Pro Forma Power Purchase Agreement for Firm Capacity, Energy Storage Services, and Ancillary Services from a Standalone Energy Storage System 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*.

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*.

AGC Performance Requirements: The AGC performance requirements stated in Part 3 (*AGC Performance Requirements*) of Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*).

AGC Setpoint: A value (MW) that will range from the Operating Low Limit to the Operating High Limit.

AGC Setpoint Response Performance Metric: As defined in Section 3.2.2 of Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*).

AGC Setpoint Response Performance Requirement: As defined in Section 3.2.2 of Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*).

AGC Status: As defined in Section 3.2.1 of Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*).

AGC Status Performance Metric: As defined in Section 3.2.1 of Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*).

AGC Status Performance Requirement: As defined in Section 3.2.1 of Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*).

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 attributes arising from the ownership of the Facility, including investment tax credit (ITC), production tax credit (PTC), and depreciation deductions; (ii) grants in lieu of investment tax credits 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, as set forth in Table C-1 in Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*).

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.

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 facility to automatically adjust energy output within the applicable balancing authority for purposes of interchange balancing, and specifically, the Facility's capability to accept a set point electronically and the automatic adjustment and regulation of the Facility's energy output to meet that set point.

Auxiliary Operational Load: Load that is required for thermal management of the ESS (e.g. HVAC) and essential Facility operation (e.g. control system building) that must be metered separately from Charging Energy.

Available: All times following the Delivery Commencement Date when the ESS, as applicable, is not Unavailable.

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

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

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.

Charge/Discharge Rate Performance Metric: As defined in Section 2.3.2 of Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*).

Charging Energy: Energy provided by GPC via Grid Charging for the purpose of charging the ESS in accordance with GPC's AGC Setpoint signals or direction.

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 7.1.4 (*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 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 Storage Device Design Capacity established at the Effective Date and as stated in Table A-3 of Exhibit A (*Facility Description and Additional Details*).

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.

Cure Period: The reasonable period within which Seller must cure an inadequate Tested Storage Capacity in accordance with Section 16.1.9 (*Tested Storage Capacity Below 70% Contracted Capacity; Cure; Remedies*) or Section 1.3.1 (*Cure Plan and Cure Period*) of Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), as applicable, which must not exceed 120 Days from the completion of the Performance Test unless extended in accordance with PPA Section 16.1.9(i) or Exhibit B, Section 1.3.1.A.

Cycle or Cycled: The equivalent charge of Storage Device Operating Energy (in MWhs) from 0% to 100% and subsequent discharge from 100% to 0%, regardless of whether the complete charge or complete discharge occurs during one or more charges or discharges. For Daily Cycle determinations, the Day in which the relevant discharging occurs will include the discharge in the Cycle determination for that day, regardless of when the charging occurs.

Cycle Limit: For each Annual Period, the maximum number of times that the ESS may be Cycled.

Daily Cycle Limit: The maximum number of Cycles per 24-Hour period, which is two.

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

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

Discharging Energy: Energy discharged from the ESS in accordance with GPC's AGC Setpoint signals or direction.

Dispatch Center: The control center designated by GPC in writing as being the primary control point for dispatch instructions and other notifications provided in accordance with Part 12 (*Energy Dispatch*) and Exhibit E (*Facility Operating and Dispatching Requirements*), Part 2 (*Dispatch*), as may be modified during the Term. There may only be one Dispatch Center designated at any one time.

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 Facility, 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 Facility if GPC, rather than Seller, had constructed, owned, or operated the Facility, 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 Facility, 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 Facility, including investment tax credit (ITC), production tax credit (PTC), or depreciation deductions; (ii) any grant in lieu of investment tax credit or any similar financial payment or grant regarding the Facility or the Facility's metered electric energy output; or (iii) the metered electric energy produced by the Facility.

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.

Emergency Condition: Defined in the IA.

Energy Storage System (ESS): The energy storage system at the Site, as further described in Exhibit A (*Facility Description and Additional Details*), that is interconnected to the STT at the POI.

Energy Storage Performance Metric: As defined in Section 2.3.1 of Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*).

Environmental Attributes: Either: (i) any fuel-related, emissions-related, air quality-related, energy source related, or other environmental-related aspect, claim, characteristic, benefit, certificate, credit, reduction, offset, saving, allowance, efficiency, tag, attribute, demand reduction, or similar product or right (including any right relating to greenhouse gases and any green certificate, green tag, renewable certificate, REC, CO2 credit, emission reduction credit, and any that otherwise arise or result from the use or existence of the Facility): (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) any attribute that could qualify or does qualify for application toward compliance with any local, state, federal, international, or private sector energy portfolio standard, green pricing or green certification program, energy program, carbon reduction or greenhouse gas reduction initiative, carbon or greenhouse gas offset program, carbon or greenhouse trading program, carbon or greenhouse gas cap and trade program, carbon or greenhouse taxation, electricity savings program, or other environmental program, incentive, mandate, or objective, in each case whether voluntary

or mandatory; or (ii) any environmental benefit GPC otherwise would have realized from or related to the Facility if GPC, rather than Seller, had constructed, owned, or operated the Facility, as applicable. Environmental Attributes 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) any 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.

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.

ET: See *Eastern Time*.

ESS: See *Energy Storage System*.

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 ESS and ancillary facilities and equipment located at the Site. The Facility will include all auxiliary equipment and facilities necessary or used for the control, storage, delivery, or monitoring of electricity stored on the Site. All equipment and facilities installed on Seller's side of the POI at the Site will be part of the Facility.

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.

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.

Forced Derate: A time during which the operational capability of the ESS is reduced to a level below the Storage Device Design Capacity, SDOE, or Maximum Rate of Charge for reasons other than a Force Majeure Event and that is not a Scheduled Outage, Maintenance Outage, or a Forced Outage.

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

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

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.

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 Facility, 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 liens (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.

Grid Charging: Charging the ESS from the Electric System.

Guaranteed RTE: The guaranteed Round-Trip Efficiency rate of the ESS stated in Table A-3 in Exhibit A (*Facility Description and Additional Details*).

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

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 the 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 discharged by the ESS 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 the construction and operation of the 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 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 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).

kWh: Kilowatt-hours (AC).

Letter of Credit: An irrevocable standby letter of credit that is: (i) substantially in the form set forth in Exhibit J (*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) 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.

Maintenance Outage: A planned interruption of a portion or all of the Facility's operational capability or the charging or discharging capability of the ESS 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 operational capability of the Facility or the charging or discharging capability of the ESS 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 conform to Prudent Industry Practices for similar equipment, including in terms of frequency and duration. Upon GPC approval, the Maintenance Schedule establishes Scheduled Outages.

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 Rate of Charge (ROC): The guaranteed maximum rate of charge of the ESS, as further defined in Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*).

MCF: See *Monthly Capacity Fee*.

MCP: See *Monthly Capacity 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 GPC at the POI and for the other purposes set forth in Section 8.2 (*Metering and Telemetry*).

Milestone Schedule: A schedule containing at a minimum Key Milestones and other significant milestones related to the design, engineering, procurement, construction, Initial Synchronization Date, testing, startup, and COD of the Facility.

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 Capacity Fee (MCF): As defined and determined in accordance with Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*).

Monthly Capacity Payment (MCP): The amount to be paid by GPC to Seller for GPC's purchase of the Storage Device Design Capacity for a particular Month, which will equal the Monthly Capacity Fee as adjusted, if applicable, by Monthly Capacity Reduction in accordance with Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*), Part 2 (*Monthly Capacity Reductions; Performance Metrics*):

$$MCP = MCF - MCR$$

Monthly Capacity Reduction (MCR): As defined and determined in accordance with Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*), Part 2 (*Monthly Capacity Reductions; Performance Metrics*).

Monthly Invoice: As defined in Section 5.1.1 (*Seller Invoices*).

Monthly RTE: As defined in Exhibit C (Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements).

Monthly Value Factor (MVF): For a given Month, the value factor stated in Table C-2 (*Monthly Value Factor*) in Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*).

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.

MVF: See *Monthly Value Factor*.

MW: Megawatt alternating current (AC).

MWh: Megawatt-hour (AC).

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

Off Peak Season: The Months of March, April, May, September, October, and November.

On Peak Season: The Months of January, February, June, July, August, and December.

Operating Committee: The committee established in accordance with Section 10.6 (*Operating Committee*).

Operating High Limit: For AGC purposes, the current maximum discharging capability of the ESS, adjusted for any equipment limitation or outage that could limit the maximum output, as further described in Exhibit F (*AGC and Facility Minimum Data Requirements*).

Operating Low Limit: For AGC purposes, the current maximum charging capability of the ESS, adjusted for any equipment limitation or outage that could limit charging capability, as further described in Exhibit F (*AGC and Facility Minimum Data Requirements*).

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 10.6 (*Operating Committee*).

Party or Parties: Either GPC or Seller or both.

Performance Guarantees: Each of the ESS performance guarantees identified as item A - E in Table A-3 of Exhibit A (*Facility Description and Additional Details*).

Performance Metrics: Each of the performance metrics described in Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*).

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 Part 1 of Exhibit A-2 (*Performance Security and Liquidated Damages*).

Performance Test: A performance test conducted in accordance with the procedures set forth in Exhibit D (*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 Interconnection (POI): The point of connection between the STT and the Facility , as identified in Table A-1 of Exhibit A (*Facility Description and Additional Details*) and further described in the IA.

PPA: This Power Purchase Agreement for Firm Capacity, Energy Storage Services, and Ancillary Services from a Standalone Energy Storage System 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 Facility and, as applicable, the ownership, operation, management, and maintenance of the Facility, all of which being reasonably expected to enable Seller to fulfill its obligations under this PPA.

Proposed Resolutions: As defined in Section 19.3.3 (*Discovery; Hearing*).

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*.

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, as stated in Table A-2 of Exhibit A (*Facility Description and Additional Details*),subject to any extension of this date in accordance with Section 7.3.6 (*Commercial Operation Delay Caused by Southern Company Transmission System Capability*) or Section 15.3.2 (*Extension of RCOD*).

Round-Trip Efficiency (RTE): The amount of energy received from the ESS at the POI divided by the original amount of energy that was used to charge the ESS at the POI. RTE will delineate between components for losses both into and out of storage as requested.

RTE Performance Reduction: As defined in Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*).

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.

Scheduled Outage: Any Facility outage (whole or partial) scheduled in the final, approved Maintenance Schedule.

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

SDDC: See *Storage Device Design Capacity*.

SDDD: See *Storage Device Discharge Duration*.

SDOE: See *Storage Device Operating Energy*.

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 who, 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 K (*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*).

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 OATT: Southern Company's Open Access Transmission Tariff.

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 avoidance of doubt, the Southern Company Transmission System does not include the Georgia ITS facilities owned by the ITS Participants.

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.

State of Charge (SOC): The amount of stored energy in the ESS in real time, which may be expressed either as: (i) a percentage of the SDOE (e.g., a 95% SOC); or (ii) a quantity of energy (e.g., 400 MWh SOC). SOC is considered usable and dispatchable energy at the POI, and the ESS must be able to operate at the: (a) Maximum Rate of Charge from 0% to 100% of the SDOE; and (b) Storage Device Design Capacity from 100% to 0% of the SDOE.

Station Service: Energy that is used to serve the electrical requirements of the Facility, including any load not stored in the ESS for discharge. For an ESS, Station Service includes all energy required to operate and maintain the ESS (e.g., Auxiliary Operational Load, power conversion stations).

Storage Device Design Capacity (SDDC): The guaranteed amount of ESS storage capacity (in MW) allocated to GPC under this PPA and that represents the guaranteed continuous discharge capability of the ESS for the Storage Device Discharge Duration.

Storage Device Discharge Duration (SDDD): The guaranteed number of Hours that the ESS must be capable of continuously discharging to the POI at the Storage Device Design Capacity.

Storage Performance Metric Achieved: As defined in Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*).

Storage Performance Reduction (SPR): The applicable amount stated in Table C-3 of Exhibit C (Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements).

Storage Device Operating Energy (SDOE): The guaranteed number of MWh that the ESS must be capable of discharging to the POI and is equal to the product of the Storage Device Design Capacity multiplied by Storage Device Discharge Duration.

STT: See *Southern Transmission Territory.*

System Emergency: When the Dispatch 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.

Tax or 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 E (*Facility Operating and Dispatching Requirements*).

Term: As defined in Table A-2 of Exhibit A (*Facility Description and Additional Details*).

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

Test Charge Energy: Any: (i) before COD, Charging Energy used to charge the ESS; or (ii) after COD, any Charging Energy used to charge the ESS not at the direction of GPC or by an AGC Setpoint signal.

Test Charge Energy Price: Equals AIER.

Test Discharge Energy: Any energy delivered to the POI from the ESS before the earlier of RCOD or COD.

Test Discharge Energy Price: The product of AIER multiplied by 90%, as shown in the following equation:

(Test Discharge Energy Price = AIER x 0.90).

Tested Storage Capacity: The actual ESS capability (MW) demonstrated during a Performance Test.

Threshold Amount: As defined in Section 17.1.3 (*Excess Change of Law Capital Expenditures*).

Unavailable: The extent to which, after the Delivery Commencement Date, the Facility is unable (in whole or in part) to store or deliver energy due to a Scheduled Outage, Maintenance Outage, Forced Outage, Forced Derate, or a Force Majeure Event.

Unavailability Period: Any single, continuous period during which the ESS is Unavailable to respond to GPC's AGC Setpoint signals or other dispatch instructions, in whole or in part. GPC will make the final determination of whether an Unavailability Period impacts any Performance Metric for any Day.

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 7.4 (*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.

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

Georgia Power Company ("**GPC**"), a Georgia corporation, and **#SellerLegalName#** ("**Seller**"), a***OR***an #OrgState# #limited liability company#***OR***#OtherOrgStructure#, enter into this **Power Purchase Agreement for Firm Capacity, Energy Storage Services, and Ancillary Services from a Standalone Energy Storage System** as of the Effective Date. GPC and Seller acknowledge:

- Seller desires to sell, and GPC desires to purchase, capacity, energy storage services, and Ancillary Services from the Facility 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, energy storage services, 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 after 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 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 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 this PPA 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 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, qualified to do business in the state of Georgia, 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 Proceedings 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 are no bankruptcy proceedings 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 L (*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 M (*Finance Lease Certification*) signed by the 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 Modifications Resulting in Material Adverse Effect. No modification to, or expansion of, the Facility 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 Facility and Deliver Capacity, Energy Storage Services, 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 Facility and deliver the capacity, energy storage services, and Ancillary Services of the Facility to GPC in accordance this PPA.

2.1.12. GPC's Exclusive Right to Environmental Attributes. GPC will have exclusive rights to any Environmental Attribute 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. To the extent applicable during the Term, 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 cooperate with GPC to obtain compliance with any required documentation or reporting obligation under any federal or state renewable energy plan to certify the Facility or the Environmental Attributes. Additionally, 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 in connection with 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 O (*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-12-1 (*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.

2.2.4. 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 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.

2.2.5. 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.

2.2.6. 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.

2.2.7. 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.

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 (*Change of 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; and (ii) the production, storage, 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 energy to GPC at the POI, or, in the case of Ancillary Services, before the time the Ancillary Services are made available to GPC.

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; and (ii) Ancillary Services received by GPC arising at and after the time the Ancillary Services are made

available to GPC. 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.

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 on an After-Tax Basis. 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

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 Facility, net of any Station Service; and (ii) all associated energy storage services and Ancillary Services. The receipt and delivery of to the POI 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 Payment (subject to the Monthly Capacity Reduction in accordance with Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*) is the exclusive compensation owed to Seller for capacity, energy storage services, and Ancillary Services under this PPA. GPC will have full discretion to dispatch the ESS to cause energy to be stored in the ESS or sent to the POI.

4.1.2. Dispatch and Energy Delivery. GPC will send AGC Setpoint signals every six seconds to the ESS. GPC retains full control of energy delivery, whether through AGC or specific directives from GPC, from the ESS.

4.1.3. 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). Seller must separately meter Auxiliary Operational Load at all times, and Auxiliary Operational Load will not be netted as part of Charging Energy or Discharging Energy. Seller will be responsible for all costs associated with Station Service used for the operation of equipment (e.g. power conversion stations) during periods when the ESS is not charging or discharging (e.g. idle).

4.1.4. Delivery of Energy; Risk of Loss; Balancing Services. Seller must deliver capacity and energy from the Facility to GPC at the POI. The risk of loss of Charging Energy will pass from GPC to Seller at the POI and the risk of loss of Discharging Energy will pass from Seller to GPC at the POI. The Facility will interconnect to the STT at the POI and must be situated such that GPC can provide balancing services and Grid Charging under the Southern OATT. 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 dispatch instructions and for any associated costs.

4.1.5. Unavailability. Seller must promptly and accurately communicate to GPC any Facility outage, derate, or other operational limitation via GPC's data systems and email as specified in the Operating Procedures. GPC will make the final determination of whether an Unavailability Period impacts any Performance Metric for any Day.

4.1.6. GPC's Dispatch Right for Storage Device Design Capacity and Ancillary Services. GPC will be entitled to dispatch and receive, and if dispatched by GPC, Seller must deliver, up to

the SDDC and all Ancillary Services associated with the ESS, subject to the Interconnection Limit, Technical Limits, and dispatch procedures set forth in Exhibit E (*Facility Operating and Dispatching Requirements*).

4.1.7. No Sale of Capacity, Energy, or Ancillary Services to a Third Party. Seller must not sell any of the capacity, energy, energy storage services, or Ancillary Services associated with the ESS to any Person other than GPC, including the sale of any energy not dispatched by GPC.

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)*, subject to the Monthly Capacity Reduction in accordance with Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*). Other than the Monthly Capacity Payments, GPC will not owe Seller any payment or other compensation for the Facility's capacity, energy storage services, or Ancillary Services.

4.2.1. No Seller Entitlement to Payment or Other Compensation. GPC will not owe Seller any payment or other compensation for energy losses associated with Round-Trip Efficiency of the ESS.

PART 5 BILLING AND COLLECTIONS

5.1 Capacity 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 the first Month after the Delivery Commencement Date), Seller must send to GPC an invoice stating the Monthly Capacity Payment, including any Monthly Capacity Reduction, for the immediately preceding Month ("**Monthly Invoice**") under Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*). If the 10th Day is not a Business Day, Seller must send to GPC the applicable Monthly Invoice by no later than the Business Day succeeding the 10th Day. The invoice must also 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 the first Month after the Delivery Commencement Date), GPC will send to Seller an invoice stating any amount that is required to be paid by Seller to GPC, including, if applicable, any Monthly Capacity Reduction for the immediately preceding Month or annual 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*).

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 any amount not in dispute but may withhold any amount disputed in good faith until after the settlement of the question or contest in accordance with this Section 5.2.

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 to: (i) correct the Monthly 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 adjusted Monthly Invoice to dispute the correctness of any charge or credit made to GPC on the invoice. If within the one-year period, GPC has made payment under an invoice and later disputes the correctness of 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 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 Capacity Reduction except to the extent the applicable reduction or true-up 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 and any Monthly Capacity Reduction under Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*), and any other invoice, charge, or payment demand made concerning 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 A-2 (*Performance Security and Liquidated Damages*). Seller must maintain Performance Security throughout the Term and adjust its Eligible Collateral in accordance with Exhibit A-2. 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 occurs, Seller must deliver to GPC replacement Eligible Collateral to replace the Seller Guaranty: (a) in a form other than a Seller Guaranty; or (b) 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*), Seller must deliver to GPC the replacement Seller Performance Security by no later than 90 Days before the earlier to occur of: (i) the date when an increase or decrease in Eligible Collateral is required in accordance with Exhibit A-2 (*Performance Security and Liquidated Damages*); or (ii) the date when the existing Eligible Collateral will expire. However, the increase or decrease, as applicable, in Eligible Collateral will not become effective until the applicable date indicated in Exhibit A-2. 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); 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. 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 draw the full amount on the existing Eligible Collateral prior to its expiration date or 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 7.4 (*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 7.3 (*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 7.4.

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 P (*Notices*).

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

7.1 Design and Construction of the Facility. Facility Design. Seller must design and construct the ESS in accordance with the applicable specifications set forth in Exhibit E (*Facility Operating and Dispatching Requirements*) and Exhibit H (*Requirements for PPA Facility*). The Facility must be designed to allow for Grid Charging. Seller must design the Facility and otherwise complete the Project in accordance with Prudent Industry Practices and 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 is published by NERC and available at: https://www.nerc.com/pa/Stand/Reliability%20Standards/EOP-012-1.pdf.

7.1.1. ESS Design and Specifications. The ESS must be designed to deliver the Contracted Capacity (MW) over the Storage Device Discharge Duration (SDDD), delivering the entire Storage Device Operating Energy (SDOE) (MWh), as measured at the POI. The ESS must also be capable of charging at the Maximum Rate of Charge throughout the Term. Seller must maintain these energy

storage capabilities throughout the Term. Seller must design, build, and maintain the ESS with adequate margins, including any future augmentation, to demonstrate and perform to these specifications, accounting for any RTE losses, conversion losses, storage losses, efficiency degradation, or any other possible decrease in performance so that the Performance Guarantees are met over the Term. Each Month, GPC will assess the applicable Performance Metrics detailed in Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*) and calculate any Monthly Capacity Reduction. Seller must coordinate its control system design details with GPC, as GPC Representatives may request, throughout Project scoping, design, procurement, and construction to ensure that PPA requirements are met.

7.1.2. Facility Control System Design and Capabilities. Seller must design the control and data systems of the ESS to provide: (i) all real-time AGC Setpoint signals and data detailed in Exhibit F (*AGC and Facility Minimum Data Requirements*); (ii) any additional information that GPC requires to manage GPC's dispatch of the Facility's energy and capacity and to track and measure ESS performance. The ESS Operating High Limit will be updated in real time based on the Interconnection Limit (i.e. available discharge from ESS) to limit ESS operation, if applicable. The Facility control system will receive and send, every six seconds, AGC Setpoint signals to allow GPC to direct the energy input/output of the ESS. Seller must coordinate its control system design details with GPC, as GPC Representatives may request, throughout Project scoping, design, procurement, and construction to ensure that PPA requirements are met.

7.1.3. 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.

7.1.4. 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 listed criteria are fulfilled. GPC is entitled, but not required, to verify satisfaction of these criteria before GPC's acceptance of Commercial Operation:

(i) The Facility is capable of supplying all needed data, control system access, interconnection, and AGC Setpoint signals to allow GPC to dispatch the ESS;

(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 Dispatch Center;

(iii) Seller has successfully completed Performance Testing of the Facility and achieved the Performance Guarantees in accordance with Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), Part 1 (*Testing Requirements*), including a Tested Storage Capacity higher than 70% of the Contracted Capacity under Exhibit B, Section 1.1 (*Contracted Capacity Cap*);

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

(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.

7.1.5. Commercial Operation Certificate. When Seller believes the Facility achieved the Commercial Operation requirements set forth in Section 7.1.4 (*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 7.3 (*Failure to Achieve Commercial Operation by RCOD*) if GPC determines that Seller did not timely achieve Commercial Operation. Subject to Section 7.3.4 (*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 Failure to Achieve Commercial Operation by RCOD.

7.3.1. 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) 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 for an Event of Default by Seller in accordance with Section 16.3.1 (*Remedies for Event of Default*)

7.3.2. 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.

7.3.3. 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 7.3 (*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 7.3; and (ii) Seller must replenish the Performance Security. The Parties will resolve any dispute regarding delay liquidated damages under this Section 7.3 in accordance with Section 5.2 (*Billing Disputes and Final Accounting*). Each of the following events is a Seller Event of Default under Section 16.1.12 (*Abandonment or Failure to Achieve RCOD*): (a) Seller abandons, as determined by GPC, Facility development or construction before COD; (b) Seller does not achieve Commercial Operation 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; or (II) Seller will not achieve Commercial Operation by no later than nine Months after the RCOD. If GPC terminates this PPA for a Seller Event of Default under Section 16.1.12, then, in addition to Seller's payment of the delay liquidated damages that accrue under Section 7.3, Seller must pay to GPC, as the Termination Payment, termination liquidated damages in an amount equal to the applicable Performance Security amount shown in Exhibit A-2 (*Performance Security and Liquidated Damages*). Subject to Section 7.4 (*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 operational capability of the Facility for GPC's customers. Following termination, as described in the preceding sentences, and Seller's payment to GPC of all required damages in accordance with this Section 7.3, neither Party will have any other liability to the other Party under this PPA.

7.3.4. 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 the 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 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 the Interconnection Provider completes construction of the Interconnection Facilities, Seller will owe liquidated delay damages for each Day of delay after RCOD as set forth in Section 7.3.1 (*Delay Liquidated Damages*).

7.3.5. Liability Following Termination. If GPC terminates this PPA for a Seller Event of Default under Section 16.1.12 (*Abandonment or Failure to Achieve RCOD*), Seller will owe the Termination Payment under Section 16.3 (*Remedies*) 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 7.4 (*Grid Cost Improvements*). After the termination, other than the requirement for Seller to pay the damages that accrue under this Section 7.3 (*Failure to Achieve Commercial Operation by RCOD*) and Section 16.3.2 (*Gains, Losses, Costs, or Damages*), and GPC's right to draw upon the Upgrade Security in accordance with Section 7.4, neither Party will have any further liability to the other Party pursuant to this PPA.

7.3.6. Commercial Operation Delay Caused by Southern Company Transmission System Capability.

(i) RCOD Extension to Accommodate Start-Up and Testing. Subject to all conditions in this Section 7.3.6(i), the RCOD will be extended if: (a) the Facility is interconnecting to the Southern Company Transmission System; (b) as a sole and direct result of Interconnection Facilities construction delay, Facility start-up and testing activities are delayed and Seller is prevented from achieving Commercial Operation by the RCOD; (c) the Interconnection Provider is solely responsible under the IA for the Interconnection Facilities construction delay; and (d) Seller undertakes all commercially reasonable action

to avoid, overcome, or otherwise mitigate the impact of the delay. Any RCOD extension under this Section 7.3.6(i) will be based on the demonstrable impact to the critical path of the Milestone Schedule. The RCOD will not be extended if: (I) Seller has not timely complied with Section 8.1 (*Interconnection*); or (II) the delay was caused, in whole or in part, by any action or inaction on the part of Seller or a Seller Representative.

(ii) Exclusive Remedy. Seller understands and acknowledges that extension of RCOD in accordance with Section 7.3.6(i) (*RCOD Extension to Accommodate Start-Up and Testing*) will be Seller's exclusive remedy for any delay described in Section 7.3.6(i).

(iii) No PPA Term Extension. Despite any other provision in this PPA, an extension of RCOD under Section 7.3.6(i) (*RCOD Extension to Accommodate Start-Up and Testing*) will not cause an extension of the Term, and no delay described in this Section 7.3.6 will otherwise extend this PPA beyond its stated Term.

7.4 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 7.4.]

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. Contracted Capacity must not exceed the Interconnection Limit. The IA must be maintained in effect throughout the Term. Seller must promptly provide to GPC a copy of, and any amendment 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 any Interconnection Provider.

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 RCOD 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 an IA with Southern Companies, 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 interconnects 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 to the POI from the Facility to determine: (i) ESS capacity; and (ii) the measured availability of the ESS in meeting GPC's AGC Setpoint signals. The Metering System must continuously measure ESS input/output and report the values at all times. The Metering System will be of a mutually acceptable accuracy range and type,

including audit capabilities. Seller and Seller's Representatives must not adjust the Metering System without GPC's written consent. GPC, at its own cost, may 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 ESS via AGC Setpoint signals. Seller must also, at Seller's expense, install or upgrade the Facility control systems to allow GPC's AGC dispatch of the ESS. GPC will reasonably establish the telemetering equipment and systems that are necessary to dispatch the ESS from the Dispatch Center, and Seller, at Seller's expense, must install or cause the installation of such 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 the Metering System fails to register, if any seal securing the Metering System is found broken, 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, test, 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 amount then due or GPC will be entitled to a credit against any subsequent Monthly Capacity Payment.

8.2.4. Notice of Testing. GPC and its Representatives may be present at any test, inspection, maintenance, adjustment, or 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. 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 ESS CAPACITY AND PERFORMANCE TESTS

9.1 Tested Storage Capacity and Contracted Capacity. Prior to Commercial Operation, Seller will conduct, at its expense, Performance Testing as detailed in Section 1.2 (*Tested Storage Capacity; Performance Testing*) of Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*). Seller must notify GPC Representatives in advance of Seller's Performance Testing and allow GPC to witness and participate in the Performance Testing as GPC desires. Upon Seller's completion of any Performance Test, Seller must promptly provide to GPC a complete written report, in accordance with Exhibit D (*Performance Testing Procedures*), of the Performance Test, 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 Facility performance 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 19.2 (*Expert Arbitration*). If the dispute is not resolved by the first Day of any Annual Period, the relevant Tested Storage Capacity from the most recent Performance Test will be used by GPC for the Monthly Capacity Fee calculation until the dispute is resolved. After the dispute is resolved, an adjustment may be made to Monthly Capacity Payments made

regarding the Annual Period to account for any difference between the SDDC and the preceding Tested Storage Capacity from the most recent Performance Test.

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 Facility in a manner consistent with Prudent Industry Practices, considering GPC's right to dispatch the ESS, in accordance with applicable planning standards and operating policies of SERC and NERC, and in accordance with the Operating Procedures developed by the Operating Committee. The requirements of this Section 10.1.1 will not be interpreted to limit GPC's dispatch 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 Facility; (ii) the method of Day-to-Day communications; (iii) clearance and switching practices; (iv) daily capacity availability and energy reports; (v) Facility operations log; (vi) reactive power output; (vii) Technical Limits regarding Facility operation (including maximum ramp rates, (and other limits specified in Exhibit E (*Facility Operating and Dispatching Requirements*)); (viii) ramp rates for the delivery of power to the POI; (ix) coordination of maintenance scheduling; (x) designation of confidential information; and (xi) any other matters as the Operating Representatives agree are appropriate. The Operating Representatives will be responsible for modifying, from time to time, these Operating Procedures in writing to reflect agreed changes. In the event of 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 Facility during any On Peak Season of any Annual Period that would decrease the ESS: (i) capacity output below the SDDC; (ii) energy storage capability below the SDOE; (iii) rate of charge capability below the ROC, without the prior written consent of GPC. The proposed Maintenance Schedules are subject to the approval of GPC, which approval GPC will not unreasonably withhold or delay. GPC will have 30 Days to review the proposed Maintenance Schedules and may approve or reject (in whole or in part) the Maintenance Schedules. If any portion of a Maintenance Schedule is rejected by GPC, Seller must resubmit a revised Maintenance Schedule to GPC within 30 Days of 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 such changes. Any dispute concerning this Section 10.2.1 will be resolved in accordance with 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. GPC will exclude Scheduled Outages from its calculation of Performance

Metrics under Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*).

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 the percentage of SDDC and SDOE 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 need the ESS during the requested time period. GPC will have the right to revoke its consent to a Maintenance Outage if any changed condition requires the availability of the ESS. If GPC requests Seller to return to full Availability status all or part of that portion of the ESS that is affected by the Maintenance Outage, Seller must comply as soon as reasonably practical. GPC will not dispatch the ESS to the extent that the ESS is not capable of receiving or delivering energy as a direct result of a Scheduled Outage or a Maintenance Outage approved by GPC. GPC's calculation of Performance Metrics under Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*) will exclude approved Maintenance Outages.

10.2.3. Reporting of Forced Outages and Derates. Through the method required by the Operating Procedures, Seller must notify GPC promptly upon the occurrence of any Forced Outage or Forced Derate. As soon as practicable, but in any event not later than 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 SDDC and SDOE 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 may, because of the System Emergency, request Seller to reschedule the Scheduled Outage or Maintenance Outage or, if the Scheduled Outage or Maintenance Outage has begun, to expedite its completion and Seller must comply with GPC's request as soon as reasonably practical.

10.3 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, or test meters and other GPC equipment; (ii) monitor or measure energy received or delivered by the ESS in accordance with this PPA and Prudent Industry Practices; (iii) monitor Performance Tests; or (iv) inspect the Facility. Seller must cooperate in the physical inspection of the Facility as GPC may reasonably require, so long as: (a) the inspection 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 Facility will not be construed as endorsing Facility design or construction or as any warranty of the safety, durability, or reliability of the Facility.** Seller must cooperate, and must cause its Representatives to cooperate, in: (I) providing the information GPC requests; and (II) the physical inspection of the 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 Facility's decommissioning.

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

10.4.1. Holding Period. Seller must maintain all records related to the Facility 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 other 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.

10.4.2. 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, and Force Majeure Events; (iv) any unusual condition found during an inspection; and (v) any significant event related to the operation of the Facility.

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

10.4.4. 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*).

10.4.5. 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), or other applicable system, data concerning the Facility, as applicable.

10.5 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 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 Facility, all of which are the sole responsibility of Seller in accordance with the terms of this PPA, and GPC will not be deemed to have accepted any condition of the 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 or review of any material or any inspection, GPC is in any way responsible for the engineering or construction soundness or operational practice of the Facility.

10.6 Operating Committee.

10.6.1. 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 appointment to the other Party. Each Party may change its 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 are 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.

10.6.2. 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.

10.7 AGC.

10.7.1. Operation on AGC. Seller must operate the ESS and charge or discharge in compliance with GPC's AGC Setpoint signals as further described in Section 10.7.2 (*AGC Setpoint Signals*).

During periods when the AGC Setpoint is zero MW, the ESS must be controlled so that the ESS does not discharge (e.g., is in idle state).

10.7.2. AGC Setpoint Signals. At Seller's sole expense, Seller will install, operate, and maintain AGC equipment and systems at the Facility as necessary to enable the Facility to respond to and follow GPC's AGC Setpoint signals in compliance with this PPA. The Facility must be capable of remaining on AGC at all times while Available. The Facility's AGC system will include all necessary connections to GPC's AGC equipment (to GPC 's satisfaction) to enable GPC to send AGC Setpoint signals to the Facility and to measure, record, and control energy input/output from the Facility at all times. The Facility's AGC system must conform to Prudent Industry Practices and be configured to interface with GPC's AGC RTU(s) to send and receive data for AGC that satisfies the minimum data requirements in Exhibit F (*AGC and Facility Minimum Data Requirements*).

10.8 AGC Performance Requirements. Part 3 of Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*) establishes the AGC Performance Requirements. Seller must achieve the AGC Status Performance Requirement and the AGC Setpoint Response Performance Requirement for each Month of each Annual Period. Seller's failure to achieve the AGC Status Performance Requirement or the AGC Setpoint Response Performance Requirement will be an Event of Default by Seller pursuant to Section 16.1.10 (*Failure to Meet AGC Performance Requirements*).

10.9 AGC Performance Metrics. Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*) details the Performance Metrics that Seller must achieve each Month of each Annual Period during the Term. If Seller fails to achieve any required Performance Metric in a given Month, Seller's Monthly Capacity Payment will be reduced pursuant to Exhibit C.

10.10 Reactive Power. During the Term, the Facility must be capable of providing, and upon GPC's request Seller must cause the Facility to provide, reactive power support (i.e., to produce and absorb reactive power) to meet the Interconnection Provider's voltage schedule requirements outlined in Southern Company Bulk Power Operation's BPO-–01 - Attachment A, as well as meeting the operational requirements as specified in The Southern Company Bulk Power Operations Procedure BPO-01 at all real power levels (pushing and pulling), including zero real power. In the case of an ESS comprised of technology other than inverter-based technology, such requirements will apply only when the ESS is charging or discharging. For any ESS comprised of inverter-based technology, such requirements will apply at all times, regardless of whether the Facility is delivering real power.

10.11 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 ESS; GRID CHARGING

11.1 Use of ESS. Seller acknowledges and agrees that the exclusive purpose and use of the ESS is to satisfy Seller's capacity obligations under this PPA and to satisfy Seller's obligations under this PPA to charge the ESS or discharge energy to the POI in accordance with GPC's dispatch instructions.

11.2 Grid Charging. At GPC's discretion, GPC may direct Grid Charging of the ESS at any time after COD and in any amount within ESS operating limits. Any Charging Energy will be counted against the Cycle Limits when discharged.

PART 12 ENERGY DISPATCH

12.1 Energy Dispatch. GPC will issue dispatch instructions via six-second AGC Setpoint signals for the ESS electrical input and output committed under this PPA. If the AGC capability of the ESS is unavailable,

GPC may utilize non-AGC dispatching and Seller, at Seller's expense, must use commercially reasonable efforts to re-establish AGC capability.

12.2 Coordination and Dispatch.

12.2.1. Electrical Input and Output; Dispatch Instructions; IA Compliance. The electrical input and output of the ESS committed under this PPA will be subject to AGC Setpoint signals issued by GPC. Seller must comply with these signals when received.

12.2.2. Records and Energy Dispatch. GPC and Seller will maintain electronic records of the quantities of energy delivered or received each six-second period and Hour during the Term.

12.2.3. 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 AGC dispatch is not available, GPC may require Seller's personnel to operate the Facility manually, 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 12.2.3 (*System Emergency*), to take any action, or GPC takes any action, which will adversely affect Seller's ability to meet the Performance Metrics, including dispatch modified in accordance with Section 12.2.3(ii) (*Cooperation During System Emergency*), Seller may be excused from meeting GPC's AGC Setpoint signals for purposes of the Performance Metrics calculations.

(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 Effect of Grid Emergencies. The Parties recognize that, in accordance with the IA, Seller may be required to reduce the Facility's operational capability or take other actions during a Grid Emergency, including disconnection of the Facility from the Southern Company Transmission System, to allow mitigation of system problems and repair or maintenance of the Interconnection Facilities or the Southern Company Transmission System. To the extent 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 AGC Setpoint signals, Seller will be excused from meeting GPC's AGC Setpoint signals and, for the purposes of Performance Metrics calculations, such AGC intervals will be removed as appropriate.

12.4 Effect of Insufficient Capability in the Transmission System. If the Southern Company Transmission System is unable to receive Discharging Energy from the Facility, Seller will be excused from meeting GPC's AGC Setpoint signals. For purposes of Performance Metrics calculations, the AGC intervals during which the Southern Company Transmission System was unable to receive Discharging Energy will be removed.

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, 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 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) 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 of this PPA.

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 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 Point of Interconnection. 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 any 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 (*Scope of Indemnity*) 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 PPA 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.

15.2 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 permit, approval, or other Consent required 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 POI, 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 POI; (xii) the interruption, curtailment, or unavailability of service for the transmission of Discharging Energy from the Facility for any reason; or (xiii) any directive from the Interconnection Provider to curtail deliveries of Discharging Energy from the Facility or disconnect the Facility from the Electric System. Despite the preceding sentence, 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 (xiii); 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 prior to 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 COD, information reasonably required to determine the period of time the Facility, in whole or in part, is expected to be or was Unavailable because of FME for purposes of adjusting GPC's calculation of the Performance Metrics. 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 Period 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 dispatch 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 15.6 (*Requirements for Relief*), 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 ESS operational 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.

15.6.4. Reasonable Efforts to Mitigate. The affected Party will remedy its inability to perform as soon as reasonably practicable, but this Section 15.6 (*Requirements for Relief*) 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.

15.6.6. 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 an FME will continue for a period of six Months or longer following the initial suspension of performance resulting from the Force Majeure Event (an "**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 7.4 (*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 PPA obligation of Seller, 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 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 and fails to cure the failure to pay within 15 Days after receipt of written demand from GPC.

16.1.8. Storage Performance Metric Achieved Below .80. The Storage Performance Metric Achieved, as calculated by GPC in accordance with Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*), is below .80 for any three consecutive Months period; or (ii) six Months in any 12 Month period.

16.1.9. Tested Storage Capacity Below 70% Contracted Capacity; Cure; Remedies. Despite any other PPA provision, the Tested Storage Capacity, determined in accordance with a Performance Test at any time after the Delivery Commencement Date, is below 70% of the Contracted Capacity and Seller fails to: (i) submit to GPC, within 10 Days after determination by the Performance Test of the inadequate Tested Storage Capacity, a written cure plan reasonably acceptable to GPC for the inadequate Tested Storage Capacity; and (ii) cure the inadequate Tested Capacity within the Cure Period, except that the Cure Period may be extended in accordance with Section 16.1.9(i) (*Cure Period Extension*). 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 Storage 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 Storage Capacity*).

(i) Cure Period Extension. If Seller establishes a cure plan in accordance with Section 16.1.9 (*Tested Storage Capacity Below 70% Contracted Capacity*; *Cure; Remedies*) but requires a Cure Period of more than 120 Days to cure the inadequate Tested Storage Capacity, then the Cure Period will be extended for a reasonable additional period of time, which extension will not in any case exceed 60 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 60 Days, which revised cure plan and extension must 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 Storage Capacity Seller must be afforded the requested additional period of time. The total duration of the Cure Period, as extended, must not exceed 180 Days.

(ii) Requirements to Cure Inadequate Tested Storage Capacity. An inadequate Tested Storage Capacity below 70% of the Contracted Capacity, will be cured under

Section 16.1.9 only if: (i) Seller provides GPC with a written certification reasonably acceptable to GPC confirming that the inadequate Tested Storage Capacity has been cured; and (ii) the inadequate Tested Storage Capacity is increased to a value equal to or greater than 70% of the Contracted Capacity.

(iii) GPC Election. Despite Section 16.1.9, whenever a Performance Test demonstrates a Tested Storage Capacity below 70% of the Contracted Capacity and Seller fails to cure the inadequate Tested Storage Capacity as required by Section 16.1.9(ii), GPC will have the unilateral right to elect to require and receive buydown liquidated damages as specified in Section 1.3.4 of Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*) in lieu of terminating the PPA. To elect this remedy, GPC must notify Seller in writing of this election and must waive its right to declare a Seller Event of Default under Section 16.1.9 with respect to the specific event of inadequate Tested Storage Capacity. GPC's waiver is limited to the specific event of inadequate Tested Storage Capacity and does not waive any additional event.

16.1.10. Failure to Meet AGC Performance Requirements. Seller fails to achieve the AGC Status Performance Requirement or the AGC Setpoint Response Performance Requirement for: (i) any three consecutive Months period; or (ii) six Months in any 12 Month period.

16.1.11. Breach of Energy Delivery Obligation. Seller breaches its obligation to deliver energy in accordance with GPC's AGC Setpoint signals to the extent that the Facility is Available, and the breach continues for more than two Hours after GPC provides Seller with written notice of the breach.

16.1.12. Abandonment or Failure to Achieve RCOD. Seller abandons the development or construction of the Facility before COD, Seller fails to achieve Commercial Operation of the Facility 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.

16.1.13. 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 any amount 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, the 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, 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.

16.3 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 after 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 for a Seller Event of Default under Section 16.1.12 (*Abandonment or Failure to Achieve RCOD*), 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 A-2 (*Performance Security and Liquidated Damages*), prorated based on the effective date of the termination, and Seller must pay to GPC all other damages specified in Section 7.3 (*Failure to Achieve Commercial Operation by RCOD*).

16.3.3. Determining Gains, Losses, and Costs. Gains, Losses, or Costs will be determined by comparing the cost of the capacity that would be available for the remainder of the Term had this PPA not been terminated to the market price of capacity of equivalent reliability and dispatch 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 (*Remedies*). 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 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 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, dispatch 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: (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, in which event 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 7.3 (*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, 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 7.3.1 (*Delay Liquidated Damages*), Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), and Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*) will be fully enforceable by any court exercising jurisdiction over any dispute between the Parties arising under this PPA. Each Party irrevocably waives any defense available to it under applicable law or equity relating to the enforceability of the liquidated damages provisions set forth in Section 7.3.1, Exhibit B, and Exhibit C.

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 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 Facility or otherwise modify the Facility in order 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 Facility during the Term, or for other modifications to the Facility during the Term, as a direct result of a Change of Law and as necessary for the Facility as operated under this PPA to comply with the 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 facilities of the same type as the Facility as a result of the requirements of the Change of Law (taking into account differences in facility capacity and the frequency and duration of facility dispatch). Change of Law Capital Expenditures will be appropriately pro-rated based on: (i) the remaining Term divided by the useful life of the applicable capital addition or modification; and (ii) the Contracted Capacity divided by the total Facility capability, if applicable. Change of Law Capital Expenditures will be net of any cost savings to Seller resulting from the capital addition or modification.

17.1.1. 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 Facility or other modification of the Facility 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.

17.1.2. Excess Change of Law Capital Expenditures. If one or more Change of Laws 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 17.1.1 (*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 Facility (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 17.1.1. 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(s), as determined in accordance with this Section 17.1.2. 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 17.1. 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.

17.1.3. Election Notice. By no later than 365 Days after receipt of Seller's Excess Capital Expenditures Notice, GPC will inform Seller by written notice of whether GPC, in its sole discretion, accepts or rejects Seller's proposed adjustment to the Annual Capacity Price(s) 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 Price(s). Under no circumstance will GPC's rejection of a proposed adjustment to Annual Capacity Price(s) or Seller's recovery of Excess Change of Law Capital Expenditures constitute an Event of Default under Part 16 (*Default and Remedies*).

17.1.4. 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 is 30 Days after the earlier of: (a) 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.

17.1.5. Annual Capacity Price Adjustments. The Parties acknowledge that, except as provided in Sections 17.1.2 (*Excess Change of Law Capital Expenditures*), 17.1.3 (*Election Notice*), and 17.1.5 (*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 17.1.2 or Section 17.1.3 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 17.1.2 or Section 17.1.3 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.

17.1.6. New or Different Changes in Applicable Law; Payments. Seller acknowledges and agrees that except as provided in this Part 17: (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).

17.2 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.

17.3 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 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 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 17.3.

17.4 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 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://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 requirement 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 17.4. In addition, on a regular basis throughout the Term, Seller must review all "Recommended 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 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 17.4. 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.

17.5 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 Facility, 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 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.

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

17.6.1. 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 Facility or the Site with respect to the design, construction, ownership, operation, maintenance, or decommissioning of the Facility (an "**NOV**").

17.6.2. 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.

17.6.3. 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 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: (a) agree to assume Seller's PPA obligations; (b) 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 (*Seller Assignment Requirements*), without GPC's prior written consent there will be no: (i) assignment or transfer of any interest in the 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 this 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) 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 or Section 18.2, 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 (*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 Facility under Section 18.1 or Section 18.2 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 Facility that is not in compliance

with the applicable provisions of Section 18.1 or Section 18.2, 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 18.1.1(iii) (*Execution and Submission of Notice of Assignment Form*) 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 or 18.4 (*General Requirements*), 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 Facility 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 Facility, Seller represents and warrants that Seller has, and throughout the Term Seller must properly maintain, written assurances from each other owner of the Facility 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 of Dispute; Dispute Resolution Process. 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**"). This Section 19.1 will not apply to a Billing Dispute until the completion of the dispute resolution process for Billing Disputes set forth in Section 5.2 (*Billing Disputes and Financial Accounting*). 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 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 or Section 19.3, 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) Seller Event of Default under Section 16.1.9 (*Tested Storage Capacity Below 70% Contracted Capacity; Cure; Remedies*); or (iii) 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 after receipt of all filings. In the case of any dispute resolved under this Section 19.2 (*Expert Arbitration*), 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 Performance Guarantees, Monthly Capacity Payment(s) will (if necessary and as soon as practicable) be adjusted retroactively (with interest at the Interest Rate) to reflect tested performance 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: (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 GPC's application of the Performance Metrics and resulting calculation of a Monthly Capacity Payment in accordance with Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*) (each a, "**Billing Dispute**"),will be resolved by arbitration as set forth in this Section 19.3.

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 after 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: (a) 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; (b) 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 (c) 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 by either Party, or have a personal or professional relationship with Party, 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 after the 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) 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 (*Initiation of Arbitration; Selection of Arbitrators*).

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 is 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.

(ii) Considerations. The Arbitration Panel will consider the terms and conditions of this PPA, including all relevant evidence and testimony, and will render its decision (by means of a written reasoned decision) within 30 Days after the conclusion of the hearing. However, the Arbitration Panel is expressly and specifically limited to selecting one of the Proposed Resolutions provided by either Seller or 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.

(iii) 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 or Section 19.3 will take place in Atlanta, Fulton County, Georgia.

19.5 Mandatory Arbitration. Subject to Section 19.3.6 (*Arbitrator Decisions*), 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 (*JAMS Arbitration*), 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*) of this PPA.

19.6 Injunctive Relief. Despite any other provision of this Part 19, 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 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 P (*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 P. Notice under this Section 20.4 must include the GPC project identification number referenced in this PPA's title 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 P.

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

20.8 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*).

20.9 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 18.1.2 (*GPC Assignment*), in which case, such assignee will be liable for GPCs obligations arising under this PPA from and after the date of assignment.

20.10 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 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.

20.11 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 (*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 in connection with 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 with respect to 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 20.13.4 (*Public Statements or Press Releases*).

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 any 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 use of Facility Operational Data. Despite any other provision in this PPA, GPC may share Facility operational data (but not pricing information), including actual delivery 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 (*Confidentiality*) 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 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 (e.g., *Facility Operations*) or number (e.g., Part 6 (*Performance Security*)) includes all separate sections (e.g., Section 6.2 (*Replacement Collateral; Substituted Collateral; Release of Collateral*) and subsections (*e.g.*, Section 6.2.1 (*Replacement Collateral*)) within that 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 N (*Transfer of Information Acknowledgement*), and GPC agrees to the limited use and confidential treatment of the information a set forth in Exhibit N.

Each Party agrees to all terms and conditions of this PPA as of the Effective Date (the date on which GPC signs, as shown below). 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	#SellerSignatureName
#Title	#SellerSignatureTitle
Date: _____	Date: _____

EXHIBIT A – FACILITY DESCRIPTION AND ADDITIONAL DETAILS

Table A-1 **Facility and Site Information**	
Site	#Street Address# #City, #State, #ZipCode
GPS Coordinates	#Latitude, #Longitude
Seller Information	#SellerName, a #Seller Entity Type#, organized under the laws of the state of #State#
IC Number	IC-#InterconnectionID#
Facility Description	The #Number MW ESS paired with Renewable Resource at the #FacilityName, interconnected to the STT at the POI.
POI	#DescribeLocation (further described in the IA)

Table A-2 **Term, RCOD, and Delivery Commencement Date**	
Term	#NumberBetweenFiveAndTwenty Annual Periods
RCOD:	#Month #Day, #Year
Delivery Commencement Date:	#DateNineMonthsBeforeRCOD

[NOTE TO BIDDERS: Term of 5, 10, 15, or 20 Annual Periods based on Delivery Commencement Date.]

Table A-3 **Additional Facility and Operating Information**	
A	#____# (%) Round-Trip Efficiency (RTE)*
B	#____# (Hours) Storage Device Design Duration (SDDD) (minimum 4 Hours)*
C	#____# (MWh) Storage Device Operating Energy (SDOE) – per Cycle*
D	#____# (MW) Maximum Rate of Charge (ROC)*

E	#____# (MW) Storage Device Design Capacity (SDDC) (continuous discharge)*
F	#____# (MW) Contracted Capacity (Equal to (E) above and remains unchanged for the Term)
G	#____# (#) Daily Cycle Limits
H	#____# (#) Cycle Limit (per Annual Period – minimum 365)
I	#____# (MW) Interconnection Limit

***** NOTE: Starred items will be Seller Performance Guarantees used by GPC in evaluating ESS performance.

The Facility includes the following: [Description to be provided by Seller and conformed to the Bid]

(For example, storage facility technology type, number and arrangement of cells and inverters, round-trip efficiency, etc.)

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

[Note to Bidders: This Key Milestones and Required Key Milestone Dates Exhibit revised to reflect Key Milestones applicable to the Facility and project prior to PPA execution.]

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: • GSU • Switchyard equipment • Generator • ESS components 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

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

		level 3 critical path method schedule that supports the RCOD.
All 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 the following occurred: (i) Seller obtained and has closed on all financing arrangements necessary to obtain funds for the anticipated cost of completing construction of the Facility; (ii) all conditions precedent to the availability of funds pursuant to such financing arrangements have been satisfied or waived by the applicable parties (other than customary conditions to each drawdown of a construction loan), and such funds (subject to customary conditions to each drawdown of a construction loan) will be made available for disbursement to Seller; and (iii) an officer of Seller 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		

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)[1]
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)[2]**

[1] All amounts shown as $/kW will be calculated based on the Facility's Contracted Capacity.

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

PART 1. TESTING REQUIREMENTS

1.1. Contracted Capacity Cap. Throughout the Term, SDDC will be capped at the Contracted Capacity.

1.2. Tested Storage Capacity; Performance Testing.

1.2.1. Pre-COD Performance Testing. Pre-COD Performance Testing will be conducted in accordance with Section 1.2.2 (*Performance Testing*) and Exhibit D (*Performance Testing Procedures*) to establish the tested performance of the ESS for the Performance Guarantees stated as A – E in Table A-3 of Exhibit A (*Facility Description and Additional Details*). For Commercial Operation to be accepted by GPC, the tested performance of the ESS must equal or exceed the corresponding Performance Guarantee, except to the extent of a buydown payment made by Seller in accordance with Section 1.3 (T*ested Storage Capacity Below SDDC; SDDC Buydown*) for SDDC. In addition to Performance Testing, Seller must successfully complete any testing required by the IA and any required ESS AGC dispatch testing.

A. Except as described in Section 1.3 (*Tested Storage Capacity Below SDDC; SDDC Buydown*), no Performance Test result will change any Performance Guarantee. All Performance Metrics will compare actual performance to the Performance Guarantees. Seller will not receive any additional compensation for tested or actual ESS performance that exceeds any of the Performance Guarantees.

B. As stated in Section 1.2.1 (*Pre-COD Performance Testing*), GPC acceptance of Commercial Operation is contingent on Seller meeting or exceeding all Performance Guarantees. Subject to Seller's option to buydown SDDC under Section 1.3.4.A, if Performance Testing demonstrates that Seller failed to meet or exceed any Performance Guarantee, Seller must cure the performance deficiency to meet or exceed the Performance Guarantee.

1.2.2. Performance Testing. Seller must conduct Performance Testing in accordance with Exhibit D to demonstrate that SDDC and all other Performance Guarantees are met. To demonstrate the ESS capability, Performance Tests will measure the maximum output of the ESS at the POI over the SDDD as well as the moment-to-moment variability of energy discharged from the ESS. The moment-to-moment variability of energy discharged from the ESS as determined in the Performance Test will determine if the tested performance of the ESS meets or exceeds the Performance Guarantees specified in Exhibit A. Performance Testing must demonstrate that the Facility can operate autonomously, without human intervention, during the charging and discharging Cycles and that the thermal management system performs as required. Prior to COD, Seller must not begin Performance Testing until Seller confirms the Facility is ready for Performance Testing, including confirmation that all commissioning is complete, all equipment is operational, and all activities to confirm ESS health and balancing are complete. Throughout the Term, if GPC requests that Seller conduct additional Performance Testing, Seller must conduct additional Performance Testing to confirm the ESS meets the Performance Guarantees. No later than 10 Days after receipt of a GPC request for Performance Testing, Seller must notify GPC of when the Performance Test will be conducted. Seller must conduct Performance Testing no later than 30 Days after receipt of GPC's request.

1.2.3. GPC Election; No Waiver. GPC in its sole discretion may elect to waive any Performance Test requirement. Any GPC election to waive any Performance Testing

requirement will not waive any Performance Testing requirement for future Performance Tests or otherwise relieve Seller from any Performance Guarantee obligation.

1.2.4. Test Charge/Discharge Energy Price Prior to Commercial Operation Date. For all Charging Energy prior to COD, GPC will sell and Seller will receive and purchase Charging Energy at the Test Charge Energy Price. For all energy delivered to the POI from the ESS prior to COD, but not after the RCOD, GPC will receive and purchase such energy from Seller at the Test Discharge Energy Price. After the RCOD, GPC will not pay Seller for any test energy delivered to the POI.

1.3. Tested Storage Capacity Below SDDC; SDDC Buydown. This Section 1.3 applies to Tested Storage Capacity only and not to any other Performance Guarantee. During the Performance Test, Tested Storage Capacity must prove continuous and steady output from the ESS at the SDDC over the entire SDDD. In the event the Performance Test fails to demonstrate the Tested Storage Capacity is equal to or greater than the SDDC over the entire SDDD Seller must remedy the failure per the provisions in this section.

1.3.1. Cure Plan and Cure Period. In addition to and without limiting the remedies available to GPC under PPA Section 16.1.9 (*Tested Storage Capacity Below 70% Contracted Capacity; Cure; Remedies*), if a Performance Test indicates that the Tested Storage Capacity, including continuous output over the SDDD, is less than SDDC but greater than or equal to 70% of Contracted Capacity, Seller must, by no later than 10 Days after the Performance Test date, submit to GPC a written cure plan for increasing the Tested Storage Capacity to the Contracted Capacity. Seller's cure plan must be acceptable to GPC and include a reasonable Cure Period during which Seller will conduct additional Performance Tests. Except as permitted under Section 1.3.1.A (*Cure Period Extension*), the Cure Period must not exceed 120 Days.

A. Cure Period Extension. If Seller establishes a cure plan under this Section 1.3.1 (*Cure Plan and Cure Period*) but requires a Cure Period of more than 120 Days to cure the inadequate Tested Storage Capacity from the most recent Performance Test, then GPC may agree to extend the Cure Period for a reasonable additional period of time, but the extension will not exceed 180 Days. As a condition to GPC granting the Cure Period extension, by no later than 15 Days before the expiration of the initial Cure Period, Seller must provide to GPC:

(i). A revised cure plan, acceptable to GPC, setting forth a reasonable extension of the Cure Period, not to exceed 180 Days; and
(ii). A written certification, acceptable to GPC, confirming that for Seller to cure the inadequate Tested Storage Capacity Seller must be afforded the requested additional amount of time.

1.3.2. Cured Inadequate Tested Storage Capacity. The inadequate Tested Storage Capacity will be deemed cured under this Section 1.3 (*Tested Storage Capacity Below* SDDC*; Capacity Buydown*) only if: (i) Seller provides GPC with a written certification, reasonably acceptable to GPC, confirming that the inadequate Tested Storage Capacity has been cured; and (ii) the Tested Storage Capacity, as demonstrated by the most recent Performance Test, is increased to a value equal to or greater than the Contracted Capacity.

1.3.3. SDDC during a Cure Period. During any Cure Period or Cure Period extension, the SDDC will be deemed to be the Tested Storage Capacity determined in accordance with the most recent Performance Test, but the SDDD will not be reduced. The ROC and SDOE will adjust proportionately to the reduction of SDDC.

1.3.4. Failure to Cure Inadequate Tested Storage Capacity Above 70% Contracted Capacity; Buydown Liquidated Damages. If Seller fails to: (i) establish the cure plan within the required 10-Day period set forth in Section 1.3.1 (*Cure Plan and Cure Period*) or, if applicable, establish the revised cure plan within the required 15-Day period set forth in

Section 1.3.1.A (*Cure Period Extension*) for a Cure Period extension; or (ii) diligently implement the cure plan (including implementation of actions as GPC may reasonably request); or (iii) cure the inadequate Tested Storage Capacity within the applicable Cure Period, the SDDC will be deemed to be the Tested Storage Capacity demonstrated in the most recent Performance Test.

A. Buydown Liquidated Damages. Seller will have a one-time option to adjust SDDC by paying GPC, as liquidated damages, the buydown payment shown in Table B-1 (*Buydown Payment for Capacity Reduction Below SDDC*) corresponding to the Annual Period following the Annual Period in which the most recent Performance Test was conducted, based on the difference (in kW) between the Contracted Capacity and the Tested Storage Capacity from the most recent Performance Test. Upon Seller making the buydown payment required under this Section 1.3.4.A (*Buydown Liquidated Damages*), the SDDC will be deemed to be the Tested Storage Capacity demonstrated in the most recent Performance Test. However, any reduction of the SDDC will not limit or modify GPC's rights and remedies under PPA Section 16.1.9 (*Tested Storage Capacity Below 70% Contracted Capacity; Cure; Remedies*). Subject to PPA Section 16.1.9 the payment of buydown liquidated damages under this Section 1.3.4.A will be GPC's exclusive remedy for the reduction of the SDDC to the Tested Storage Capacity from the most recent Performance Test. Seller will only be allowed to reduce SDDC once during the Term. Seller's buydown of SDDC will not lower Contracted Capacity.

1.3.5. [Note to Bidders: Table B-1 will be populated using the applicable amounts stated in Table # of RFP Exhibit #.]

Table B-1	
Buydown Payment for Capacity Reduction below Contracted Capacity	
Annual Period	**Buydown Payment ($/kW)**
1-5	#Amount
#6-10	#Amount
#11-15	#Amount
#16-20	#Amount

If SDDC is reduced as set forth in Section 1.3. (*Tested Storage Capacity Below SDDC; SDDC Buydown*), and, after the SDDC reduction, Seller restores the ESS capacity to a value equal to or greater than the Contracted Capacity, then: (i) GPC will not be required to refund to Seller any buydown liquidated damages Seller paid under Section 1.3.4.A; and (ii) Seller may offer the restored capacity, up to the Contacted Capacity, to GPC at the Annual Capacity Price and in accordance with the payment terms set forth in Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*). If GPC accepts Seller's offer, the SDDC will be increased by an amount equal to the portion of the restored capacity accepted by GPC, not to exceed the Contracted Capacity. Any adjustment to SDDC will be documented in the Operating Procedures.

EXHIBIT C – MONTHLY CAPACITY PAYMENTS; MONTHLY CAPACITY REDUCTIONS; AGC PERFORMANCE METRICS AND REQUIREMENTS

PART 1. PRICING

1.1. Capacity Pricing. Commencing on the Delivery Commencement Date, the "**Annual Capacity Price**" for the first Annual Period will be $#Price/kW-year and will increase per Table C-1 below on December 1 of each Annual Period thereafter, as follows:

Table C-1
Annual Capacity Price

Annual Period	($/kW-year)

The Annual Capacity Price will include all costs, including operation and maintenance charges for the Facility.

1.2. Monthly Capacity Payment.

1.2.1. Monthly Capacity Payment. For each Month of each Annual Period, GPC will pay to the Seller the "**Monthly Capacity Payment (MCP)**" calculated as follows:

MCP = MCF – MCR

Where:

MCF = Monthly Capacity Fee, determined as follows:

MCF = SDDC * (ACP * 1000) * MVF

Where:

SDDC = Storage Device Design Capacity, as may be adjusted pursuant to Exhibit B Section 1.3. (*Tested Storage Capacity Below SDDC; SDDC Buydown*).

ACP =The applicable Annual Capacity Price (in $/kW-year) set forth in Table C-1.

MVF =The applicable Monthly Value Factor from Table C-2 (*Monthly Value Factor (MVF)*).

MCR = The Monthly Capacity Reduction for the Month determined in accordance with Section 2.1 (*Monthly Capacity Reduction*).

1.2.2. Pro Rata MCP Calculation. 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, GPC will calculate the MCP on a pro rata basis.

1.2.3. MVF; GPC Right to Modify. The Monthly Value Factor for each Month is stated in Table C-2 (Monthly Value Factor (*MVF*). Despite the Monthly Value Factors in Table C-2 (*Monthly Value Factor (MVF)*), for any given Annual Period, GPC will be entitled, in GPC's sole discretion, to modify the Monthly Value Factor for any Month by providing notice to Seller, so long as: (i) GPC provides Seller notice at least 180 Days before the start of the Annual Period; (ii) each Monthly Value Factor is at least equal to 0.01; and (iii) the sum of all Monthly Value Factors for each Annual Period equals 1.0.

Table C-2
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

1.3. No GPC Payment Obligation Before RCOD. GPC will not owe Seller: (i) any payment or other compensation for the capacity of the Facility for any Month before the Delivery Commencement Date even if Seller achieves Commercial Operation of the Facility before the RCOD.

PART 2. MONTHLY CAPACITY REDUCTIONS; ESS PERFORMANCE METRICS.

2.1. Monthly Capacity Reduction. At the end of each Month, GPC will determine the Monthly Capacity Reduction as follows:

MCR = the sum of: (i) SPR; and (ii) RTE Performance Reduction

Where:

SPR = the Storage Performance Reduction for such Month as determined in Section 2.2; and

RTE Performance Reduction = RTE Performance Reduction for such Month as determined in Section 2.4

2.2. Storage Performance Reduction. For purposes of this Section 2.2, GPC will determine the Storage Performance Reduction ("**SPR**") for each Month in accordance with Table C-3 below, based on the Storage Performance Metric Achieved for such Month.

Table C-3
Storage Performance Reduction

Storage Performance Metric Achieved	Storage Performance Reduction
Storage Performance Metric Achieved ≥ 0.96	No reduction
0.96 > Storage Performance Metric Achieved ≥ 0.80	(1.0 - Storage Performance Metric Achieved) * 4 * MCF($)
0.80 > Storage Performance Metric Achieved	1.0 * MCF($)

2.3. Storage Performance Metric Achieved. For purposes of determining the Storage Performance Reduction in Table C-3 above, GPC will determine the Storage Performance Metric Achieved for the Month by calculating the average of two components: (i) Energy Storage Performance Metric; and (ii) Charge/Discharge Rate Performance Metric. The two components will be calculated as follows:

2.3.1. Energy Storage Performance Metric. GPC will calculate the Energy Storage Performance Metric for each Month as follows:

$$\textbf{Energy Storage Performance Metric} = \left[\frac{\sum_{i=1}^{n} \text{Daily Minimum Storage Capability}_{i}}{\sum_{i=1}^{n} \text{SDOE}_{i}}\right]$$

Where:

n = total number of Days in the Month, excluding any Scheduled Outage or Maintenance Outage Day;

i = each Day in the Month, excluding any Scheduled Outage or Maintenance Outage Day;

Daily Minimum Storage Capability (MWh) = The Daily Minimum Storage Capability (which is capped at SDOE) Available given any limitation conveyed by Seller or as determined by GPC from Seller's non-compliance with GPC's AGC Setpoint signals; and

SDOE = Storage Device Operating Energy, as defined in the Definitions.

The Energy Storage Performance Metric will not exceed 1.0. Seller must provide GPC real-time access to telemetry data, as described in Exhibit F (*AGC and Facility Minimum Data Requirements*), from Seller's control system to facilitate GPC's calculation of these metrics. The Daily Minimum Storage Capability time tolerances will be detailed in the Operating Procedures. If applicable, the Operating Procedures will detail how the Energy Storage Performance Metric will be calculated for partial ESS Availability during Scheduled Outages and Maintenance Outages.

2.3.2. Charge/Discharge Rate Performance Metric. The Charge/Discharge Rate Performance Metric will be calculated for each Month as follows: (Note: all negative values will be converted to absolute values for calculation of this metric):

$$\textbf{Charge/Discharge Rate Performance Metric} = \left[\frac{\sum_{i=1}^{n} \text{Daily Minimum Charge/Discharge Rate Limit}_{i}}{\sum_{i=1}^{n} \text{Maximum Rate of Charge or Discharge}_{i}}\right]$$

Where:

n = total number of Days in the Month, excluding any Scheduled Outage or Maintenance Outage Day;

i = each Day in the Month, excluding any Schedule Outage or Maintenance Outage Day;

Daily Minimum Charge/Discharge Rate Limit (MW) = the lower of: (i) the smallest rate at which the ESS can be charged (MW) on the applicable Day ("**Daily Minimum Charge Rate Limit**"); or (ii) the smallest rate at which the ESS can be discharged (MW) on the applicable Day ("**Daily Minimum Discharge Rate Limit**"). For both numbers, any rate reduction or limit will either be reported by Seller or determined by GPC from Seller's non-compliance with AGC Setpoint signal determination criteria (as detailed in the Operating Procedures). The Daily Minimum Charge/Discharge Rate Limit will be capped at the amount of the denominator in the above calculation for each applicable Day; and

Maximum Rate of Charge or Discharge (MW) = The guaranteed daily instantaneous rate at which the ESS can be charged or discharged, for the applicable Day. For this calculation, GPC will use either: (i) the Maximum Rate of Charge if the numerator is the Daily Minimum Charge Rate Limit above for the applicable Day; or (ii) the maximum rate of discharge if the numerator is the Daily Minimum Discharge Rate Limit above for the applicable Day. For this calculation, the maximum rate of discharge will be SDDC.

The Charge/Discharge Rate Performance Metric for a Month will not exceed 1.0. Seller must provide GPC real-time access to telemetry data, as described in Exhibit F (*AGC and Facility Minimum Data Requirements*), from Seller's control system to facilitate GPC's determination of these metrics. If applicable, the Operating Procedures will detail how the Charge/Discharge Rate Performance Metric will be calculated for partial ESS Availability during Scheduled Outages and Maintenance Outages. In all cases, GPC retains sole discretion to determine and apply final rules and methodologies to make Daily Minimum Storage Capability determinations and Daily Minimum Charge/Discharge Rate Limit

determinations.

2.4. Round-Trip Efficiency Reduction. GPC will determine the RTE Performance Reduction for each Month in accordance with Table C-4 below, based on the Monthly RTE for such Month.

Table C-4 **RTE Performance Reduction**	
Monthly RTE	**RTE Performance Reduction**
Monthly RTE ≥ (Guaranteed RTE – 0.01)	No reduction
(Guaranteed RTE – 0.01) > Monthly RTE	Reduction per RTE Performance Reduction formula below

RTE Performance Reduction =

$$\sum_{i=1}^{n} [(\text{Guaranteed RTE} - \text{Monthly RTE}) * (\text{Charging Energy}_i) * \text{AIER}_i]$$

Where:

n = total number of Hours in the Month, excluding any Hour of Scheduled Outage or Maintenance Outage;

i = each Hour in the Month, excluding any Hour of Scheduled Outage or Maintenance Outage;

Charging Energy = as defined in the Definitions; measured at, or adjusted to, the POI;

AIER = Associated Interchange Energy Rate, as defined in the Definitions.

Guaranteed RTE = as defined in the Definitions.

For purposes of determining the RTE Performance Reduction, GPC will calculate the Monthly RTE as follows:

$$\text{Monthly RTE} = \frac{Total\ Discharging\ Energy\ for\ the\ Month}{Total\ Charging\ Energy\ for\ the\ Month}$$

NOTE: Both the numerator (MWh) and denominator (MWh) for the Monthly RTE calculation may be determined by pro-ration or other methods deemed appropriate by GPC. GPC will also make appropriate adjustments for stored energy at the beginning and end of each Month. For the Monthly RTE calculation: (i) if there is no Charging Energy during the Month, total Discharging Energy will be the denominator; and (ii) if there is no Discharging Energy for the Month, total Charging Energy will be the numerator. GPC will exclude from its Monthly RTE calculations any Month where there is no Charging Energy and no Discharging Energy.

Seller must provide GPC real-time access to telemetry data, as described in Exhibit F (*AGC and Facility Minimum Data Requirements*), from Seller's control system to facilitate GPC's calculation of these metrics.

2.5. Unavailability Periods. GPC retains sole discretion to determine if any Unavailability Period impacted any Performance Metric in any Day.

PART 3. AGC PERFORMANCE METRICS AND REQUIREMENTS

3.1. Monthly AGC Status and Setpoint Requirements. Seller is responsible for achieving the AGC Status Performance Requirement and the AGC Setpoint Response Performance Requirement for each Month.

3.1.1. If Seller fails to achieve the AGC Status Performance Requirement for: (i) any three consecutive Month period; or (ii) six Months in any 12 Month period, then Seller's failure to satisfy the AGC Status Performance Requirement will be an Event of Default.

3.1.2. If Seller fails to achieve the AGC Setpoint Response Performance Requirement for: (i) any three consecutive Month period; or (ii) six Months in any 12 Month period, then Seller's failure to satisfy the AGC Setpoint Response Performance Requirement will be an Event of Default.

3.2. Calculating AGC Status and Setpoint Requirements. At the end of each Month, GPC will determine for the ESS: (i) the AGC Status Performance Requirement by calculating the AGC Status Performance Metric; and (ii) the AGC Setpoint Response Performance Requirement by calculating the AGC Setpoint Response Performance Metric.

3.2.1. AGC Status Performance Requirement. The AGC Status Performance Requirement for each Month is that the AGC Status Performance Metric for the Month must equal 0.90 or greater. GPC will calculate the AGC Status Performance Metric for each Month as follows:

$$\textbf{AGC Status Performance Metric} = \left[\sum_{i=1}^{n}\left(\frac{\text{AGC Status}_i}{n}\right)\right]$$

Where:

n = total 6-second AGC periods in the Month.

i = 6-second data point; and,

"AGC Status" = "1" if the ESS is in AGC mode and capable of responding to GPC's AGC Setpoint signal, or "0" if the ESS is not in AGC mode and is not capable of responding to GPC's AGC Setpoint signal.

3.2.2. AGC Setpoint Response Performance Requirement. The "**AGC Setpoint Response Performance Requirement**" for each Month is that the Root Mean Squared Error ("**RMSE**") for the Month must be less than or equal to 5. The RMSE for each Month will be calculated as follows:

$$\text{RMSE} = \sqrt{\frac{\sum_{i=1}^{n}(\text{AGC Setpoint}_i - (\text{ESS Input/Output})_i)^2}{n}}$$

Where:

n = Total 6-second AGC periods in the Month for which there is a non-zero AGC Setpoint signal;

i = 6-second data point; and,

AGC Setpoint = AGC Setpoint value (MW) for the 6-second AGC period;
ESS Input/Output = The energy (MW) either delivered from the ESS or to the ESS for the 6-second AGC period;
Any 6-second period during which the AGC Setpoint signal = 0 will be excluded from the calculation of ESS RMSE.

EXHIBIT D – PERFORMANCE TESTING PROCEDURES

PART 1. PERFORMANCE TESTING SUMMARY

1.1. Performance Testing Duration. Performance Testing will consist of three full Cycles carried out over three Days. The three Cycles must be completed within five Days after Performance Testing begins. Results of the test must be calculated for each Cycle and then averaged over the three Cycles. Each parameter must meet or exceed the guarantee. The ESS must be able to maintain constant power at the POI for the duration of the charge and discharge. A charge Cycle starts when the output at the POI is equal to or greater than 98% of the ROC. The ESS must maintain constant power at the POI for the duration of the charge Cycle.

1.2. Charge/Discharge Cycles. The output must not deviate more than 2% from ROC. The charge Cycle ends when the ESS reaches 100% of SDOE or output at the POI drops below 98% of ROC for two minutes. None of the energy below 98% of ROC will be included in the Performance Testing calculations. The ESS will rest for 30 minutes between the end of the charge Cycle and start of the discharge Cycle. The discharge Cycle will start when output at the POI is at least 98% of the SDDC. The output at the POI should not deviate more than 2% from the SDDC during the discharge cycle. The discharge Cycle ends when the ESS reaches zero % of SDOE or the output at the POI drops below 98% of SDDC for two minutes. None of the energy below 98% of the SDDC will be included in the Performance Testing calculations. The ESS may rest and then be charged to a suitable SOC to rest overnight for the next Cycle the following Day. All relevant data points must be recorded in one-minute increments and the raw data must be made available three Days after conclusion of Performance Testing. A report including all Performance Testing calculations and a summary of results must be submitted to GPC five Days after conclusion of Performance Testing.

[Remainder of procedures to Be Agreed Upon by the Parties]

EXHIBIT E – FACILITY OPERATING AND DISPATCHING REQUIREMENTS

PART 1. SELLER REQUIREMENTS:

1.1. Seller is responsible for:

i. Discharging and charging of the ESS in accordance with the real-time directions provided by GPC through AGC Setpoint signals;

ii. All other aspects of operation and maintenance of the Facility in accordance with Prudent Industry Practices and applicable law;

iii. Complying with requirements contained in the IA, including operation and performance validation requirements;

iv. Adhering to all operational data, interconnection, and telemetry requirements applicable to the Facility; and

v. Promptly and accurately communicating to GPC any and all ESS outage, derate, or other operational limitation via GPC's specified data systems including the REM application or other data systems as GPC chooses, and also via Gencomm messages, E-mails, and phone calls as requested and specified in the Operating Procedures.

PART 2. DISPATCH.

2.2. During the Term, the Parties agree to the following parameters for the dispatch of the ESS:

i. Seller must not charge or discharge the ESS except as specifically directed by GPC or with specific prior authorization by GPC.

ii. GPC will control the disposition of all energy going into and out of the ESS using its 6-second AGC Setpoint signals.

iii. GPC will be able to request that the ESS be dispatched up to the Cycle Limit. GPC will track Cycles and ensure it remains in compliance with these requirements.

iv. The ESS must be capable of receiving and responding to AGC Setpoint signals from GPC and allow GPC to monitor, measure, and record the State of Charge, charge rate, and discharge rate at all times in accordance with the AGC requirements defined herein.

v. In the event of an AGC disruption, GPC will communicate desired ESS operations to Seller and Seller must comply with GPC's requests manually to the best of Sellers ability.

vi. In no event will energy delivered from the ESS exceed the lesser of the SDDC or the Interconnection Limit.

vii. Seller must ensure that the ESS satisfies all operational and performance requirements under the IA, including when the ESS is discharging (during cycling or otherwise).

PART 3. CHARGING OF THE ESS.

3.1. During the Term, the Parties agree to the following parameters for charging the ESS:

ii. GPC will have full control of the disposition of all energy directed into the ESS at no additional cost and the right to charge the ESS that may result in Charging Energy.

iv. GPC will request the ESS use Charging Energy at any time and in any amount that GPC specifies up to the Maximum Rate of Charge or until the State of Charge equals SDOE or the Maximum Operational State of Charge Limit.

3.2. Communications. Real time communications between the Seller and GPC are required with respect to the ESS and the Renewable Resource. Seller must have the capability to and continuously communicate the status of the ESS to GPC in real time.

EXHIBIT F – AGC AND FACILITY MINIMUM DATA REQUIREMENTS

Seller is responsible for operating the ESS and receiving and delivering energy in compliance with GPC's AGC Setpoint signals. Seller must telemeter at all times during the operation of the ESS, and GPC's AGC Setpoint signal will include the maximum Rate of Change as a limiting factor for changes in energy output. For purposes of this Exhibit G, the "**Rate of Change**" is the real-time maximum ramp rate when increasing or decreasing output (accounting for any equipment or operational issues that may affect such ramp rate).

The Facility's AGC system must be configured to interface with GPC's AGC RTU to send and receive the following data for AGC:

PART 1. ESS (STANDALONE) DATA POINTS

1.1. From GPC to Facility

1.1.1. ESS Setpoint (MW)

1.2. From Facility to GPC

1.2.1. All High-Side (Transmission Level 46kV & above) device analog measurements (at POI)

- **A.** ESS net output AC MW (positive for discharging, negative for charging)
- **B.** ESS net output AC MVAR
- **C.** Three-phase voltage (kV)
- **D.** Three-phase current (A)

1.2.2. All High-Side (Transmission Level 46kV & above) device status (Breakers, Switches, disconnects states (Open, Close, etc.)

1.2.3. All Low-Side (34.5 kV) collector system analog measurements

- **A.** Individual Feeder Aggregated ESS output AC MW
- **B.** Individual Feeder Aggregated ESS output AC MVAR
- **C.** Three-phase voltage (kV)
- **D.** Three-phase current (A)
- **E.** Reactive device output MVAR (if applicable)

1.2.4. All Low-Side (34.5 kV) collector system device status (ON/OFF)

- **A.** Individual BESS Feeder Breaker status
- **B.** Reactive device breaker status (LTC, shunts, dynamic reactive devices, etc.)
- **C.** Reactive device circuit switcher status (if applicable)

1.2.5. Gross ESS DC MW (positive for discharging, negative for charging)

1.2.6. Plant Voltage Regulation Mode Status (Auto/Manual)

1.2.7. Reactive Support (MVARs) at Zero power Status (ON/OFF)

1.2.8. ESS AGC Status (True/False)

1.2.9. Present State of Charge (MWh)

1.2.10. ESS Maximum Operational State of Charge limit (MWh)

1.2.11. Minimum Operational State of Charge limit (MWh)

1.2.12. Discharge Time (estimated discharge time based on remaining energy and current discharge rate)

1.2.13. Charge Time (estimated charge time based on remaining energy capacity and current charge rate)

1.2.14. ESS Discharge Rate [Operating High Limit (MW)]

1.2.15. ESS SDDC [High Limit (MW)]

1.2.16. ESS Charge Rate [Operating Low Limit (MW)]

1.2.17. ESS Maximum Rate of Charge [Low Limit (MW)]

1.2.18. AGC Ramp Rate Increase (+MW/min)

1.2.19. AGC Ramp Rate Decrease (-MW/min)

1.2.20. Average Site Cell Temperature, if available (°C)

1.2.21. % of stack in service

1.2.22. Station Service & Auxiliary Operational Load (MW)

1.2.23. ESS Setpoint Feedback (MW)

1.2.24. Number/percentage of inverters injecting or absorbing power

1.2.25. Number/percentage or inverters available

1.2.26. Number/percentage of inverters offline (e.g., out of service, unit protection trip, momentary cessation, high voltage trip etc.)

PART 2. GENERAL FLOW OF AGC

The resource will send every scan of all its points to GPC (via EMS) and likewise, EMS will update its points every scan. Seller will place the resource on AGC when available for remote control and will echo back to EMS what it has received for the AGC Setpoint.

The ESS is to remain on AGC and available for dispatch when available for dispatch regardless of output. For the avoidance of doubt, AGC will send AGC Setpoints at zero MW during periods where the desired output is zero MW and the Facility online and available for dispatch. A zero MW ESS AGC Setpoint will result in the ESS going to idle and controls should be implemented to ensure the ESS is not discharging when a zero MW AGC setpoint is dispatched to offset any station service at the POI.

PART 3. EXPLANATION OF POINTS

3.1. ESS Setpoint (MW)

3.1.1. This will be a value up to the ESS Discharge Rate for the ESS device in a positive (discharge) direction or to the ESS Charge Rate in a negative (charge) direction. Site to regulate to meet this value at the POI.

3.2. Facility Voltage Regulation Mode Status (Auto/Manual)

3.2.1. This provides status of the voltage control mode and if the Facility's controller is regulating the POI voltage. Its normal state will be in Auto.

3.3. Facility Reactive Support (MVAR) at Zero power status (ON/OFF)

3.3.1. This status indicates the Facility's capability to produce reactive power (MVARs) when at zero active power. Its normal state will be at OFF.

3.4. Gross ESS DC MW

3.4.1. Aggregated Gross ESS DC MW at the ESS. This is the actual DC MW entering the ESS or being discharged from the ESS to the power conversion station. Positive to indicate discharging, Negative to indicate charging.

3.5. ESS Setpoint Feedback (MW)

3.5.1. This is an echo of the value received from EMS for the EMS setpoint.

3.6. ESS AGC Status

3.6.1. This will be an integer value that will range from 0 to 1. A '0' value will indicate the ESS is on local control and a '1' will indicate the ESS is available for AGC remote control.

3.7. Present State of Charge (MWh)

3.7.1. This will be a value representing the actual State of Charge and range from 0 to the SDOE for the device.

3.8. ESS Maximum Operational State of Charge limit (MWh)

3.8.1. This will be a value indicating the maximum usable State of Charge capability for the ESS. This is a calculated value inclusive of any de-rates or equipment issues and not the nameplate to give the operating range of the system. This value should indicate the maximum usable energy and indicates the amount of AC MW that can be discharged to the POI. For clarity, this is not the amount of DC MW that is stored in the ESS. AGC should be able to dispatch the ESS from the Maximum Operational State of Charge to the Minimum Operational State of Charge. IF there are no operational constraints, this value should be equal to the SDOE.

3.9. ESS Minimum Operational State of Charge limit (MWh)

3.9.1. This will be a value indicating the minimum usable State of Charge capability for the ESS. This is a calculated value inclusive of any limiting operational issues and not the nameplate to give the operating range of the system. A value of 0 MWh should indicate the bottom range of usable energy, not necessarily the absolute lowest energy level of the ESS device. AGC should be able to dispatch the ESS from the Minimum Operational State of Charge to the Maximum Operational State of Charge.

3.10. ESS Discharge Time (minutes)

3.10.1. Estimated time to discharge the ESS to the Minimum Operational State of Charge Limit based on the remaining energy and current discharge rate.

3.11. ESS Charge Time (minutes)

3.11.1. Estimated time to charge the ESS to the Maximum Operational State of Charge Limit based on the remaining energy and current charge rate.

3.12. ESS Discharge Rate [Operating High Limit (MW)]

3.12.1. This will be a value indicating the real-time maximum rate of power that the ESS device can discharge. Discharged power is provided as a positive (+) value. This value is dependent on the state of the system (inclusive of any derated equipment or abnormal conditions). If the ESS device is part of a Co-Located Facility, this value will need to take into consideration the POI Limit.

3.13. ESS SDDC [High Limit (MW)]

3.13.1. The guaranteed amount of ESS storage capacity allocated to GPC under this PPA and that represents the guaranteed continuous discharge capability of the ESS for the Storage Device Discharge Duration. This will be a value indicating the maximum rate of power that the ESS device can discharge provided as a positive (+) value. This is independent of the state of the system or any de-rates.

3.14. ESS Charge Rate [Operating Low Limit (MW)]

3.14.1. This will be a value indicating the real-time minimum rate of power that the ESS device can achieve when charging. This will be provided as a negative (-) value. This value is dependent on the state of the system (inclusive of any derated equipment or abnormal conditions).

3.15. ESS Maximum Rate of Charge [Low Limit (MW)]

3.15.1. The Maximum Rate of Charge of the ESS. This will be a value indicating the maximum rate of power that the ESS device can be charged at, from zero MWh to the SDOE, provided as a negative (-) value. This is independent on the state of the system or any de-rates.

3.16. ESS Discharge AGC Ramp Increase (+MW/min)

3.16.1. This will be a value indicating the maximum ramp rate of power the ESS can achieve when increasing output or decreasing the charge setpoint. This will be provided as a positive (+) value. The value should reflect the real-time capability to prevent AGC setpoints from exceeding the tolerance and must not exceed the limits in the Interconnection Agreement.

3.17. ESS Charge AGC Ramp Decrease (-MW/min)

3.17.1. This will be a value indicating the maximum ramp rate of power the ESS can be charged or when decreasing output. This will be provided as a negative (-) value. The value should reflect the real-time capability to prevent AGC setpoints from exceeding the tolerance and must not exceed the limits in the Interconnection Agreement. Under normal conditions, this value should be the same as the ESS Discharge AGC Ramp Increase.

3.18. Average Site Cell Temperature, if available (°C)

3.18.1. This will be a value indicating average site cell temperature provided as degrees Fahrenheit.

3.19. Station Service & Auxiliary Operational Load (MW)

3.19.1. These values will be as defined and described in the PPA.

3.20. % of stacks in service

3.20.1. This will be a value indicating the number of battery stacks/racks in service and expressed as a percentage.

3.21. Number/Percentage of inverters injecting or absorbing Power

3.21.1. Total number of inverters injecting or absorbing power (real or reactive Power) to the grid under normal operation.

3.22. Number/Percentage of inverters available

3.22.1. Total number of inverters available on-line (electrically connected based on inverter's AC breaker status).

3.23. Number/Percentage of inverters offline

3.23.1. The total number of inverters that have stopped injecting power (real or reactive) to the grid for several reasons including but not limited to protection trip, momentary cessation etc. This may be calculated as a difference between inverters available and inverters injecting/absorbing power.

EXHIBIT G – FACILITY ONE-LINE DIAGRAM

[Insert one-line diagram for Facility]

EXHIBIT H – REQUIREMENTS FOR PPA FACILITY

This document describes GPC's required characteristics for the Facility. This document does not include all the legal, regulatory, and technical requirements for the Facility but outlines certain minimum requirements. Seller is required to execute this document acknowledging the following:

PART 1. ESS

1.1. Battery Energy Storage System (BESS)

1.1.1. Units listed to UL9540 2nd edition.

1.1.2. UL9540A large scale fire test report provided at the cell, module, and unit level.

1.1.3. BESS complies with the version of NFPA 855 in effect at the time of Commercial Operation.

1.1.4. Water supply as described in NFPA 855 must be provided.

1.1.5. The level of redundancy (ex. N+1) must be provided for the BESS thermal management system.

1.1.6. Provide Site-specific Hazard Mitigation Analysis (HMA) and Failure Mode and Effects Analysis (FMEA).

1.1.7. Provide detailed augmentation plan for the designed use case over the lifetime of the project.

1.1.8. BESS must be sized to maintain rated nameplate power output capacity at the POI.

1.2. Inverter

1.2.1. BESS inverters must be capable of operating full lead and lag in both charge and discharge conditions.

1.2.2. BESS inverters must be grid forming capable. Bidders must provide documentation demonstrating the inverter's grid forming capability.

1.2.3. Inverter grid forming control points must be integrated into the Facility site control scheme, such that minimal controls retrofit will be required when Owner decides to enable grid forming features.

1.3. Facility Design

1.3.1. Facility engineering and design must account for BESS augmentation plan, including but not limited to site layout, block design, collection system design, aux power design, and controls design.

1.3.2. Battery enclosures must be spaced per NFPA 855.

1.3.3. Backup source must be provided for the BESS auxiliary power in case of extended grid outage to maintain power to the BESS BMS, EMS, fire protection system, and thermal management system (if required).

1.4. Testing

1.4.1. Continuous Power Test, Energy Capacity Test, and RTE Test must be performed for the BESS facility.

1.4.2. Testing must be performed to demonstrate the combined output of BESS are controlled to mitigate equipment overload.

1.4.3. Technology specific characterization testing must be performed. (ex. ramp rate testing).

1.4.4. Additional testing will be performed as required per BESS use case(s).

1.5. End-of Life Disposal / Demolition

1.5.1. Description of the end-of-life disposal/recycling plan to be included in the bid form.

PART 2. ACKNOWLEDGMENT:

Seller hereby confirms that it will meet these requirements and provide evidence of Seller's compliance with all referenced information to GPC upon request.

#SellerLegalName#

By: _____

Name

Printed: _____

Title: _____

Date: _____

EXHIBIT I – FORM OF COMMERCIAL OPERATION COMPLETION CERTIFICATE

Georgia Power Company
Resource Planning Director/Capacity Procurement Manager
Bin 10196
241 Ralph McGill Blvd.
Atlanta, Georgia 30308

Re: Commercial Operation Completion Certificate – Power Purchase Agreement for Firm Capacity, Energy Storage Services, and Ancillary Services from an Energy Storage System for 2029–2031 All-Source Capacity Needs at **#FacilityName#** dated as of _____ ___, 20__ between **Georgia Power Company** ("**GPC**") and **#SellerLegalName#** ("**Seller**") (the "**PPA**").

In accordance with PPA Section 7.1.4 (*Commercial Operation*), Seller certifies to GPC that Seller fully satisfied the following criteria for Commercial Operation of the Facility:

PART 1 Seller has demonstrated to GPC's reasonable satisfaction that the Facility is capable of receiving and delivering energy obligated to be received or delivered pursuant to this PPA at or to the POI on a reliable basis in accordance with the Interconnection Agreement and Prudent Industry Practices;

PART 2. The Facility's AGC equipment and system control and communications systems, as approved by GPC under PPA Section 10.7 (*AGC*) are completely installed and fully operational, and Seller has provided to GPC a detailed analysis and testing verification pursuant to Section 3.2.A of Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Requirements*) that demonstrates that the these systems are operational and capable of responding to GPC's AGC Setpoint signals to effectively dispatch energy both into and out of the ESS and to the POI, in real-time. Further, Seller confirms that GPC has real-time electronic access to all Facility data GPC requests in order to manage and control these energy flows as well as to retain data and calculate all Performance Metrics;

PART 3. GPC is able to receive or deliver such energy at the POI on a reliable basis in accordance with Prudent Industry Practices;

PART 4. Seller has delivered to GPC a certificate from a responsible officer of Seller that is reasonably acceptable to GPC, stating that the Facility has been designed, engineered, constructed, and tested in accordance with Prudent Industry Practices and the terms of the PPA, including the Facility Technical and Design Requirements;

PART 5. Seller has delivered to GPC all as-built drawings with respect to the Facility, as may be requested by GPC; and

PART 6. Seller has delivered to GPC a certificate from a responsible officer of Seller that is reasonably acceptable to GPC certifying that Seller is in compliance with the Interconnection Agreement and Seller has obtained all applicable Consents required under applicable law to be obtained by Seller at the time of Commercial Operation of the Facility for the construction, ownership, operation and maintenance of the Facility in accordance with this PPA.

(i)
Seller certifies that Commercial Operation of the Facility was achieved 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 – 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 K – 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 a **Power Purchase Agreement for Firm Capacity, Energy Storage Services, and Ancillary Services from an Energy Storage System for 2029–2031 All-Source Capacity Needs at #FacilityName#** dated as of _____, 20__ with Project Number GPC-#Project Number# (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:**

A. 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;

B. 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;

C. 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;

D. 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);

E. 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;

F. 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;

G. 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;

H. 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);

I. 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

J. 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:

A. 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;

B. 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

C. 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

3.1. Guarantor hereby represents and warrants as follows:

3.1.1. Organization. Guarantor is #a ***OR*** #an #GuarantorEntityType# organized, validly existing, and in good standing under the laws of the state of #GuarantorEntityRegistrationState.

3.1.2. 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.

3.1.3. 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).

3.1.4. No Bankruptcy Proceedings. There are no bankruptcy proceedings pending or being contemplated by Guarantor or, to Guarantor's knowledge, threatened against it.

3.1.5. 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 (*Notices*) 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 (*Notices*). 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 (*Entire Agreement; Amendments; Other Guarantees*): (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 the process 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 IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT GUARANTOR 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 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: THAT (1) GUARANTOR IS NOT PERSONALLY SUBJECT TO THE JURISDICTION OF THE COURTS IN THE STATE OF GEORGIA BY REASON OF SOVEREIGN IMMUNITY OR OTHERWISE; (2) GUARANTOR 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 (*Execution and Attestation*). 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 L –VIE CERTIFICATION

AGREEMENT – Power Purchase Agreement for Firm Capacity, Energy Storage Services, and Ancillary Services from an Energy Storage System for 2029-2031 All-Source Capacity Needs at #Facility Name# 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 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
   _____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)

   Explain:_____

4) The PPA revenues correlate with fluctuations in Seller's operating cash flows (operating

[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.

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 unit.

_____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 ON NEXT PAGE]

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 M – 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, Energy Storage Services, and Ancillary Services from an Energy Storage System for 2029-2031 All-Source Capacity Needs dated #Month #Day, #Year between Georgia Power Company ("**GPC**") and **#SellerLegalName#** ("**Seller**") (the "**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 the Company 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 N – 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, Energy Storage Services, and Ancillary Services from an Energy Storage System 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 O – ENVIRONMENTAL COMPLIANCE CERTIFICATION

CERTIFICATION OF ENVIRONMENTAL COMPLIANCE

AGREEMENT – Power Purchase Agreement for Firm Capacity, Energy Storage Services, and Ancillary Services from an Energy Storage System for 2029–2031 All-Source Capacity Needs at #FacilityName# dated as of _____ ___, 20__ between **Georgia Power Company** ("**GPC**"), and **#SellerLegalName#** ("**Seller**") (the "**PPA**"). Capitalized terms used herein will have the meaning assigned in the PPA.

The undersigned individual, being the [●] of Seller and having responsibilities for [*environmental compliance and reporting*] matters associated with this 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.

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 P – 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 7.4 (*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#