explain)

*Explain:*_____

3) Seller is financed with equity equal to or greater than 10% of Seller's total assets per paragraphs 810-10-25-45 to 47 of ASC Topic 810.

_____Yes

_____No (please explain)

[1] If Seller's business structure does not designate an officer with this or a similar title, Seller must provide written documentation affirming the authority of the individual who attests to this certification.

Explain:_____

4) The PPA revenues correlate with fluctuations in Seller's operating cash flows (operating expenses).

_____Yes

_____No (please explain)

Explain:_____

5) The PPA reduces variability in the fair value of Seller's assets, for example by absorbing fuel or electricity price risk.

_____Yes

_____No (please explain)

Explain:_____

6) The PPA Term is for greater than 50% of the remaining economic life of the Facility.

_____Yes

_____No

7) The PPA is for substantially all of the proposed Facility's productive output.

_____Yes

_____No

8) GPC and its Affiliates participated significantly in the design or redesign of the Facility.

_____Yes

_____No

9) The percentage that the Facility's fair value represents, of the fair value of the proposed Seller's total assets, is approximately;

_____%

10) The Facility is essentially the only source of payment for specified liabilities or specified other interest (there is specific debt associated with the Facility).

_____Yes

_____No

Certification

The above information (and any attachments) has been completed in full and agrees with our records as of the date of this Certification.

#SellerLegalName#

By: _____

Name

Printed: _____

Title: _____

Date: _____

EXHIBIT K – FINANCE LEASE CERTIFICATION

CERTIFICATION AS TO CERTAIN FACTUAL STATEMENTS RELATED TO THE PROPOSED TRANSACTION WITH RESPECT TO FINANCE LEASE TREATMENT

*(While completion of this certification is a requirement, the assertions in this certification are relevant only if a lease is identified in accordance with Accounting Standard Codification ("**ASC**") Topic 842, Leases.)*

AGREEMENT – Power Purchase Agreement for Firm Capacity, Firm Energy, and Ancillary Services from a Combustion Turbine Facility for 2029-2031 All-Source Capacity Needs GPC-#ProjectID# (#FacilityName#) dated #Month #Day, #Year between Georgia Power Company ("**GPC**") and **#SellerLegalName#** ("**Seller**") ("**PPA**"). Capitalized terms used herein will have the meaning assigned in the Agreement.

The undersigned individual, being the Chief Financial Officer[1] of Seller and **[having responsibilities/based on information I have received from individuals responsible]** for financial accounting matters arising from this PPA, based on my personal consideration after necessary discussions with relevant officers of factual matters hereby certifies the following based on my understanding of ASC Topic 842, Leases.

1. The PPA DOES (_____)/DOES NOT (_____) transfer ownership of the Facility at or by the end of the PPA Term as described in paragraph 842-10-25-2(a) of ASC Topic 842.

2. The PPA DOES (_____)/DOES NOT (_____) contain a purchase option for the Facility that is reasonably certain to be exercised as described in paragraph 842-10-25-2(b) of ASC Topic 842.

3. The PPA Term IS (_____)/IS NOT (_____) equal to the major part or 75% or more of the estimated remaining economic life of the Facility offered as described in paragraph 842-10-25-2(c) of ASC Topic 842.

4. The present value of the minimum lease payments allocated to the Facility at the beginning of the PPA Term IS (_____)/IS NOT (_____) greater than or equal to substantially all or 90% of the fair value of the Facility offered as described in paragraph 842-10-25-2(d) of ASC Topic 842.

5. The Facility IS (_____)/IS NOT (_____) of such a specialized nature that it is expected to have no alternative use to the lessor at the end of the PPA Term as described in paragraph 842-10-25-2(e) of ASC Topic 842.

If I have responded in the affirmative to one or more of the above factual statements, I have attached a good faith statement of the dollar amounts that GPC would be required to capitalize and the residual value of the Facility at the end of the Term.

[CERTIFICATION ON NEXT PAGE]

[1] If Seller's business structure does not designate an officer with this or a similar title, Seller must provide written documentation affirming the authority of the individual who attests to this certification.

Certification

The above information (and any attachment) agrees with Seller's records as of the date of this Certification.

#SellerLegalName#

By: _____

Name

Printed: _____

Title: _____

Date: _____

EXHIBIT L – TRANSFER OF INFORMATION ACKNOWLEDGEMENT

TRANSFER OF INFORMATION ACKNOWLEDGEMENT

#SellerLegalName# ("**Seller**") and Georgia Power Company ("**GPC**") have entered into the **Power Purchase Agreement for Firm Capacity, Firm Energy, and Ancillary Services from a Combustion Turbine Facility for 2029-2031 All-Source Capacity Needs at GPC-#ProjectID# (#FacilityName#)** ("**PPA**") dated as of _____, 202__. The PPA contemplates that Seller will provide to GPC or GPC's affiliate Southern Company Services, Inc. ("***SCS***") as agent for the transmission-owning subsidiaries of Southern Company (GPC, Alabama Power Company, and Mississippi Power Company) certain information that could be considered non-public information that potentially has implications under the Federal Energy Regulatory Commission ("**FERC**") Standards of Conduct. Seller acknowledges that the information is being provided for the purposes of operational implementation and administration of the PPA (which includes conducting GPC's system operations and dispatch functions) and will be used by individuals in both Transmission/Distribution and energy affiliate/wholesale marketing unit functions under the FERC Standards of Conduct.

The individuals within the Southern Company organizations indicated above may use the information only for purposes of implementing and administering the PPA (including conducting GPC's system operations and dispatch functions). Seller understands that the information will not be used or disseminated in any manner contrary to the confidentiality provisions in the PPA or in violation of the FERC Standards of Conduct.

Seller's provision of this information has not been and is not being provided in exchange for any preferential treatment, either operational or rate-related, by SCS or by any of the transmission-owning subsidiaries of Southern Company. Seller also acknowledges that Seller is not providing the information under duress or coercion. In accordance with FERC requirements, SCS may post on Southern Company's Open Access Same-time Information System (OASIS) the fact of Seller's consent to the provision of the information specified above to certain employees that may be employed within organizational units deemed to be energy affiliates/wholesale marketing units under the Standards of Conduct.

Acknowledged on behalf of Seller by Seller's authorized representative signing below:

#SellerLegalName#

By: _____

Name Printed: _____

Title: _____

Date: _____

EXHIBIT M – ENVIRONMENTAL COMPLIANCE CERTIFICATION

CERTIFICATION OF ENVIRONMENTAL COMPLIANCE

AGREEMENT – Power Purchase Agreement for Firm Capacity, Firm Energy, and Ancillary Services from a Combustion Turbine Facility for 2029-2031 All-Source Capacity Needs at GPC-#ProjectID# (#FacilityName#) dated as of _____ ___, 20__ between **Georgia Power Company** ("**GPC**"), and **#SellerLegalName#** ("**Seller**") ("**PPA**"). Capitalized terms used herein will have the meaning assigned in the PPA.

The undersigned individual, being the [●][7] of Seller and having responsibilities for [*environmental compliance and reporting*] matters associated with the PPA, certifies to the following:

1. There have been no changes in the design of the Facility that resulted in or, to the best of my knowledge after reasonable inquiry, are expected to result in, additional impacts to environmental sensitivities that have not been previously disclosed in writing to GPC.

_____Yes
_____No (please explain)
Explain:_____

(a) If "no," a figure set or plan sheets that highlights such changes is attached.
(b) If "no," copies of all documentation that all necessary Permits have been obtained and/or that the appropriate Governmental Authority coordination has occurred to legally allow for such impacts is attached.

2. A list of Permits for the Facility that were obtained (opened) or Governmental Authority prescriptions that were issued since the previous Certification is attached.
3. A list of Permits for the Facility that were applied for but have not yet been obtained (opened) since the previous Certification is attached.
4. A list of any notices of violation (NOV) that were issued with respect to Seller [or in connection with the Facility], including: (i) the Governmental Authority that issued the NOV, (ii) the status of remediation of the violation; and (iii) if remediation has not been completed, the duration anticipated for resolution is attached. Copies of any NOVs are also attached.
5. Attached is a list identifying (by name and address) any adjacent landowner, lessee or neighbor complaints against Seller or the Facility, as well as: (i) a general description of the complaint; and (ii) plans that Seller took to resolve the complaint or, if not yet resolved, what actions Seller has taken to date, or intends to take, to resolve the complaint, along with a timeline for completing such actions.
6. A list of any Permits and/or other Governmental Authority prescribed actions that have been fulfilled and/or closed since the previous Certification is attached.
7. Except as already referenced or included in an attachment to this Certification, there are no other documents, notices or correspondence from any Governmental Authority indicating that the Facility and the Site is not in compliance with or is not in good standing under, and Environmental Laws, Permit or other Governmental Authority prescribed actions.

Confirmation

The above information (and any attachments) has been completed in full and agrees with our records as of the date of this Certification.

#SellerLegalName#

By: _____
Name Printed: _____
Title: _____
Date: _____

EXHIBIT N – NOTICES

Address for delivery of Upgrade Security in accordance with Eligible Collateral for Performance Security in accordance with PPA Section 6.5 (*Delivery of Eligible Collateral for Performance Security*) and PPA Section 7.5 (*Grid Cost Improvements*):

Georgia Power Company
c/o Southern Company Services Inc.
Attn: Assistant Treasurer, BIN SC1407
30 Ivan Allen Jr. Blvd.
Atlanta, Georgia 30308

Addresses for delivery of Notices to the Parties in accordance with PPA Section 20.4 (*Notice*):

In accordance with PPA Section 20.4, all notices must include the GPC project identification number referenced in this PPA's title and the Facility name.

Notice to GPC:

Georgia Power Company
Attention: #GPCContact Name
241 Ralph McGill Boulevard N.E.
BIN #BinNumber#
Atlanta, Georgia 30308
Email: #GPCNoticeEmail

With Copy To:

Georgia Power Company Legal Dept.
Attn: Commercial & Transactional Counsel
Bin 10180
241 Ralph McGill Blvd., N.E.
Atlanta, GA 30308

Notice to Seller:

#SellerLegalName#
Attention: #SellerContactIndividualName#
#Title
#SellerAddress
#City, #State #Zip
Email: #SellerContactEmail#