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May 10, 2024

Ms. Sallie Tanner
Executive Secretary
Georgia Public Service Commission
244 Washington Street, SW
Atlanta, GA 30334-5701

RE: Georgia Power Company's 2029-2031 All-Source Capacity Request for Proposals, Docket No. 55268

Dear Ms. Tanner:

In compliance with the Georgia Public Service Commission's (the "Commission") Rules regarding Requests for Proposals ("RFP") and the Commission's July 29, 2022 Order Adopting Stipulation in Georgia Power Company's ("Georgia Power" or the "Company") 2022 Integrated Resource Plan, Docket No. 44160, enclosed for filing are drafts of Georgia Power's Pro Forma Power Asset Purchase Agreement ("APA") and Build Transfer Agreement ("BTA") for the All-Source Capacity RFP for 2029-2031. The draft Pro Forma APA and BTA have been posted to the IE Website. Potential bidders and interested parties may submit comments and suggested revisions to the APA via the IE Website through 12:00 pm (noon) EST on May 20, 2024. Additional details regarding the BTA comment period will be made available on the IE's Website.

If you have any questions about this filing, you can call me at 404-885-3779 or email me at allison.pryor@troutman.com.

Sincerely,

/s/ Allison W. Pryor
Allison W. Pryor

Encl.

THIS DRAFT DOES NOT CONSTITUTE A BINDING OFFER AND PROVIDES NO BASIS FOR AN AGREEMENT BY ESTOPPEL OR OTHERWISE. GPC RESERVES THE RIGHT, IN ITS SOLE DISCRETION, TO MODIFY THIS DRAFT AT ANY TIME. ANY ACTION TAKEN BY A PARTY IN RELIANCE ON THE TERMS IN THIS DRAFT OR ON ANY STATEMENT MADE DURING NEGOTIATIONS REGARDING THIS DRAFT WILL BE AT THAT PARTY'S OWN RISK. UNTIL GPC HAS COMPLETED ITS DUE DILIGENCE AND THIS AGREEMENT IS NEGOTIATED, APPROVED BY MANAGEMENT AND THE COMMISSION, EXECUTED, AND DELIVERED, NO PARTY WILL HAVE ANY LEGAL OBLIGATION, EXPRESS OR IMPLIED, OR ARISING IN ANY OTHER MANNER UNDER THIS DRAFT OR IN THE COURSE OF ANY NEGOTIATION.

Asset Purchase Agreement

for

2029 – 2031 All-Source RFP for Capacity Needs

at

#FacilityName#

between

Georgia Power Company

and

#SellerLegalName#

Dated as of #Date#

This agreement contains confidential information for use by GPC, Seller, or their Affiliates only; do not disclose, copy, or scan for any other purpose, except to the extent required by law or allowed by contract.

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DISCLOSURE SCHEDULES

[To be completed as part of APA finalization]

SCHEDULE OF DEFINED TERMS

This APA uses the defined terms identified in this *Schedule of Defined Terms* or in the body of this APA and the rules of construction described in Section 10.11 (*Contract Interpretation*).

Acquisition Proposal: Any offer, proposal, inquiry, or indication of interest from any third party relating to any transaction involving any acquisition or purchase or sale of, or similar transaction by, any Person (other than GPC) of all or any portion of the Facility or the Facility Assets.

Action: Any demand, complaint, claim, action, legal proceeding (whether at Law or in equity), investigation, request for information, arbitration, hearing, audit, or suit commenced, brought, conducted, or heard by or before, or otherwise involving, any Governmental Authority.

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

Affiliate Arrangement: As defined in Section 3.26 (*Affiliate Arrangements*).

After-Tax Basis: Regarding a given payment required to be made to any Person, the amount of such payment ("**Base Payment**") supplemented by a further payment ("**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 income taxes required to be paid by such Person in respect of the receipt or accrual of the Base Payment and the Additional Payment (taking into account the net present value of any reduction in such income taxes resulting from tax benefits realized by the recipient as a result of the payment or the event giving rise to the payment), be equal to the amount required to be received. Such calculations will be made on the basis of the highest generally applicable federal, state, and local income tax rates applicable to the Person for whom the calculation is being made for all relevant periods and will take into account the deductibility of state and local income taxes for federal income tax purposes.

ALTA Survey: A current survey, with respect to each parcel of real property described in the pro forma Title Policy, prepared and certified by the Surveyor and conforming to the 2016 ALTA/ASCM Minimum Standard Detail Requirements for Land Title Surveys (including items 1, 3, 4, 8, 11, and 16 (if a wetlands delineation is available) of Table A) and disclosing the location of all existing improvements, plottable easements, encroachments, roadways, utility lines, set back lines, and other matters shown customarily on project or facility surveys, and showing access affirmatively to public streets and roads.

Amended Commission Certificate: An amendment to the Commission Certificate issued by the Commission during the Term.

APA: This Asset Purchase Agreement for 2029-2031 All-Source RFP at the Facility, as further described in Exhibit A-1 (*Facility Information and Additional Information*), between GPC and Seller, including all Exhibits and Schedules, including the Seller Disclosure Schedule.

Apprenticeship Requirements: The requirements of Code sections 45(b)(8), 45Y(g)(10), 48(a)(11), and 48E(d)(4), as applicable, and any guidance or other legal authorities applicable thereto, including any guidance published or issued by the U.S. Department of the Treasury (including any guidance issued by the IRS) or the U.S. Department of Labor.

Assignment Agreement: Assignment Agreement entered into by Seller and GPC at the Closing, in substantially the form of Exhibit E (*Form of Assignment Agreement*) attached to this APA.

Assumed Liabilities: As defined in Section 1.1.4 (*Assumed Liabilities*).

Bankruptcy Code: Title 11 of the United States Code, as amended from time to time, or any similar federal or state Law for the relief of debtors.

Bankruptcy Laws: The Bankruptcy Code and all other liquidation, bankruptcy, assignment for the benefit of creditors, conservatorship, moratorium, receivership, insolvency, rearrangement, reorganization, or similar debtor relief Law of the United States or any other applicable jurisdiction in effect from time to time.

Base Purchase Price: The amount specified in Exhibit A-1 (*Facility Information and Additional Details*).

Benefit Plan: As defined in Section 3.22.2 (*Employee Benefit Plans*).

Bill of Sale: Bill of Sale and Assignment Agreement to be entered into by Seller and GPC at the Closing, in substantially the form of Exhibit D (*Form of Bill of Sale*) attached to this APA.

Books and Records: All data, books, records, files, documents, instruments, papers, correspondence that can be reasonably and practically provided, journals, deeds, licenses, Permits, computer files and programs, studies and reports (including environmental and construction studies and reports), annual operating plans, monthly operating reports, operating logs, operation and maintenance records, purchase orders, safety and maintenance manuals, incident reports, standard OSHA logs, engineering design plans, blue prints and as-built plans, records, drawings, specifications, test reports, quality documentation and reports, hazardous waste disposal records, training records, procedures and similar items, in each case: (i) in all formats in which they are reasonably and practically available, including electronic, where applicable; and (ii) in the possession or control of Seller or its Affiliates and to the extent the same relate to Seller, the Facility Real Property or the Facility, including the Facility Assets, but excluding any Excluded Assets.

Burdensome Condition: Any requirement, term, obligation, condition, or other measure imposed on GPC, its Affiliates, the Facility, or any of the Facility Assets by a Governmental Authority in connection with the Commission Certificate or any other Consent required to be obtained by GPC in connection with this APA or the transactions contemplated by this APA that, individually or in the aggregate with any other requirement, term, obligation, condition, or other measure: (i) requires GPC to sell, divest, or dispose of any asset or business of GPC or any of its Affiliates; (ii) would reasonably be expected to be adverse to GPC's ability to operate the Facility, the Facility Assets, or other assets or businesses of GPC or any of its Affiliates in any material respect; (iii) would prohibit or limit the ownership of any portion of the Facility, the Facility Assets, or any other assets or businesses of GPC or any of its Affiliates; (iv) results in less than all of the Facility Assets or less than all of the Purchase Price being eligible for inclusion in GPC's rate base, prohibits GPC from recovering the transaction costs relating to the transactions contemplated by this APA, or prohibits GPC from deferring the incremental net costs and benefits associated with the transactions contemplated by this APA between the Closing and GPC's next rate case proceeding; or (v) would otherwise reasonably be expected to have a material adverse effect on GPC.

Business Day: Any Day excluding Saturday and Sunday and excluding any Day on which banking institutions in Atlanta, Georgia are closed because of a federal holiday.

Cancellation Payment: The applicable amount specified in Exhibit A-1 (*Facility Information and Additional Details*).

Cash and Cash Equivalents: Any money, currency, or a balance in a depository or money market account at a financial institution, or any money market instruments, treasury bills, short-term government bonds, or marketable securities.

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).

Closing: As defined in Section 2.1.1 (*Closing Date*).

Closing Date: The date that the Closing occurs.

Closing Date Letter of Credit: A Letter of Credit delivered by Seller to GPC on the Closing Date to secure post-Closing liabilities.

Closing Date Working Capital: The result (which may be positive or negative), determined as of the Closing Date, of: (i) the current assets included among the Purchased Assets transferred to GPC at Closing; *minus* (ii) the current liabilities included among the Assumed Liabilities, in each case determined in accordance with GAAP applied on a basis consistent with past practice of Seller and in accordance with the line items and methodologies set forth on Exhibit I (*Closing Date Working Capital Line Items and Methodologies*). If there is any conflict between GAAP and the line items or methodologies set forth on Exhibit I, the line items and methodologies set forth on Exhibit I will control.

Closing Purchase Price: As defined in Section 2.1.2 (*Payment of Purchase Price; Closing Deliveries*).

Closing Title Endorsements: The title insurance endorsements in substantially the forms listed in Exhibit G (*Closing Title Endorsements*), together with any other endorsement GPC may reasonably require following its

review of the Updated Surveys, and any preliminary title commitment or report prepared by the Title Company with respect to the Facility Real Property.

Code: The Internal Revenue Code of 1986, as amended.

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

Commission Certificate: Certificate of Public Convenience and Necessity for this APA issued by the Commission.

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 any Person who can obtain economic value from its disclosure or use, including information furnished or disclosed to the other Party in connection with discussions leading up to execution of this APA, including this APA. Seller must designate Confidential Information as confidential in writing on each page of a document contemporaneously with Seller's supply of the information to GPC. Confidential Information does not include information that: (i) is or becomes publicly available other than because of a violation of this APA; (ii) was, at the time of the disclosure, already in receiving party's possession; (iii) is disclosed to receiving party by a third party who, to receiving party's knowledge, is not prohibited from disclosing the information under any agreement; (iv) receiving party develops or derives without the aid, application, or use of the privileged or proprietary information; or (v) receiving party is required to disclose pursuant in accordance with applicable Law.

Consent: Any approval, consent, authorization, or other applicable requirement regarding the Facility or this APA 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.

Contract: Any oral or written contract, lease, sublease, use or occupancy agreement, license (other than a Permit), evidence of indebtedness, mortgage, indenture, purchase order, binding bid, letter of credit, security agreement, undertaking, or other agreement that is legally binding.

Contract Consent: As defined in Section 5.13.1 (*Facility Contracts*).

Counterparty: As defined in Section 5.13.1 (*Facility Contracts*).

Creditworthy: A Person: (i) with an investment grade rating from two of the three Rating Agencies that its senior unsecured debt (or issuer rating if such 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.

Data Site: The website established by Seller for purposes of this APA, to which GPC has been provided access.

Deed/Lease Assignment: General Warranty Deed/Lease Assignment to be entered into by Seller and GPC at the Closing, in substantially the form of Exhibit F (*Form of Deed/Lease Assignment*) attached to this APA.

Deemed PWA Compliance: As defined in Section 3.19(xi) (*Tax Benefits*).

Delay Liquidated Damages: As defined in Section 2.1.4 (*Delay Liquidated Damages*).

Effective Date: The date that the last Party signs this APA.

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

Eligible Collateral: A Letter of Credit, a Seller Guaranty, or cash deposited into a Security Account, or as otherwise deposited with GPC as the Parties may agree. However, at least 50% of any Eligible Collateral required under any provision of this APA must be in the form of either a Letter of Credit or cash whenever a Seller Guarantor supplying a Seller Guaranty under this APA 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 BBB by S&P, or at least Baa2 by Moody's, or at least BBB by Fitch. For 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 (2) of the three (3) Rating Agencies.

Emerging Contaminants: Chemicals and other substances not currently regulated under any Environmental Law that: (i) have been discovered in natural streams; and (ii) potentially cause a deleterious effect in aquatic life, including vegetation and water quality, at environmentally relevant concentrations, including per- and polyfluoroalkyl substances.

Environmental Attributes: Either (i) all fuel-related, emissions-related, air quality-related or other environmental-related aspects, claims, characteristics, benefits, credits, including RECs, reductions, offsets, savings, allowances, efficiencies, certificates, tags, attributes, demand reductions or similar products or rights (including all of those relating to greenhouse gases and all green certificates, green tags, renewable certificates, and RECs, CO2 credits, and emissions reduction credits, and all those that otherwise arise or result from the generation of Energy from the Facility, and all those arising or resulting from the 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) whether the Environmental Attributes have been certified or verified under any renewable standard, including all those that could qualify or do qualify for application toward compliance with any local, state, federal or international renewable energy portfolio standard, green pricing program, renewable energy program, carbon reduction or greenhouse gas reduction initiative, electricity savings program, or other environmental program, incentive mandate, or objective, in each case whether voluntary or mandatory; or (ii) all environmental benefits GPC otherwise would have realized from or related to the 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 ITC, PTC, or depreciation deduction; or (II) any grant in lieu of any ITC, or any similar financial payment or grant with respect to the Facility.

Environmental Condition: The Release to the environment of a Hazardous Substance, including any migration of a Hazardous Substance through air, soil, or water.

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 (r) state equivalents to items (a) through (q). However, the term "Environmental Law" does 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.

ERISA: Employee Retirement Income Security Act of 1974.

ERISA Affiliate: Any entity that, together with a Person, would be deemed a single employer within the meaning of Code Section 414(b), (c), or (m), or ERISA Section 4001(b).

Estimated Closing Working Capital: As defined in Section 2.2.1 (*Estimated Closing Adjustment Statement*).

Excluded Assets: All Seller's Cash and Cash Equivalents and the items listed in Section 1(a) of the Seller Disclosure Schedule.

Excluded Liabilities: As defined in Section 2.1.4 (*Excluded Liabilities*).

Existing Title Insurance Policy: ALTA Owner's Policy issued by the Title Company as further described in Exhibit A-1 (*Facility Information and Additional Details*).

Facility: The facility as further described in Exhibit A-1 (*Facility Information and Additional Details*) that GPC is purchasing from Seller under the terms of this APA.

Facility Assets: All properties, assets, rights, and interests of any kind, nature, character, and description, whether real, personal, or mixed, whether tangible or intangible, whether now existing or acquired prior to the Closing, and wherever located, and any goodwill related thereto, owned, licensed, leased, or otherwise held by Seller that relate to, are used or held for use in connection with, or are necessary for the ownership, operation,

maintenance, repair, or use of the Facility (other than the Excluded Assets), including the following:

(a) Books and Records;

(b) Facility Real Property;

(c) Facility Contracts;

(d) Facility Equipment;

(e) Improvements;

(f) Facility Insurance Policies;

(g) Facility Intellectual Property;

(h) Facility IT Assets;

(i) Facility Permits;

(j) Environmental Attributes;

(k) Renewable Energy Incentives;

(l) Reports; and

(m) Resource Data.

Facility Contracts: All Contracts (other than any Excluded Assets, but including the Real Property Agreements) that are associated with, relate to, or concern, or will be associated with, relate to, or concern, the Facility or the Facility Assets, and to which Seller or any of its Affiliates is a party, all as listed in Section 3.11 of the Seller Disclosure Schedule, other than the Real Property Agreements, all as Section 3.12(a) of the Seller Disclosure Schedule.

Facility Equipment: All equipment, materials, supplies, tools, inventory, and other tangible personal property comprising the Facility, or otherwise related to, used, or held for use by Seller or any of its Affiliates for or in connection with, or necessary for the operation, maintenance, repair, ownership, or use of the Facility (including all equipment and tangible personal property up to the point of interconnection), in each case, whether located at or deliverable to the Facility Real Property, other than the Excluded Assets, all as listed in Section 3.14.1(i) of the Seller Disclosure Schedule.

Facility Insurance Policies: All insurance policies maintained by or on behalf of Seller, the Facility, or the Facility Assets.

Facility Intellectual Property: All Intellectual Property owned or held by Seller, or used or held for use in connection with the ownership, operation, maintenance, repair, or use of the Facility and the Facility Assets.

Facility IT Assets: All of the software, computer systems, workstations, routers, hubs, switches, circuits, servers, and other information technology equipment of the Seller used in connection with the Facility or the Facility Assets.

Facility Nameplate Capacity: The nameplate capacity (in MW (AC)) specified in Exhibit A-1 (*Facility Information and Additional Details*).

Facility Permits: All Permits required by applicable Law and Prudent Utility Practices for the ownership, occupancy, operation, maintenance, repair, and use of the Facility at the site of the Facility, and the generation, transmission, and sale of electric power.

Facility Real Property: As defined in Section 3.12.1 (*Real Property Agreements*).

FCC Approval: Any required authorization from the Federal Communications Commission, or any successor agency to the FCC, regarding the transaction contemplated by this APA.

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

FERC Approval: FERC approval required under Section 203 and any related requirements of the Federal Power Act of 1935, as amended, and the rules and regulations promulgated under the Federal Power Act of 1935, regarding to the transactions contemplated by this APA.

Final Closing Adjustment Statement: As defined in Section 2.2.3(iii) (*Objections; Independent Accountant Determination*).

Financial Statements: As defined in Section 3.16.1 (*Seller Financial Statements*).

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.

GAAP: Generally accepted accounting principles in the United States of America, as modified from time to time.

Good Faith Efforts: As defined in Section 3.19(xi) (*Tax Benefits*).

Governmental Authority: Any court, tribunal, arbitrator, authority, agency, commission, legislative body, official, or other instrumentality of the United States or any foreign, state, county, city, or other political subdivision or similar governing entity, and including any governmental, quasi-governmental, or non-governmental body administering, regulating, or having general oversight over electric reliability or gas, electricity, power, or other markets.

GPC: Georgia Power Company, a Georgia corporation, which is a subsidiary of Southern Company, and any successor or permitted assign.

GPC Closing Certificate: As defined in Section 6.3.3(v) (*Closing Deliveries*).

GPC Employer: As defined in Section 5.20.1 (*Employee Screenings*).

GPC Fundamental Representations: The representations and warranties set forth in Section 4.1 (*Organization; Existence*), Section 4.2 (*Authorization; Enforceability*), and Section 4.7 (*Brokers*).

GPC Material Adverse Effect: Any change, event, circumstance, development, occurrence, or effect that, individually or in the aggregate with any other change, event, circumstance, development, occurrence, or effect, would reasonably be expected to prevent, or materially delay, the ability of GPC to perform its obligations under this APA or consummate the transactions contemplated by this APA.

GPC On-Site Representatives: As defined in Section 5.2.2(i) (*GPC On-Site Representatives*).

Hazardous Activity: The distribution, generation, handling, importing, management, manufacturing, processing, production, refinement, Release, storage, transfer, transportation, treatment, or use of a Hazardous Substance, or any other act, business, operation, or activity that increases the danger, or poses a risk of harm, to the environment.

Hazardous Substance: Any substance or material listed, defined, or classified as a pollutant, contaminant, hazardous substance, hazardous material, toxic substance, toxic pollutant, hazardous waste, or words of similar import under any Environmental Law, including, petroleum, petroleum products, polychlorinated biphenyls, flammable materials, explosives, radioactive materials, urea formaldehyde foam insulation, and friable asbestos.

HSR Act: Hart-Scott-Rodino Antitrust Improvements Act of 1976.

HSR Approval: The expiration or termination of any applicable waiting period (and any extension of the waiting period) under the HSR Act regarding the transactions contemplated by this APA.

Improvements: With respect to any Facility Real Property, all buildings, structures, improvements, fixtures, component parts, and other constructions on the property, including all construction works in progress, all of which are listed in Section 3.14.1(ii) of the Seller Disclosure Schedule.

Indebtedness: Of any Person means all of the following, without duplication: (i) obligations of such Person for borrowed money evidenced by bonds, debentures, notes, loan agreements or other similar instruments; (ii) purchase money indebtedness of such 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 and reflected as a liability in Closing Date Working Capital; (iii) lease obligations of such Person that are capitalized on the balance sheet of such Person in accordance with generally accepted accounting principles; (iv) liabilities of a second Person secured by any lien on any property of such first Person, whether or not such liabilities have been assumed by such first Person; (v) liabilities of such Person with respect to letters of credit or applications or reimbursement agreements therefor; (vi) net obligations of such Person under any swap or hedging agreement; and (vii) indebtedness of such Person owing under direct or indirect guarantees of indebtedness of any other Person or constituting obligations to purchase or acquire or to otherwise protect or insure a creditor against loss in respect

of indebtedness of any other Person, excluding endorsements of negotiable instruments for deposit or collection in the ordinary course of business.

Indemnification Claim: As defined in Section 8.5 (*Notice of Proceeding*).

Indemnified GPC Parties: As defined in Section 8.3 (*Indemnification by Seller*).

Independent Accountant: An independent accounting firm of national reputation that is selected by mutual agreement of Seller and GPC or, if Seller and GPC do not reach mutual agreement on the independent accounting firm to be selected within five days after either Party first receives written notice from the other Party requesting such mutual agreement in connection with a requirement for such Independent Accountant under this APA, then the independent accounting firm must be selected by the American Arbitration Association pursuant to the then effective and applicable rules of the American Arbitration Association (with Seller and GPC sharing equally the cost of such selection process).

Insolvency: With respect to a Person, that the Person: (i) commences a voluntary case under the Bankruptcy Code; (ii) files a petition seeking to take advantage of any Bankruptcy Laws; (iii) consents to or fails to contest in a timely and appropriate manner any petition filed against it in an insolvency case under the Bankruptcy Laws; (iv) applies for, or consents to, or fails to contest in a timely and appropriate manner, the appointment of, or the taking of possession by, a receiver, custodian, trustee, liquidator, or the like of itself or of a substantial part of its assets; (v) becomes insolvent, admits in writing its inability to pay, or generally not be paying, its debts (other than those that are the subject of bona fide disputes) as they become due; (vi) makes a general assignment for the benefit of creditors; (vii) takes any action for the purpose of effecting any of the foregoing; or (viii) has a case or other proceeding commenced by a third party against it seeking: (a) relief under any Bankruptcy Laws; or (b) the appointment of a trustee, receiver, custodian, liquidator, or the like of the Person of all or any substantial part of its assets, and the case or proceeding continues undismissed or unstayed for a period of 60 days.

Intellectual Property: Trademarks, trade names, patents, service marks, brand marks, brand names, computer programs, databases, trade secrets, know-how, industrial designs, copyrights, and other similar intellectual property rights.

Interconnection Agreement: The agreement between Seller and the applicable Interconnection Provider containing terms and conditions governing the interconnection and parallel operation of the Facility with the Electric System.

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

Interim Balance Sheet: As defined in Section 3.16.1 (*Seller Financial Statements*).

Interim Balance Sheet Date: The Interim Balance Sheet date specified in Exhibit A-1 (*Facility Information and Additional Details*).

Interim Period: The period beginning on the date of this APA and ending at the Closing.

IRS: The Internal Revenue Service or any Governmental Authority succeeding to the powers and functions of the IRS.

ITC: The investment tax credit under Sections 48 and 48E of the Code.

Knowledge: With respect to a Party, the actual knowledge after reasonable due inquiry.

Letter of Credit: An irrevocable standby letter of credit that: (i) is substantially in the form set forth in Exhibit B (*Form of Standby Letter of Credit*); (ii) is issued by a U.S. commercial bank or a U.S. branch of a foreign bank with total assets of at least 10 billion dollars ($10,000,000,000) and having a general long-term senior unsecured debt rating of A minus or higher as rated by S&P, or A3 or higher as rated by Moody's, or A minus or higher as rated by Fitch; and (iii) is otherwise acceptable to GPC in GPC's sole discretion.

Liability: With respect to any Person, any liability, indebtedness or obligation of that Person of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, due or to become due.

Lien: Any charge, claim, lien, option, encumbrance, mortgage, deed of trust, pledge, assessment, lease, levy, security interest, equitable interest, easement, restrictive covenant, encroachment, title imperfection, conditional sale or other title retention arrangement, purchase right, right of first refusal, right of first offer, or other restriction on use, transfer, voting, receipt of income, or exercise of any other attribute of ownership.

Material Casualty Loss: A Casualty Loss with an aggregate Restoration Cost that exceeds the percentage, specified in Exhibit A-1 (*Financial Information and Additional Details*), of the Base Purchase Price. [***Note to Bidders: Percentage will depend on the resource type.***]

New Matter: As defined in Section 5.18.2 (*Schedule Updates for New Matters*).

Notification Report Form: The notification and report form required to be filed in accordance with the HSR Act.

Objectionable Title and Survey Matters: All matters shown on the Title Commitments or the ALTA Survey (other than Permitted Liens) that GPC has identified as requiring cure, including title matters that: (i) relate to a fee mortgage that is superior to any Real Property Agreements that could be cured by the provision of a non-disturbance and attornment agreement acceptable to GPC in its reasonable discretion, or the payment of funds to have the mortgage released; (ii) relate to overdue tax payments, mechanics liens, judgment liens, or other, similar liens on the fee property that could be released with the payment of funds; (iii) as to each individual non-monetary Lien, could be cured with the payment of monetary consideration; (iv) could be cured with endorsements to the Title Policy that are acceptable to GPC in its reasonable discretion and required to address Objectionable Title and Survey Matters; [or](v) if not cured could materially detract from the value or materially interfere with the operation of the Facility, as determined by GPC in its reasonable discretion; or (vi) #OtherRelevantTitleIssues [***Note to Bidders: Placeholder for other relevant title issues.***].

Objection Notice: As defined in Section 2.2.3(i) (*Objections; Independent Accountant Determination*).

Order: Any award, decision, injunction, judgment, order, writ, decree, ruling, subpoena, or verdict entered, issued, made, or rendered by any Governmental Authority that possesses competent jurisdiction (in each case, whether preliminary or final).

Organizational Documents: (i) Regarding any corporation, its articles or certificate of incorporation and bylaws; (ii) with respect to any limited liability company, its articles or certificate of organization or formation and its operating agreement or limited liability company agreement or documents of similar substance; (iii) with respect to any limited partnership, its certificate of limited partnership and partnership agreement or governing or organizational documents of similar substance; and (iv) with respect to any other entity, governing or organizational documents of similar substance to any of the foregoing and in the case of each of clauses (i) through (iv), in effect from time to time.

Outage Period: Any period during which all or a portion of the Facility's capability is not available for normal operation due to: (i) scheduled or unscheduled maintenance; or (ii) other planned or unplanned events that interrupt the Facility's normal operation.

Outside Date: As defined in Section 9.1.1 (*Termination for Failure to Close by Outside Date*).

Party or **Parties:** As defined in the preamble of this APA.

Performance Security: Eligible Collateral delivered to GPC by Seller to secure Seller's due performance of its obligations under this APA.

Permit: Any permit, certificate, license, franchise, consent, approval, registration, franchise, tariff, rate, waiver, exemption, condition, Order, or authorization issued, made, or rendered by, or any registration, notice, declaration, or filing with, any Governmental Authority that possesses competent jurisdiction.

Permitted Lien: (i) Any Lien for Taxes not yet due and payable or that are being contested in good faith by appropriate proceedings and for which adequate reserves have been established in accordance with GAAP; (ii) any zoning, planning, or other similar limitation or restriction, and all rights of any Governmental Authority to regulate the Facility Real Property, to the extent that no violation exists at the Closing; (iii) with respect to the Facility Real Property, the terms and conditions of the Real Property Agreements; (iv) any Lien disclosed in Section 1.1(c) of the Seller Disclosure Schedule; (v) any other Lien, imperfection, or irregularity of title, right-of-way, easement, servitude, restriction, covenant, or other similar non-monetary matter of record that does not, and would not reasonably be expected to, individually or in the aggregate: (a) materially detract from the value of the Facility or the Facility Assets; or (b) materially interfere with the use or operation of the Facility or the Facility Assets; and (vi) any Lien created by the action of GPC or any of its Affiliates.

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

Placed in Service: The date on which all of the following has occurred with respect to the Facility and the Facility Assets:

(i) all necessary governmental Permits have been received; (ii) all critical testing of the Facility has been successfully completed; (iii) if applicable, care, custody, and control has passed from the construction contractor to Seller; (iv) synchronization with the Electric System has occurred; and (v) electrical energy is being produced on a regular basis in commercially reasonable quantities.

Point of Interconnection: The point at which the Facility is interconnected to the Electric System, as defined in the Interconnection Agreement with the applicable Interconnection Provider.

Post-Closing Tax Period: Any Tax period beginning after the Closing Date, and the portion of any Straddle Period beginning on the date immediately following the Closing Date.

Pre-Closing Taxes: Taxes imposed on Seller or regarding the Facility or the Facility Assets attributable to any Pre-Closing Tax Period.

Pre-Closing Tax Period: Any Tax period ending on or prior to the Closing Date, and the portion of any Straddle Period ending on the Closing Date.

Prevailing Wage Requirements: The requirements of Code sections 45(b)(7), 45Y(g)(9), 48(a)(10), and 48E(d)(3), as applicable, and any guidance or other legal authorities, including any guidance published or issued by the U.S. Department of the Treasury (including IRS Notice 2022-61 or any other guidance issued by the IRS) or the U.S. Department of Labor.

Prudent Utility Practices: Any of the practices, methods, standards, procedures, and acts: (i) required by the National Electric Safety Code or NERC, whether or not Seller is a member thereof; or (ii) engaged in or approved by a significant portion of Persons performing similar acts in the electric generating industry in the southeastern United States with respect to the development, design, engineering, construction, interconnection, commissioning, completion, ownership, leasing, licensing, operation, or maintenance of utility-scale, electric generation facilities of similar type and size as the Facility during the relevant time period, or any of the practices, methods, and acts that, in the exercise of reasonable judgment in light of the facts known, or that should reasonably have been known, when the decision is made, could have reasonably been expected to accomplish the desired result in a manner consistent with commercially reasonable business practices, safety, reliability, economy, and expedition. Prudent Utility Practice 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, and acts generally accepted in the United States having due regard for, among other things, manufacturers' warranties, applicable law, and, as applicable, requirements of this APA.

PTC: The production tax credit under Sections 45 and 45Y of the Code.

Purchase Price: As defined in Section 1.1.6 (*Purchase Price*).

Purchase Price Allocation Schedule: As defined in Section 2.3 (*Allocation of Purchase Price*).

PWA Guidance: IRS Notice 2022-61 (November 29, 2022) and any further guidance issued by the Secretary of the U.S. Department of the Treasury (including any guidance issued by the IRS) under Sections 45(b)(7), 45Y(g)(9), 45(b)(8), 45Y(g)(10), 48(a)(10), 48E(d)(3), 48(a)(11), and 48E(d)(4) of the Code, or any provision of the Code that is cross-referenced therein.

PWA Requirements: Collectively, the Prevailing Wage Requirements, and the Apprenticeship Requirements.

Qualified Apprentice: An individual who is employed by a contractor or subcontractor, and who is participating in a Registered Apprenticeship Program.

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 with a nationally recognized rating agency mutually agreed upon by the Parties.

Real Property Agreements: Any purchase and sale agreement, easement, lease, license, occupancy, right-of-way, concession, surface or encroachment agreement, setback waiver agreement, special use permit, conditional use permit, cross or co-location agreement, crossing agreement, buildout agreement, subordination and non-disturbance agreement, road user agreement, neighbor agreement, or other similar agreement to which Seller is a party, and pursuant to which Seller holds a fee interest, an easement, a leasehold or a subleasehold estate in or is granted the right to use or occupy any real property, including any option held by Seller relating to any of the foregoing.

RECs: See *Renewable Energy Credits*.

Registered Apprenticeship Program: As defined in Section 3131(e)(3)(B) of the Code and any PWA Guidance.

Release: As defined in 42 U.S.C. § 9601(22), without regard to the exceptions set forth in clause (A) thereof.

Remediation: Action required under any Environmental Law or by a Governmental Authority, or a Claim by a third party against an Indemnified GPC Party, in each case, to address an Environmental Condition, including any monitoring, investigation, assessment, characterization, treatment, cleanup, containment, removal, mitigation, response, or restoration work.

Remedies Exception: The effects of bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium, and other laws relating to or affecting creditors' rights generally and general equitable principles.

Renewable Energy Credits (RECs): All credits, including any emissions reduction credits, such as CO2 emission reduction credits, for renewable energy that could qualify or do qualify for application toward compliance with any local, state, federal, or international renewable energy portfolio standard, green pricing program, or other renewable energy or environmental mandate or objective.

Renewable Energy Incentives: Any: (i) federal, state, or local tax credit or other tax benefit (such as accelerated depreciation or the ITC and PTC) associated with the construction or ownership of, or the sale or production of electricity from, the Facility, including any ITC, PTC, or governmental payment made in lieu of a credit; (ii) federal, state, or local grant, rebate, subsidized financing, or any other subsidy relating to the property of the Facility or the output of the Facility; or (iii) other form of incentive that is not an Environmental Attribute, and that is available with respect to the Facility.

Reports: All third-party reports, studies, analyses, and tests and test reports (and all amendments and supplements) prepared for, or commissioned by, and delivered to, Seller or any of its Affiliates that relate to the Facility, including the Facility Assets or the Facility Real Property. Reports include Phase I (and Phase II, if applicable) environmental assessments, environmental impact studies, geotechnical studies, boundary and topography surveys, transportation studies, cultural resources studies, transmission or interconnection studies, including interconnection system impact studies, wildlife studies, studies or analysis of or reports on the environmental condition of the Facility Real Property, or compliance by the Facility or the Facility Real Property with Environmental Laws, Federal Aviation Administration analyses, state department of transportation analyses, zoning studies, visual impact studies, and wetlands studies, in each case, together with all necessary reliance letters and in form and substance reasonably acceptable to GPC, all as listed in Section 3.30 of the Seller Disclosure Schedule.

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, representatives, consultants, attorneys, agents, bankers, insurers, financiers, accountants, contractors, or subcontractors, of each of them.

Required Closing Date: The required closing date specified in Exhibit A-1 (*Facility Information and Additional Details*).

Required Regulatory Approvals: Collectively, the following, each without any Burdensome Condition: (i) HSR Approval; (ii) FERC Approval; (iii) FCC Approval; and (iv) Commission Certificate.

Restoration Costs: As defined in Section 5.17.1 (*Occurrence of Casualty Loss*).

Restricted Employee: As defined in Section 5.20.3 (*Non-Solicitation*).

Restricted Period: As defined in Section 5.20.3 (*Non-Solicitation*).

Review Period: As defined in Section 2.2.3(i) (*Objections; Independent Accountant Determination*).

Scheduled Outage: A scheduled interruption: (i) of a portion or all of the Facility's generation capability that is scheduled in Seller's Maintenance Schedule, or any outage agreed upon by GPC and Seller to be added to Seller's Maintenance Schedule; and (ii) that will occur before or after the Closing.

Schedule Update: As defined in Section 5.18.1 (*Schedule Updates*).

Securities Act: The Securities Act of 1933.

Security Account: An account designated by GPC for the benefit of GPC, under the exclusive control of GPC, and free of any lien (including the lien of any lender) of any Person or entity other than GPC. Any GPC Security

Account will be established and maintained at the expense of Seller and held by a depository bank acceptable to GPC under a control agreement in form and substance acceptable to GPC.

Seller: The counterparty to GPC in this APA.

Seller Closing Certificate: As defined in Section 6.2.4(iv) (*Closing Deliveries*).

Seller Disclosure Schedule: The attached disclosure schedule delivered by Seller to GPC on the date of this APA.

Seller Fundamental Representations: The representations and warranties set forth in Section 3.1 (*Organization; Existence; Limited Purpose*), Section 3.2 (*Authorization; Enforceability*), Section 3.10 (*Environmental Matters*), Section 3.12.3 (*Real Property*), Section 3.13 (*Title to Facility Assets*), Section 3.14 (*Condition and Sufficiency of Facility Assets*), Section 3.18 (*Taxes*), Section 3.19 (*Tax Benefits*), Section 3.27 (*Brokers*), Section 3.28 (*Development Fees*), Section 3.29 (*Disclosure*), and Section 3.33 (*Bankruptcy; Insolvency*).

Seller Guarantor: A Person that: (i) is either: (a) an Affiliate of Seller; or (b) otherwise an entity acceptable to GPC; and (ii) is Creditworthy.

Seller Guarantor Financial Statements: As defined in Section 3.16.2 (*Guarantor Financial Statements*).

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

Seller Income Taxes: Any income, franchise, or similar Taxes imposed on, or Taxes imposed on or measured by reference to the net income or net worth of, Seller or any Affiliate of Seller.

Seller Letter of Credit: A Letter of Credit delivered by Seller to GPC on the Effective Date in the amount required under this APA.

Seller Material Adverse Effect: Any change, event, circumstance, development, occurrence, or effect that, individually or in the aggregate with any other change, event, circumstance, development, occurrence, or effect: (a) has had, or would reasonably be expected to have, a material adverse effect on the business, assets, liabilities, operations, condition (financial or otherwise) or prospects of Seller, the Facility, or the Facility Assets; (b) would reasonably be expected to prevent or materially delay the ability of Seller to perform its obligations under this APA or consummate the transactions contemplated by this APA; or (c) has had, or would reasonably be expected to have, a material adverse effect on the business, assets, liabilities, operations, or condition (financial or otherwise) of Seller Guarantor, except, in each case of clauses (a), (b), and (c), for any change, event, circumstance, development, occurrence, or effect resulting from or arising out of: (i) a change in economic conditions generally affecting the international, national, regional, state, or local industries in which Seller operates; (ii) a change in international, national, regional, state, or local wholesale or retail markets (including market description or pricing) for energy, electricity, fuel supply, or ancillary services, including those due to actions by competitors or changes in international, national, regional, state, or local electric transmission or distribution systems, including the operation or condition thereof; (iii) a change in general regulatory or political conditions, including any act of war, civil unrest or terrorist activity; (iv) a change or adverse condition in the securities markets, interest rates, or currency exchange rates; (v) any action expressly required to be taken, or not taken, taken in accordance with his APA or the other Transaction Documents entered into or in effect on the date of this APA, or requested, or consented to, in writing by GPC; (vi) any breach of this APA or the other Transaction Documents by GPC, or any of its Affiliates or Representatives; or (vii) the announcement or execution of this APA or the other Transaction Documents entered into on the date of this APA, including the identity of GPC or any of its Affiliates (including the impact thereof on relationships, contractual or otherwise, of Seller or any of its Affiliates with Seller's customers, suppliers, distributors, contractors, lenders, partners, employees, or service providers); so long as in the case of the foregoing clauses (i) through (iv), the change, event, circumstance, development, occurrence, or effect does not disproportionately impact Seller, the Facility, or the Facility Assets relative to other similarly situated industry participants, facilities, or facility assets.

Seller Termination Payment: The applicable amount specified in Exhibit A-1 (*Facility Information and Additional Details*).

Solvent: With respect to a Person on any date of determination, that on the date: (a) the fair valuation of the sum of the assets of the Person is greater than the sum of liabilities of the Person, in each case, at a fair market valuation; (b) the fair market valuation of the sum of the assets of the Person is not less than the amount that will be required to pay the debts of the Person as they become absolute and matured; (c) the Person does not intend to incur debts or liabilities beyond the Person's ability to pay its debts and liabilities as they mature taking into

account the possibility of refinancing such obligations and selling assets; and (d) the Person has the present ability to pay its debts and liabilities as they become due.

Straddle Period: Any Tax period beginning before or on and ending after the Closing Date.

Surveyor: A licensed surveyor reasonably acceptable to GPC.

Tax or **Taxes:** Any United States local, state, or federal, or foreign, income, profits, franchise, withholding, ad valorem, gross receipts, windfall profits, value added, production, goods and services, harmonized sales, duty, license, escheat or unclaimed property, personal property (tangible and intangible), employment, payroll, sales and use, social security, disability, occupation, real property, severance, excise or other tax, charge, levy, fee, duty, custom, tariff, impost, obligation, charge, or other assessment imposed by a Taxing Authority, including any interest, penalty, or addition thereto.

Tax Benefit: Any PTC, ITC, accelerated depreciation (including bonus depreciation), amortization, or state level credit, deduction, or incentive.

Tax Return: Any return, report, or similar statement (whether intangible, electronic or other form) filed or required to be filed with respect to any Taxes (including any attached schedule, amendment, supplement, appendix, and exhibit), including any information return, claim for refund, amended return, and declaration of estimated Tax.

Taxing Authority: With respect to any Tax, the Governmental Authority that imposes such Tax, and the agency (if any) charged with the assessment, determination, or collection of the Tax for such entity or subdivision.

Title Company: The title company specified in Exhibit A-1 (*Facility Information and Additional Details*), or another national title insurance company designated by Seller, and approved by GPC, the approval not to be unreasonably withheld, conditioned, or delayed.

Third Party Claim: Any legal proceeding instituted, or Claim asserted, by any Person not a Party to, and not affiliated with any Party to, this APA with respect to an Indemnification Claim.

Title Policy: A Georgia form of an American Land Title Association (ALTA) Form B 2006 Owner's Title Insurance Policy issued by the Title Company, at Seller's cost and expense (except as otherwise set forth below), insuring GPC's rights in each parcel of real property comprising the Facility Real Property, including any Improvement, that: (a) is in form and substance as GPC may reasonably approve, and contains the requirements, modifications, and endorsements that are available for issuance in the state of Georgia (at GPC's sole cost and expense) as GPC may reasonably require; (b) contains the additional affirmative coverage and associated endorsements available for issuance in the state of Georgia (at GPC's sole cost and expense, unless necessary to satisfy any Objectionable Title and Survey Matters, in which case the same will be at Seller's cost and expense) as GPC may reasonably request; (c) is in the amount of the Purchase Price; (d) names GPC as the insured; (e) is dated effective as of the Closing Date; and (f) provides for full extended coverage (at GPC's sole cost and expense) over all general title exceptions contained in such policy and shows as exceptions only those exceptions that are Permitted Liens.

Transaction Documents: This APA, the Bill of Sale, the Assignment Agreement, the Deed/Lease Assignment, the Seller Guaranty, and each other document, certificate, agreement, and other instrument executed and delivered by the Parties or their Affiliates.

Transfer Taxes: All transfer, sales, use, goods and services, value added, documentary, real property transfer, recording, stamp duty, gross receipts, excise, transfer, and conveyance Taxes, and other similar Taxes payable as a result of the consummation of the transactions contemplated by this APA.

Treasury Regulations: The Code regulations.

Updated Surveys: The as-built ALTA surveys of the Facility Real Property and the Improvements on the Facility Real Property, dated within 30 days prior to the Closing Date, certified to the Title Company and GPC and in form and substance reasonably satisfactory to GPC and sufficient to enable the Title Company to remove its standard survey exception and to issue the Closing Title Endorsements.

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 1.2 (*Grid Improvements*).

Asset Purchase Agreement for 2029–2031 All-Source RFP at #FacilityName# between Georgia Power Company and #SellerLegalName#

Georgia Power Company, a Georgia corporation ("**GPC**") and **#SellerLegalName#** ("**Seller**") enter into this **Asset Purchase Agreement** on the Effective Date.

GPC and Seller acknowledge:

- Seller owns and operates **Facility** as further described in Exhibit A-1 (*Facility Information and Additional Details*);
- Seller desires to sell to GPC, and GPC desires to purchase from Seller, the Facility, and the Facility Assets, in each case, on the terms and subject to the conditions set forth in this APA, consistent with the Commission's Order in Docket No. 55268; and
- Concurrently with the execution and delivery of this APA, as a material inducement to GPC's willingness to enter into this APA and consummate the transactions contemplated by this APA: (i) Seller has delivered the Seller Letter of Credit to GPC; or (ii) Seller Guarantor has executed and delivered the Seller Guaranty.

In consideration of the mutual promises described in this APA, 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. PURCHASE AND SALE

1.1 Purchase and Sale; Assumption and Exclusion of Liabilities.

1.1.1. Purchase and Sale of Facility Assets. On the terms and subject to the conditions set forth in this APA, at the Closing, Seller will sell, transfer, convey, assign, and deliver to GPC free and clear of all Liens (other than Permitted Liens), and GPC will purchase, acquire, and pay for, all of Seller's right, title, and interest in the Facility Assets (but not the Excluded Assets), free of all Liens, other than Permitted Liens.

1.1.2. Assignment and Assumption of Facility Contracts and Facility Permits. On the terms and subject to the conditions set forth in this APA, simultaneous with the Closing, Seller will assign to GPC, and GPC will accept and assume the following rights and obligations from Seller: (i) all of Seller's rights under the Facility Contracts and Facility Permits; and (ii) all of Seller's obligations arising under the Facility Contracts and Facility Permits solely to the extent the obligations arise after the Closing and do not constitute Liabilities arising out of any failure to perform, improper performance, warranty, or other breach, default, or violation by Seller or any of its Affiliates (or any Person acting by or on behalf of Seller or any of its Affiliates) prior to the Closing. Regarding indemnity obligations under the Facility Contracts and Facility Permits, GPC will assume Liabilities only for events that occur after the Closing.

1.1.3. Excluded Assets. Seller does not transfer to GPC any right, title, or interest in, to, or under any Excluded Assets, and GPC will have no Liability with respect to any Excluded Assets.

1.1.4. Excluded Liabilities. Except for the Assumed Liabilities, GPC will not assume and will not be responsible to pay, perform, satisfy, or discharge any of the following Liabilities of Seller or any of its Affiliates (or any Person acting on behalf of Seller or any of its Affiliates) of any kind or nature whatsoever, whether direct or indirect, known or unknown, absolute or contingent, and whether arising or accruing prior to, on, or after the Closing Date (collectively, the "**Excluded Liabilities**"), including the following:

(i) all Liabilities (including Liabilities to any Person in contract, tort (including for personal injury or property damage) or otherwise) arising out of the siting, design, development, construction, installation, start-up, testing, and commissioning of the Facility, or arising out of the ownership, use, operation, maintenance, or repair of the Facility or the Facility Assets on or prior to the Closing, regardless of whether the Liability was or is asserted prior to, at, or after the Closing;

(ii) all Liabilities arising from any violation of applicable laws (including Environmental Law) by Seller or any of its Affiliates or any other Person acting on behalf of Seller or any of its Affiliates, in each case, in connection with the Facility or Facility Assets on or prior to the Closing;

(iii) all Liabilities that have arisen or may arise with respect to: (A) any Benefit Plan, employment agreement, or other arrangement of Seller, any Affiliate of Seller, or any of their respective ERISA Affiliates providing any type of compensation to any former or current employee of Seller, any Affiliate of Seller, or any of their respective ERISA Affiliates, including any obligation or Liability for providing continuation coverage under and complying with Section 4980B of the Code, Sections 601 through 608 of ERISA, and any applicable state laws of similar intent with respect to any individual who either prior to, on, or after the Closing Date was covered under any group health plan contributed to or maintained by Seller, any Affiliate of Seller, or any of their respective ERISA Affiliates, or who will otherwise be an "M&A Qualified Beneficiary" (as that phrase is defined in Treasury Regulation Section 54.4980B-9, Q&A-4) in connection with the transactions contemplated by this APA; and (B) any current or former employee, independent contractor or consultant of Seller, any Affiliate of Seller, or any of their respective ERISA Affiliates;

(iv) all Liabilities arising from any Environmental Condition at, on, or under the Facility Real Property to the extent existing or occurring prior to the Closing (including any Environmental Conditions that emanate from the Facility Real Property after Closing), or from the Release of Hazardous Substances at, on, or under the Facility Real Property at or prior to Closing, in each case including Liabilities related to Remediation, natural resource damages, bodily injury or property damage;

(v) all Liabilities arising from any off-site transportation, disposal, recycling or storage, or arrangement for same, of Hazardous Substances, from the Facility or the Facility Real Property prior to the Closing, including Liabilities related to Remediation, natural resource damage, bodily injury, or property damage;

(vi) all Liabilities of Seller or any of its Affiliates under the Facility Contracts relating to the period prior to Closing, and all Liabilities under Contracts relating to the Facility or the Facility Assets that are not Facility Contracts;

(vii) all Liabilities of Seller or any of its Affiliates under the Facility Permits relating to the period prior to Closing, and all Liabilities under Permits relating to the Facility or the Facility Assets that are not Facility Permits;

(viii) all Liabilities with respect to any Action or Claim or threatened Action or Claim in connection with the Facility or the Facility Assets, other than in connection with this APA, arising or accruing on or prior to the Closing, regardless of when filed;

(ix) all Pre-Closing Taxes, Seller Income Taxes, Transfer Taxes, and any other Taxes with respect to the transfer of the Facility Assets pursuant to this APA;

(x) all Liabilities in any way relating to, resulting from, or arising out of any Excluded Assets; and

(xi) all Liabilities for personal or bodily injury (including death) or property damage associated with the Facility (including its operation, maintenance, repair, or replacement) or for transmission, distribution, or control of electric energy within the Facility arising or accruing prior to the Closing.

1.1.5. Assumed Liabilities. On the terms and subject to the conditions set forth in this APA, at the Closing, GPC will assume, and Seller will assign to GPC, only the following Liabilities of Seller (the "**Assumed Liabilities**") and no other Liabilities:

(i) all Liabilities under the Facility Contracts expressly assumed by GPC pursuant to, and subject to the conditions set forth in, Section 1.1.2 (*Assignment and Assumption of Facility Contracts*); and

(ii) all Liabilities arising from the ownership, operation, maintenance, or use of the Facility or the Facility Assets by GPC following the Closing, other than Excluded Liabilities arising or accruing prior to, at, or after the Closing.

1.1.6. Purchase Price. GPC agrees to pay Seller an amount equal to the Base Purchase Price, as adjusted in accordance with Section 2.2 (*Purchase Price Adjustments*), as the Purchase Price for the Facility Assets ("**Purchase Price**").

1.2 Grid Improvements. If GPC determined that costs will be incurred to improve the Electric System beyond the Point of Interconnection in order to deliver the generating capacity of the Facility to GPC's customers, Seller must, simultaneously with the execution of this APA, deliver to GPC Upgrade Security in the amount of the costs so determined by GPC. GPC may draw upon the Upgrade Security to recover the costs in the event of early termination of this APA prior to the Closing Date under Section 9.1.2 (*Termination by GPC*). In that instance, GPC will, within eight months after the effective date of the termination, perform a final reconciliation that will calculate: (i) all costs to improve the Electric System as of the effective date of the early termination; minus (ii) cost of equipment that GPC, using commercially reasonable efforts, is able to repurpose. Within 10 Business Days after GPC completes the final reconciliation, GPC will return the balance of Upgrade Security (i.e., after having been drawn down to pay GPC for the finally reconciled amount) to Seller. If the Closing occurs under this APA, then GPC will return the Upgrade Security to Seller within 10 Business Days after the Closing Date.

PART 2. CLOSING; PURCHASE PRICE ADJUSTMENTS; ALLOCATION OF PURCHASE PRICE.

2.1 Closing.

2.1.1. Closing Date. The consummation of the transactions described in Section 1.1.1 (*Purchase and Sale; Assumption and Exclusion of Liabilities*) ("**Closing**") will take place remotely via the electronic exchange of documents and signatures: (i) at 10:00 a.m. (Eastern Time) on the date that is three Business Days after the satisfaction or waiver of the last of the conditions set forth in Part 6 (*Conditions Precedent*) (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or waiver of such conditions), subject to an additional 10-day extension at GPC's election if a Schedule Update in accordance with Section 5.18.2 (*Schedule Updates for New Matters*) occurs less than 10 days before the Closing Date; or (ii) at another time, or on another date, as the Parties may agree in writing. The Closing will be deemed to be effective as of 12:01 a.m. (Eastern Time) on the Closing Date. All actions and deliverables that are taken or delivered, as the case may be, on the Closing Date will be deemed to occur simultaneously at the Closing. The Closing will be deemed to be effective as of 12:01 a.m. (Eastern Time) on the Closing Date.

2.1.2. Payment of Purchase Price; Closing Deliveries. At the Closing: (i) GPC will pay to Seller by wire transfer of immediately available funds to an account located in the United States as designated by Seller to GPC, at least two Business Days before the anticipated Closing Date, an amount equal to: (a) (I) the Base Purchase Price; *plus or minus, as applicable*; (II) Estimated Working Capital; *minus* (b) all Seller's Indebtedness related to the Facility paid directly to the holders of the Indebtedness under the terms of this APA ("**Closing Purchase Price**"); and (ii) the Parties will deliver, or cause to be delivered, the other deliverables in accordance with Section 6.2.4 (*Seller Closing Deliveries*) and Section 6.3.3 (*GPC Closing Deliveries*).

2.1.3. Delay Liquidated Damages. If Closing occurs after the Required Closing Date, other than due to a breach by GPC of its obligations under this APA, then Seller will be liable to GPC for liquidated damages, in accordance with Exhibit A-1 (*Facility Information and Additional Details*), for each day after the Required Closing Date until the Closing Date ("**Delay Liquidated Damages**"). GPC will deduct any Delay Liquidated Damages owed by Seller under this Section 2.1.4 (*Delay Liquidated Damages*) from the Base Purchase Price paid to Seller at the Closing under Section 2.1.2 (*Payment of Purchase Price; Closing Deliveries*). The Parties acknowledge and agree that: (i) the agreements contained in this Section 2.1.4 are an integral part of the transactions contemplated by this APA; (ii) it would be difficult or impossible to determine accurately the damages that GPC would incur if the Closing were to occur after the Required Closing Date; (iii) the Parties have estimated and agreed that the Delay Liquidated Damages constitute a reasonable estimate of the monetary damages likely to be suffered by GPC under the circumstances; and (iv) the Delay Liquidated Damages are not a penalty.

2.2 Working Capital Adjustment. The Base Purchase Price will be increased or decreased, as applicable, to account for Closing Date Working Capital in accordance with this Section 2.2 (*Working Capital Adjustment*).

2.2.1. Estimated Closing Adjustment Statement. Not later than five Business Days before the Closing Date, Seller must deliver to GPC a statement setting forth in reasonable detail Seller's good faith estimate of Closing Date Working Capital ("**Estimated Closing Working Capital**"), together with Seller's

calculations and applicable supporting documentation. Before the Closing, GPC and its Representatives will have an opportunity to conduct a good faith review of and consult with Seller regarding each element included in Seller's calculation of Estimated Closing Working Capital.

2.2.2. Closing Adjustment Statement. GPC will prepare and deliver to Seller no later than 90 days after the Closing Date a statement ("**Closing Adjustment Statement**") setting forth in reasonable detail GPC's good faith calculation of Closing Date Working Capital together with applicable supporting documentation for the Closing Date Working Capital; however, if an Outage Period that began on or before the Closing Date continues after Closing, then GPC will prepare and deliver to Seller the Closing Adjustment Statement by the later of: (i) 90 days after the Closing Date; or (ii) 60 days after the Outage Period terminates.

2.2.3. Objections; Independent Accountant Determination.

(i) Objection Notice and Review Period. If Seller objects to any item set forth on the Closing Adjustment Statement prepared and delivered in accordance with Section 2.2.2 (*Closing Adjustment Statement*), Seller must notify GPC in writing of the objections ("**Objection Notice**") in reasonable detail (including the nature and basis for any of the objections and Seller's calculations of the relevant items based on the objections) on or before the 30th day after Seller's receipt of the Closing Adjustment Statement ("**Review Period**"). To the extent not set forth in any Objection Notice delivered during the Review Period, Seller will be deemed to have agreed with GPC's calculation of all other items and amounts contained in the Closing Adjustment Statement. During the Review Period, GPC will provide Seller and Seller's Representatives reasonable access to: (a) the relevant personnel of GPC and its Representatives who were responsible for preparation of the Closing Adjustment Statement; and (b) the Books and Records (in each case to the extent in GPC's possession, but not otherwise in Seller's possession) relating to the Closing Adjustment Statement, in each case as Seller may reasonably request for the purpose of reviewing the Closing Adjustment Statement; however, the access will be in a manner that does not interfere with the normal business operations of GPC or the Facility.

(ii) Timely Objection; Independent Accountant Binding Determination. Unless Seller objects to the Closing Adjustment Statement within the Review Period under Section 2.2.3(i) (*Objections; Independent Accountant Determination*), the Closing Adjustment Statement (and the amounts and calculations set forth in the Closing Adjustment Statement) as prepared and delivered by GPC in accordance with Section 2.2.2 (*Closing Adjustment Statement*) will become final and binding on GPC and Seller (and all other Persons claiming through them) at the end of the Review Period. If Seller delivers an Objection Notice within the Review Period, GPC and Seller will use their good faith efforts to agree on a resolution of such objections. Seller must provide GPC and GPC's Representatives reasonable access to: (a) the relevant personnel of Seller and its Representatives who were responsible for preparation of the Objection Notice or the calculation of the Estimated Closing Working Capital; and (b) the Books and Records (to the extent in Seller's possession but not otherwise in GPC's possession) relating to the Objection Notice or the calculation of the Estimated Closing Working Capital, in each case as GPC may reasonably request for the purpose of reviewing Seller's objections.

If GPC and Seller have not agreed on a final and binding resolution of those objections within 30 days following the date of delivery of the Objection Notice, GPC and Seller each will have the right to submit any of the items that remain in dispute to the Independent Accountant for final and binding determination regarding the disputed items. Each Party will be entitled to submit in writing to the Independent Accountant its assertions regarding any such disputed items referred to the Independent Accountant for resolution, so long as the written assertion is delivered to the Independent Accountant and the other Party promptly after the disputed items have been referred to the Independent Accountant for resolution under this Section 2.2.3(ii) (*Objections; Independent Accountant Determination*). Neither any matter that was not disputed in Seller's Objection Notice nor any disputed matter that has been resolved by the Parties will be submitted to the Independent Accountant. The calculations, items, or amounts submitted need not be the calculations, items, or amounts discussed in prior attempts to resolve differences during the 30 day period after receipt of the Objection Notice, but Seller may not submit any calculation, item, or amount that is more favorable to Seller than the corresponding calculation, item, or amount included in the Objection Notice, and GPC may not submit any calculation, item, or amount that is more favorable

to GPC than the corresponding calculation, item or amount included in the Closing Adjustment Statement. The Independent Accountant will be instructed to: (I) make its determination based solely on the terms of this APA and any written materials the Parties submitted to it, and not to conduct any independent investigation regarding any disputed calculation, item, or amount; (II) reflect its final determination regarding any disputed items in the Closing Adjustment Statement submitted to the Independent Accountant in accordance with this Section 2.2.3(ii) (*Objections; Independent Accountant Determination*) in a definitive final Closing Adjustment Statement setting forth the final Closing Working Capital prepared by the Independent Accountant, which must be accompanied by the Independent Accountant's written statement of findings and conclusions regarding the disputed items; and (III) make its determination as soon as practicable and in any event no later than 30 days after the submission of the dispute to it and must act as an expert and not an arbitrator. In resolving any the disputed items, the Independent Accountant may not assign a value to any particular item greater than the greatest value for the item claimed by either Party or less than the lowest value for the item claimed by either Party. The fees of the Independent Accountant incurred concerning the determination will be paid 50% by GPC and 50% by Seller. Each Party will bear and pay its own expenses regarding the resolution of any disputed matters submitted to the Independent Accountant.

(iii) Definitions of Final Closing Adjustment Statement and Working Capital. For purposes of this APA: (a) "**Final Closing Adjustment Statement**" means the Closing Adjustment Statement delivered in accordance with Section 2.2.2 (*Closing Adjustment Statement*) as subsequently adjusted, if applicable, in accordance with this Section 2.2.3 (*Objections; Independent Accountant Determination*) to reflect any subsequent written agreement among the Parties with respect thereto or, if submitted to the Independent Accountant, any amendments or modifications to the Closing Adjustment Statement decided by the Independent Accountant; and (b) "**Final Closing Working Capital**" means the Closing Working Capital as finally determined in accordance with this Section 2.2.3 (*Objections; Independent Accountant Determination*).

2.2.4. Settlement of Final Closing Adjustment.

(i) Final Closing Working Capital Greater Than Estimated Closing Working Capital. If the Final Closing Working Capital is greater than the Estimated Closing Working Capital, then on or before the fifth Business Day after the determination of the Final Closing Working Capital becomes final and binding, GPC will deliver to Seller an amount equal to the excess of the Final Closing Working Capital over the Estimated Closing Working Capital, by wire transfer of immediately available funds to an account located in the United States as designated by Seller to GPC.

(ii) Final Closing Working Capital Less Than Estimated Closing Working Capital. If the Final Closing Working Capital is less than the Estimated Closing Working Capital, then on or before the fifth Business Day after the determination of the Final Closing Working Capital becomes final and binding, Seller must deliver to GPC an amount equal to the excess of the Estimated Closing Working Capital over the Final Closing Working Capital, by wire transfer of immediately available funds to an account located in the United States as designated by GPC to Seller.

2.2.5. No Duplicate Adjustments. Despite any other provision in this APA, any adjustment to the Base Purchase Price made in accordance with this APA, including under Section 2.2 (*Working Capital Adjustment*) and Section 5.17 (*Casualty Loss*), as applicable, will be made so as to avoid duplication of any items, and will not include items, to the extent otherwise contemplated, in connection with any other adjustments to the Base Purchase Price made pursuant to this APA.

2.3 Allocation of Purchase Price. The Purchase Price and Assumed Liabilities will be allocated among the Facility Assets as set forth on a schedule that GPC will deliver to Seller within 180 days following the Closing and will comply with Section 1060 of the Code ("**Purchase Price Allocation Schedule**"). Seller and GPC will each file their respective Tax Returns in accordance with the Purchase Price Allocation Schedule. GPC and Seller will make all Tax Returns, reports, forms, declarations, claims, and other statements in a manner consistent with the Purchase Price Allocation Schedule and will promptly notify the other Party if it becomes aware of any audit, investigation or proceeding relating to the Purchase Price allocation.

2.4 Withholding. Each of Seller and GPC will be entitled to deduct and withhold from payment of the Purchase

Price, or any other amounts (or any portion thereof) payable pursuant to this APA, any amount that is required to be deducted and withheld with respect to the making of such payment under the Code or any other applicable Tax Law. Any Party that expects to withhold (or expects its agent to withhold) any amount will provide notice of the expected withholding at least 15 Business Days before the withholding to the Party with respect to which the withholding is to be made (and the notice will include the legal authority and the calculation method for the expected withholding), and the Parties will use commercially reasonable efforts to cooperate to minimize the amount of withholding. If amounts are withheld, the withheld amounts will be paid by the withholding party to the relevant Taxing Authority and will be treated for all purposes of this APA as having been paid to the Party to whom the amounts would otherwise have been paid.

PART 3. REPRESENTATIONS AND WARRANTIES OF SELLER

Seller represents and warrants to GPC as of the date of this APA and as of the Closing Date, except for those representations and warranties that are made as of a specific date, as follows:

3.1 Organization; Existence; Limited Purpose.

3.1.1. Organization and Existence. As described in Exhibit A-1 (*Facility Information and Additional Details*), Seller is duly formed, validly existing, and in good standing under the laws of the state specified in Exhibit A-1, with all requisite business entity power and authority required to: (i) own, lease, and operate its assets and properties (including the Facility and the Facility Assets) where the assets and properties are currently owned, leased, and operated; and (ii) carry on its business as it is currently being conducted. Seller is duly qualified or licensed to do business and is in good standing in each jurisdiction in which the character of the properties owned or held under lease by it or the nature of the business transacted by it makes qualification necessary, except where the failure to be so qualified, licensed, or in good standing would not reasonably be expected to have a Seller Material Adverse Effect;

3.1.2. Organizational Documents. True and complete copies of the Organizational Documents of Seller (as amended as of the date of this APA) have been made available to GPC. The Organizational Documents of Seller are in full force and effect, and Seller is not in violation of its Organizational Documents; and

3.1.3. Limited Purpose. Since its formation, Seller has engaged solely in the business of developing, designing, engineering, constructing, interconnecting, commissioning, completing, owning, operating, and maintaining the Facility.

3.2 Authorization; Enforceability. Seller has full business entity power and authority to enter into this APA and the other Transaction Documents to which it is or will be a party, to perform its obligations under this APA, and to consummate the transactions contemplated by this APA and the other Transaction Documents. The execution, delivery and performance by Seller of this APA and the other Transaction Documents to which it is, or will be, a party, and the consummation by Seller of the transactions contemplated by this APA and the other Transaction Documents, have been (or will be when delivered) duly authorized by all necessary business entity action on the part of Seller. This APA and each other Transaction Document to which it is or will be a party: (i) have been (or will be when delivered) duly and validly executed and delivered by Seller; and (ii) constitute (or will constitute when delivered) (assuming the due execution and delivery thereof by GPC or its Affiliates, as applicable) valid and legally binding obligations of Seller, enforceable against Seller in accordance with their terms, subject to the Remedies Exception. No other business entity action is required on the part of Seller to authorize or approve this APA or the other Transaction Documents to which it is or will be a party, the performance of its obligations under this APA or the other Transaction Documents, or the consummation by Seller of the transactions contemplated by this APA or the other Transaction Documents.

3.3 No Conflicts. Except as set forth in Section 3.3 of the Seller Disclosure Schedule, the execution, delivery, and performance of this APA and the other Transaction Documents to which Seller is or will be a party do not, and the consummation by Seller of the transactions contemplated by this APA and the other Transaction Documents will not: (i) contravene or violate any provision of the Organizational Documents of Seller; (ii) subject to obtaining the Consents set forth in Section 3.4 of the Seller Disclosure Schedule, conflict with or result in a violation or breach of any term or provision of any laws applicable to: (a) Seller; (b) the Facility; or (c) the Facility Assets; (iii) contravene or violate any provision of, or result in the termination or acceleration of, or entitle any party to accelerate any obligation or Indebtedness under, or require the Consent of any Person under, or give any person the right to terminate or modify, any Contract or Permit to which Seller is a party, or by which Seller is bound, or that relates to the Facility or the Facility Assets; or (iv) result in the imposition or creation of any Lien upon or with

respect to the Facility or the Facility Assets (other than Permitted Liens), except, in the case of subpart (iii), as would not, individually or in the aggregate, reasonably be expected to have a Seller Material Adverse Effect.

3.4 Governmental Consents. Except as set forth in Section 3.4 of the Seller Disclosure Schedule, no Consent of or with any Governmental Authority is required in connection with the execution, delivery, and performance by Seller of this APA and the other Transaction Documents to which Seller is or will be a party, or the consummation of the transactions contemplated by this APA or the other Transaction Documents.

3.5 Books and Records. The Books and Records are accurate and complete and have been maintained in accordance with applicable laws s and GAAP. True and complete copies of the Books and Records have been made available to GPC.

3.6 Bank Accounts. Section 3.6 of the Seller Disclosure Schedule includes a list of the names and locations of banks, trust companies, and other financial institutions at which Seller maintains accounts of any nature or safe deposit boxes, and the names of all Persons authorized to draw on, make withdrawals from, or have access to such accounts.

3.7 Legal Proceedings. Except as set forth in Section 3.7 of the Seller Disclosure Schedule: (a) there is, and there has been, no material Action or Claim pending or, to Seller's Knowledge, threatened against or affecting Seller, the Facility (including the ownership, construction, operation, maintenance, repair, and use of the Facility), the Facility Real Property, and the other Facility Assets before any Governmental Authority; (b) to Seller's Knowledge, there are no facts, conditions, or circumstances that, with or without notice or the lapse of time or both, would reasonably be expected to form the basis of or give rise to any such Action or Claim; and (c) Seller is not subject to, and none of its assets or properties is bound by, any Order.

3.8 Compliance with Law. Except as set forth in Section 3.8 of the Seller Disclosure Schedule: (a) Seller, the Facility (including the ownership, construction, operation, maintenance, repair, and use of the Facility), the Facility Real Property, and the other Facility Assets are not in violation of, or default under, any applicable law in any material respect; (b) Seller has not received written notice of any actual, alleged, or potential violation of, or failure to comply with, any applicable law; and (c) to Seller's Knowledge, there are no facts, conditions, or circumstances that, with or without notice or the lapse of time or both, would reasonably be expected to constitute or result in a material violation, or a material failure to comply with, any applicable law.

3.9 Permits.

3.9.1. List of Permits. Seller owns or holds all of the Facility Permits. Section 3.9.1 of the Seller Disclosure Schedule includes a true, correct, and complete list of all Facility Permits (including Permits required under Environmental Laws). Seller has provided GPC with a true and complete copy of each Facility Permit.

3.9.2. Representations and Warranties Regarding Permits. With respect to each Facility Permit (including Permits required under Environmental Laws):

(i) each Facility Permit is legal, valid, and binding, and in full force and effect (and all public comment and appeal periods under applicable law have expired or terminated), and is transferrable to GPC under the Transaction Documents;

(ii) the completion of the transactions contemplated by this APA and the other Transaction Documents will not affect the legality, validity, binding nature, or force and effect of any Facility Permit being transferred to GPC pursuant to the Bill of Sale, except with respect to the identity of the parties to the Facility Permit as a result of the Bill of Sale;

(iii) Seller and the Facility are in compliance with the terms and conditions of each Facility Permit, and, to Seller's Knowledge, no event has occurred that, with the giving of notice or lapse of time, or both, would constitute noncompliance with the terms and conditions of any Facility Permit;

(iv) no Action or Claim is pending or, to Seller's Knowledge, threatened, in each case, which challenges the legality, validity, or enforceability of, or threatens to revoke, terminate, suspend, or materially modify, any Facility Permit;

(v) no notice of noncompliance or default has been received by Seller, or any of its Affiliates, in respect of any Facility Permit;

(vi) no information has been received by Seller or any Affiliate of Seller, and to Seller's Knowledge, no condition, fact, or circumstance exists that would reasonably be expected to prevent, hinder, delay, or restrict the ability of Seller to transfer, or GPC to maintain after the Closing, any Facility Permit;

(vii) no condition or requirement exists in any Facility Permit that does, or would reasonably be expected to, adversely affect the ownership, use, operation, maintenance, or repair of the Facility or the Facility Assets by or on behalf of GPC after the Closing; and

(viii) Seller has made available to GPC a true, correct, and complete copy of each Facility Permit (or application for any Facility Permit), all material documents, reports, and correspondence provided by Seller or any of its Affiliates to any Governmental Authority with respect to each Facility Permit (or application for any Facility Permit), and all material documents, reports, and correspondence received by Seller or any of its Affiliates from any Governmental Authority with respect to each Facility Permit (or application for any Facility Permit).

3.9.3. Compliance. Seller has complied in all material respects with all avoidance, minimization, and mitigation measures and plans for the Facility, and all formal recommendations and letter agreements made with or by any Governmental Authority relating to the Facility.

3.10 Environmental Matters.

3.10.1. Environmental Reports. Section 3.10.1 of the Seller Disclosure Schedule includes all environmental reports, assessments, and audits, including reports, assessments, and audits relating to wetlands, air quality, and air pollutant emissions or discharges, and studies relating to threatened or endangered species and avian species, including those species protected by Environmental Laws, and studies relating to archaeological, cultural, and historical resources prepared by or on behalf of Seller in connection with the Facility, or otherwise in Seller's possession or control with respect to the Facility. Seller has provided GPC with copies of the materials set forth in Section 3.10.1 of the Seller Disclosure Schedule.

3.10.2. Compliance with Facility Permits and Environmental Laws. (i) As of the Closing Date, Seller holds, and is in compliance with, all Facility Permits, including all applicable environmental Permits; (ii) the Facility has been constructed, and the Work has been performed, in compliance with all Environmental Laws; (iii) Seller has not received any written notice of a pending or threatened Claim, or inquiry by any Governmental Authority or other Person relating to any actual or alleged violations of any Environmental Law, or any actual or potential obligation on the part of Seller to investigate or take any corrective action relative to any Hazardous Substance or threatened Release of any Hazardous Substance, in each case, related to the Facility; (iv) Seller has not entered into or agreed in writing to any final decree or Order with any Governmental Authority, and Seller is not subject to any Order relating to compliance of the Facility with any Environmental Law or to the investigation or cleanup of Hazardous Substances at the Facility; (v) to Seller's Knowledge, and except as set forth in an environmental report set forth on Section 3.10.2 of the Seller Disclosure Schedule, no Person has generated, transported, treated, stored, disposed of, arranged to be disposed of, Released, or threatened to Release, any Hazardous Substances at, on, from, or under the Facility Real Property in violation of, or as would reasonably be expected to result in Liability under, any Environmental Law; (vi) except as set forth in the Facility Permits and Facility Contracts, Seller has not assumed any contractual Liabilities or obligations arising under any Environmental Law in connection with the Facility; and (vii) Seller has not utilized any underground storage tanks or equipment using polychlorinated biphenyls, Emerging Contaminants, or asbestos in violation of Environmental Law at the Facility Real Property. For the avoidance of doubt, compliance with Environmental Laws includes 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 mitigation measures to reduce or avoid impacts to environmental, wildlife, or cultural resources, including, as applicable, any species conservation strategy, or conservation agreement and any cultural resources treatment plan.

3.10.3. Additional Environmental Matters. To Seller's Knowledge: (i) there have been no unpermitted impacts to wetlands or water bodies, regulated under any Environmental Law, located on the Facility Real Property; (ii) no condition, fact, or circumstance exists that, with or without notice or the lapse of time or both, would reasonably be expected to form the basis of or give rise to any environmental Liability, or material noncompliance by Seller or its Affiliates or the Facility with, any Environmental Law with respect to the Facility or the Facility Real Property; (iii) neither Seller nor any Affiliate of Seller has agreed to or is

subject to any Order or Claim relating to non-compliance with any Environmental Law, or to any investigation or cleanup of Hazardous Substances, or any Environmental Condition with respect to the Facility or the Facility Real Property; and (iv) there are no Claims or Actions pending or, to Seller's Knowledge, threatened under any Environmental Law relating to the Facility or the Facility Real Property.

3.10.4. Wildlife and Cultural Concerns. To Seller's Knowledge: (i) no species protected under any Environmental Law has been observed at the Facility Real Property; and (ii) no human remains or historical, archaeological, or paleontological resources regulated under any Environmental Law have been identified on the Facility Real Property.

3.10.5. Environmental Attributes or Renewable Energy Incentives. Neither Seller nor any of its Affiliates have sold or transferred, or agreed to sell or transfer, or taken any actions or granted any options or rights to purchase Environmental Attributes or Renewable Energy Incentives related to the electric power to be generated by the Facility.

3.11 Facility Contracts.

3.11.1. List of Facility Contracts. Section 3.11.1 of the Seller Disclosure Schedule includes a true, correct, and complete list and description of all Facility Contracts, and neither the Facility nor the Facility Assets are bound by, or will be bound after Closing by, any Contract other than the Facility Contracts, including any Contracts of the following types:

(i) Contracts for the purchase, exchange, or sale of electric energy, capacity, or ancillary services, or related attributes, including Environmental Attributes;

(ii) Contracts for the transmission or distribution of electric power;

(iii) Contracts for the interconnection of electricity and utility services;

(iv) Contracts involving resolution or settlement of any actual or threatened Action against Seller, the Facility, the Facility Real Property, or the other Facility Assets that have not been fully performed or otherwise impose continuing Liabilities;

(v) Contracts with respect to the sharing, indemnification, or allocation of Taxes or Tax costs, which Contracts are primarily related to Taxes;

(vi) Contracts under which Seller has: (a) created, incurred, assumed, or guaranteed (or may create, incur, assume or guarantee) Indebtedness; (b) granted a Lien on its assets or properties, whether tangible or intangible, to secure any Indebtedness; or (c) extended credit to any Person in an amount in excess of the extended credit threshold amount specified in Exhibit A-1 (*Facility Information and Additional Details*);

(vii) Contracts providing for payments by or to Seller in excess of the payments threshold amount specified in Exhibit A-1 (*Facility Information and Additional Details*) in any consecutive 12-month period;

(viii) Contracts: (a) for the construction or purchase of real estate, Improvements, equipment, machinery, and other items which constitute capital expenditures in excess of the threshold amount specified in Exhibit A-1 (*Facility Information and Additional Details*) for items that constitute capital expenditures; or (b) which involve or are reasonably expected to involve capital expenditures in excess of the threshold amount specified in Exhibit A-1 for items that involve or are reasonably expected to capital expenditures, in each case, which have not been fully performed by Seller or otherwise impose continuing Liabilities on Seller;

(ix) Contracts, letters of intent, or other understandings for acquisitions or dispositions (by merger, purchase or sale of assets or stock or otherwise, and including rights and options to acquire or dispose) of any Facility Assets, in each case, which have not been fully performed by Seller, or that otherwise impose continuing Liabilities on Seller;

(x) Contracts (excluding Permits) containing a restriction on the ability of Seller or the Facility to compete with any Person, to conduct any business or line of business, or to operate in any geographic area;

(xi) Contracts evidencing swaps, hedges, futures, or other derivatives or requiring Seller to post collateral;

(xii) Contracts relating to any joint venture, partnership, or similar arrangement, including any agreement or commitment to make any loan or capital contribution to any Person;

(xiii) powers of attorney executed by Seller, or with respect to the Facility or the Facility Assets; and

(xiv) Contracts not terminable or cancelable by Seller upon notice of no longer than six months and without Liability, penalty, or premium to Seller.

3.11.2. Complete Copies; No Waiver, Assignment, or Liens. Seller has provided GPC with true, correct, and complete copies of all Facility Contracts, including any amendment, supplement, schedule, and exhibit to the Facility Contracts. No written waiver or, to Seller's Knowledge, oral waiver of any term or condition of any Facility Contract is currently in effect. Seller has not assigned any of its interests in any Facility Contract, and none of Seller's interests in any Facility Contract is subject to any Lien (other than a Permitted Lien).

3.11.3. Enforceability. Each Facility Contract is in full force and effect, and constitutes the legal, valid, and binding obligation of Seller and, to Seller's Knowledge, the other parties the Facility Contract, enforceable against Seller and, to Seller's Knowledge, each other party to the Facility Contract, as applicable, in accordance with its terms, subject to the Remedies Exception.

3.11.4. No Default or Breach. (i) Seller is not in default or breach in any material respect under any Facility Contract; (ii) to Seller's Knowledge, no other party is in default or breach in any material respect under any Facility Contract; and (iii) to Seller's Knowledge, no event, condition, or circumstance exists or has occurred that, with or without notice or the lapse of time or both, would result in a default or breach in any material respect under, or result in the termination or acceleration of, or entitle any party to accelerate any material obligation under, any Facility Contract. Neither Seller nor, to Seller's Knowledge, any other party has declared an event of force majeure that is continuing under any Facility Contract.

3.12 Real Property.

3.12.1. Real Property Agreements. Section 3.12.1 of the Seller Disclosure Schedule includes all Real Property Agreements, along with: (i) the legal description of each parcel of real property that is the subject of any Real Property Agreement (the real property, the "**Facility Real Property**"); (ii) the names of the parties to each Real Property Agreement; and (iii) any amendment, modification, and supplement with respect to each Real Property Agreement. As of the Closing Date, other than the Facility Real Property, Seller does not own, lease, or have any other interest in any real property. The Facility Real Property constitutes all of the real property necessary for the ownership, operation, maintenance, and use of the Facility.

3.12.2. Complete Copies. Seller has provided GPC with true and complete copies of:

(i) each Real Property Agreement;

(ii) the ALTA survey for the Facility Real Property completed on the date specified in Exhibit A-1 (*Facility Information and Additional Details*), and set forth in Section 3.12.2(ii) of the Seller Disclosure Schedule;

(iii) the Existing Title Insurance Policy and any bring down endorsements issued by the Title Company to the Existing Title Insurance Policy insuring the Facility Real Property and all exception documents referenced in the Existing Title Insurance Policy with respect to the Facility Real Property in the possession of; or reasonably available to; Seller or any of its Affiliates; and

(iv) all mortgages, deeds of trust, certificates of occupancy, mineral reports for any several minerals (including any evaluation as to the feasibility or likelihood of mineral extraction and any separate chain of title for severed minerals), records searches (for any governmental records not included in any title reports), and all exception documents referenced in the reports, policies, or searches and similar documents and all amendments thereto with respect to the Facility Real Property in the possession of or reasonably available to Seller or any of its Affiliates.

3.12.3. Title; Real Property Agreements. Seller has a valid fee interest, easement interest, leasehold interest, or license in the Facility Real Property, as applicable, free of all Liens, other than Permitted Liens. Each Real Property Agreement is in full force and effect and constitutes the legal, valid, and binding obligation of Seller and, to Seller's Knowledge, the other parties to the Real Property Agreements, enforceable against Seller and, to Seller's Knowledge, each other party to the Real Property Agreements, as applicable, in accordance with its terms, subject to the Remedies Exception. Seller is not in default or breach in any material respect under any Real Property Agreement. To Seller's Knowledge: (i) no counterparty to any Real Property Agreement is in default or breach in any material respect under any Real Property Agreement, nor has any counterparty to any Real Property Agreement repudiated any material provision of any Real Property Agreement; and (ii) no event, condition, or circumstance exists or has occurred that, with or without notice or the lapse of time or both, would constitute a breach or default in any material respect under, or result in the termination or acceleration of, or entitle any party to accelerate any material obligation under, any Real Property Agreement.

3.12.4. Improvements. Seller owns, and has good and marketable title to, all Improvements located on the Facility Real Property that are or will be used in the operation of the Facility, free of all Liens, other than Permitted Liens.

3.12.5. No Sublease. Seller has not subleased or otherwise granted any Person the right to use or occupy any Facility Real Property or any portion thereof, or granted any outstanding options, rights of first refusal, rights of first offer, or other third-party rights to sell, assign, or dispose of any interest in the Facility Real Property.

3.12.6. Zoning and Land Use Approvals. The zoning and land use approvals from the applicable Governmental Authority for the Facility Real Property permit the ownership, operation, maintenance, and use of the Facility thereon. Seller has not received any written notice of any appropriation, condemnation, or like proceeding, or of any violation of any applicable zoning or land use law; or other law relating to or affecting any of the Facility Real Property. To Seller's Knowledge: (i) there are no pending or threatened Actions to condemn any portion of the Facility Real Property, to modify the zoning classification or any land use approvals affecting any of the Facility Real Property, or to take by power of eminent domain or other governmental power any of the Facility Real Property; (ii) there are no outstanding unpaid assessment notices against any of the Facility Real Property; and (iii) the Facility Real Property is in compliance in all material respects with applicable laws, Permits, zoning, regulations, and restrictive covenants applicable to the Facility Real Property. Neither Seller nor, to Seller's Knowledge, any other party to the Real Property Agreements has declared an event of force majeure that is continuing under any Real Property Agreement.

3.12.7. Fees and Rents. Except as set forth in the Real Property Agreements, there are no fees, rents, decommissioning obligations, royalties, or other amounts incurred, payable, or receivable by Seller in connection with the Facility Real Property. All amounts currently due and payable (other than any amount being contested in good faith that are set forth in Section 3.12.7 of the Seller Disclosure Schedule) under any Real Property Agreement have been paid.

3.12.8. Mineral Rights. Except as set forth in Section 3.12.8 of the Seller Disclosure Schedule, no Person has the right to use, or to limit Seller's use of, the surface of the Facility Real Property for the exploration, development, or extraction of minerals or other subsurface substances.

3.13 Title to Facility Assets.

3.13.1. Title. Seller has good and valid title to, or a valid leasehold or license interest in, the Facility Assets constituting personal property (as opposed to real property), free of all Liens other than Permitted Liens. As of the Closing Date: (i) GPC will acquire good and valid title to, or a valid leasehold or license interest in, the Facility Assets constituting personal property (as opposed to real property), free of all Liens other than Permitted Liens; and (ii) the Facility Assets constituting personal property (as opposed to real property) will constitute all of the material tangible personal property required for the ownership, operation, maintenance, repair, and use of the Facility.

3.13.2. No Third-Party Rights. No Person other than Seller owns or has any interest in, or option or other right (contingent or otherwise), including a right of first refusal or a right of first offer, with respect to, or has any Lien (other than Permitted Liens) on, any of the Facility Assets. There are no adverse claims of ownership to any of the Facility Assets, and neither Seller nor any of its Affiliates has received any notice

that any Person has asserted a claim of ownership or right of possession or use in or to any of the Facility Assets.

3.14 Condition and Sufficiency of Facility Assets.

3.14.1. Condition of Facility Assets. All Facility Equipment, Improvements, and other Facility Assets constituting personal property: (i) are in normal operational condition for similar assets of a similar age and are in good working order, except for ordinary wear and tear; (ii) are adequate for the uses to which they are being put; and (iii) have been maintained in accordance with Prudent Utility Practice. All Facility Equipment and Improvements are, and immediately before the Closing will be, located at the Facility Real Property. Section 3.14.1(i) of the Seller Disclosure Schedule contains a true, correct, and complete list and description of all Facility Equipment, and Section 3.14.1(ii) of the Seller Disclosure Schedule contains a true, correct, and complete list and description of all Improvements.

3.14.2. Quantity and Type of Inventory. The Facility Assets include a quantity and type of inventory of materials, supplies, and spare parts that is consistent in all material respects with inventories of materials, supplies, and spare parts maintained in connection with the ownership, operation, maintenance, repair, and use of facilities similar to the Facility in accordance with Prudent Utility Practice.

3.14.3. Sufficiency of Facility Assets. The Facility Assets are sufficient to enable GPC to own, operate, maintain, repair, and use the Facility immediately following the Closing: (i) as designed; (ii) in the same manner as conducted immediately prior to the Closing; and (iii) in accordance with applicable laws, the Facility Permits, Prudent Utility Practice, and the Facility Contracts. Other than the Facility Assets, there are no material Contracts, equipment, materials, spare parts, buildings, facilities, Permits, real property interests, insurance policies, Intellectual Property rights, or other rights, assets or properties required to own, operate, maintain, repair, and use the Facility: (a) as designed; (b) in the same manner as conducted immediately prior to the Closing; and (c) in accordance with applicable laws, the Facility Permits, Prudent Utility Practice, and the Facility Contracts.

3.15 No Damage. There has been no material damage to or destruction of the Facility or the Facility Assets that: (i) has not been repaired; or (ii) is not required to be repaired pursuant to a Facility Contract. There are no pending claims for defective design, work, equipment, or materials relating to the Facility made by Seller or its Affiliates against any Person.

3.16 Financial Statements.

3.16.1. Seller Financial Statements. Seller has delivered to GPC true and complete copies of: (i) the unaudited balance sheet (the "**Interim Balance Sheet**") of Seller as of the Interim Balance Sheet Date, and the related statements of operations and comprehensive income and statements of members' equity and cash flows for the period then ended as specified in Exhibit A-1 (*Facility Information and Additional Details*); and (ii) the unaudited balance sheet of Seller as of December 31 of the year specified in Exhibit A-1, and the related statements of operations and comprehensive income and statements of members' equity and cash flows for the fiscal year period then ended (collectively, "**Financial Statements**"). Except as set forth in the Financial Statements, the Financial Statements present fairly, in all material respects, the financial position, statements of operations and comprehensive income, members' equity, and cash flows of Seller as of the respective dates thereof and for the applicable periods covered thereby. The Financial Statements have been derived from, and are consistent with, and accurately reflect in all material respects, the books and records of Seller. Except as set forth therein and for normal year-end adjustments (none of which would reasonably be expected to be material) and the absence of complete footnotes, the Financial Statements have been prepared in accordance with GAAP consistently applied throughout the applicable periods covered thereby.

3.16.2. Guarantor Financial Statements. Seller has delivered to GPC true and complete copies of: (i) the unaudited balance sheet of Seller Guarantor as of the Interim Balance Sheet Date, and the related statements of operations and comprehensive income and statements of members' equity and cash flows for the period then ended as specified in Exhibit A-1 (*Facility Information and Additional Details*); and (ii) the audited balance sheet (including the notes thereto) of Seller Guarantor as of December 31 of the year specified in Exhibit A-1, and the related statements of operations and comprehensive income and statements of members' equity and cash flows for the fiscal year period then ended (including the notes thereto) (collectively, "**Seller Guarantor Financial Statements**"). Except as set forth therein, the Seller Guarantor Financial Statements present fairly, in all material respects, the financial position, statements

of operations and comprehensive income, members' equity, and cash flows of Seller Guarantor as of the respective dates thereof and for the applicable periods covered thereby. The Seller Guarantor Financial Statements have been derived from, and are consistent with, and accurately reflect in all material respects, the books and records of Seller Guarantor. Except as set forth therein, and except, in the case of the unaudited financial statements, for normal year-end adjustments (none of which would reasonably be expected to be material to Seller Guarantor) and the absence of complete footnotes, the Seller Guarantor Financial Statements have been prepared in accordance with GAAP consistently applied throughout the applicable periods covered thereby.

3.17 Insurance.

3.17.1. Facility Insurance Policies. Section 3.17.1 of the Seller Disclosure Schedule includes a true, complete, and correct list and description of all of the Facility Insurance Policies. Each Facility Insurance Policy is in full force and effect, all premiums for the Facility Insurance Policies have been paid, and Seller is in compliance in all material respects with the terms and provisions of each Facility Insurance Policy. No written notice of cancellation or termination has been received by Seller or any of its Affiliates regarding any Facility Insurance Policy that has not been replaced on substantially similar terms prior to the date of the cancellation or termination. The Facility Insurance Policies insure adequately against risks to which Persons owning and operating assets and properties similar to the Facility are customarily exposed, in each case, in the operation of facilities similar to the Facility, and are sufficient for compliance in all material respects with all requirements of applicable law and of all Facility Contracts.

3.17.2. Claims. As of the date of this APA, no claims have been made under any Facility Insurance Policy. As of the Closing Date, there are no pending claims that have been made under any Facility Insurance Policy (or any replacement or renewal coverage obtained pursuant to Section 5.10 (*Insurance*)), and Seller has no Knowledge of any fact or circumstance that could reasonably lead to a claim.

3.17.3. Refusal of Coverage or Reduction in Coverage. Seller has not been refused any material insurance with respect to the Facility or the Facility Assets, nor has coverage been limited in any material respect by any insurance carrier to which Seller has applied for any insurance or with which it has carried insurance.

3.18 Taxes. Except as set forth in Section 3.18 of the Seller Disclosure Schedule:

(i) There is no audit, claim, assessment, levy, administrative or judicial proceeding, or other Action currently pending or, to the Knowledge of Seller, threatened, proposed, or contemplated against Seller or with respect to the Facility by any Governmental Authority for the assessment or collection of Taxes. There are no agreements, waivers, or consents currently in effect extending the statutory period of limitations applicable to any Tax of Seller or with respect to the Facility;

(ii) All Tax Returns that were required to be filed by Seller or with respect to the Facility have been timely filed, and the Tax Returns were prepared in compliance with applicable law and were true, correct, and complete. All Taxes required to be paid by the Seller or with respect to the Facility (whether or not shown on any Tax Returns) have been timely paid. True, correct, and complete copies of all Tax Returns required to be filed by Seller or with respect to the Facility have been made available to GPC;

(iii) Seller has withheld and paid all Taxes required to have been withheld and paid: (a) in connection with amounts paid or owing to any employee, independent contractor, creditor, member, stockholder, or other third party; or (b) with respect to the Facility;

(iv) There are no Liens for Taxes on any assets or property of Seller, the Facility, or the Facility Assets, other than Liens for Taxes not yet due and payable;

(v) Seller is not a party to, and does not have any Liability under, any Tax sharing, indemnification or similar agreement (in each case, other than an agreement entered into in the ordinary course of business of the parties thereto, the principal purpose of which is not Tax-related, such as a customary lease, license, or financing agreement);

(vi) Seller is not a "tax-exempt person" within the meaning of Code §168(h) as a result of ownership in Seller by Seller Guarantor or any Affiliate thereof;

(vii) Seller: (a) has not been a member of an affiliated group filing a consolidated federal income Tax Return; and (b) does not have any Liability for the Taxes of any other Person under Treasury Regulation Section 1.1502-6, or any similar provision of state, local, or foreign law;

(viii) Seller (or, if Seller is a disregarded entity for U.S. federal income tax purposes, its owner for U.S. federal income tax purposes) is a "United States person" within the meaning of Section 7701(a)(30) of the Code;

(ix) No portion of the tax basis of any Facility Assets acquired pursuant to this APA is or will be attributable to "qualified rehabilitation expenditures" within the meaning of Section 47(c)(2)(A) of the Code;

(x) No election has been filed pursuant to Treasury Regulation Section 301.7701-3(c) with respect to Seller. Seller is, and has been at all times since its formation, disregarded as an entity separate from its owner for federal income tax purposes; and

(xi) No power of attorney is currently in effect, and no Tax ruling has been requested of any Governmental Authority with respect to any Tax matter relating to the Facility.

3.19 Tax Benefits.

(i) To Seller's Knowledge, no fact or circumstance concerning the Facility or the Facility Assets exists that would reasonably be expected to hinder, impair, restrict, limit, preclude, or disqualify the Facility or the Facility Assets from qualifying for, and producing and giving rise to, the Tax Benefits;

(ii) There has been no "original use" (within the meaning of Sections 45 and 48 or Section 168(k) of the Code) of the Facility Assets, the Facility, or any property that is part of the Facility. No property that is a part of the Facility Assets or the Facility has been used by any Person other than in the development, construction, or startup of the Facility;

(iii) Neither Seller nor any Seller Affiliate has claimed or intends to claim any depreciation deduction, amortization deduction, tax credit (including the [PTC/ITC]), or other credit, deduction, or allowance with respect to the Facility or any property that is part of the Facility or the Facility Assets. No property in the Facility or the Facility Assets is "dual use equipment" within the meaning of Treasury Regulations Section 1.48-9(d)(6);

(iv) No portion of the basis of the property in the Facility is attributable to "qualified rehabilitation expenditures" within the meaning of Section 47(c)(2)(A) of the Code;

(v) No portion of any property that is part of the Facility or the Facility Assets has benefited from the proceeds of any grant or rebate program that would cause a reduction in the amount of the #PTC/ITC regarding the Facility or the Facility Assets, and no application with respect to any grant or rebate has been filed or submitted. No portion of the Facility Real Property is currently enrolled in the U.S. Department of Agriculture's Conservation Reserve Program;

(vi) None of the property in the Facility, including the Facility Assets, is or has been: (i) "tax-exempt bond financed property" or "tax-exempt use property" within the meaning of Section 168 of the Code; (ii) imported property of the kind described in Section 168(g)(6) of the Code; (iii) property used by a Person described in Section 50(b)(3) of the Code; (iv) "public utility property" within the meaning of Section 168(i)(10) of the Code; or (v) financed by tax-exempt bonds as described in Code Section 48(a)(4). No election under Section 168(g)(7) of the Code has been made with respect to any part of the Facility, including the Facility Assets;

(vii) The Facility is located entirely within the United States;

(viii) The transactions contemplated by this APA will not have an adverse effect on the continuing validity and effectiveness of any Tax exemption, Tax holiday, other Tax abatement, or incentives for which the Facility is currently eligible;

(ix) The Facility Real Property has not been subject to a preferential or special property Tax assessment, value limitation, or other favored Tax treatment. The Facility Property is not, has not been, and will not be (as a result of the Closing and the transactions contemplated by this APA) subject to rollback Taxes;

(x) All Tax Benefits attributable to, resulting from, or arising in connection with, the Facility will belong to GPC. Seller has no legal obligation, absolute or contingent, to any Person other than GPC to transfer or effect a transfer of all or any portion of the Facility, including any electric power or Tax Benefits attributable to, resulting from, or arising in connection with the Facility;

(xi) Seller and any contractors or subcontractors providing services or goods directly or indirectly to Seller for the Facility have (a) complied with the PWA Requirements in respect of the construction of the Facility or (b) have made the payments described in Sections 7.8(i) and 7.8(ii) (*Prevailing Wage and Apprenticeship*) ("**Deemed PWA Compliance**") and have provided documentation demonstrating to GPC's reasonable satisfaction the payment of the amounts described in Sections 7.8(i) and 7.8(ii) (*Prevailing Wage and Apprenticeship*). In the event Seller or its contractors or subcontractors intend to rely on the provisions of Section 48(a)(8)(D)(ii) of the Code ("**Good Faith Effort**") for satisfying the Apprenticeship Requirements, that Person will be considered to have satisfied the requirements of this Section 3.19(xi) (*Tax Benefits*) if the Person provides written documentation demonstrating to GPC's reasonable satisfaction that: (i) it requested Qualified Apprentices from a Registered Apprenticeship Program; and (ii) either (a) the request was denied for reasons other than the failure of the Person to comply with the established standards and requirements of the Registered Apprenticeship Program; or (b) the Registered Apprenticeship Program failed to respond to the request within five Business Days;

(xii) On its federal income tax return for the taxable year in which the Facility was Placed in Service, Seller elected the PTC with respect to the Facility and Seller did not elect the ITC with respect to the Facility; and

(xiii) The Facility was originally Placed in Service on the date specified in Exhibit A-1 (*Facility Information and Additional Details*).

3.20 Intellectual Property. Section 3.20 of the Seller Disclosure Schedule includes a true, correct, and complete list and description of all of the Facility Intellectual Property. Seller owns or has the right to use all the Facility Intellectual Property used or held for use in connection with the ownership, operation, maintenance, repair, and use of the Facility and the Facility Assets, free of all Liens. other than Permitted Liens and restrictions applicable in Facility Contracts. Other than the Facility Intellectual Property, no Intellectual Property is necessary for the ownership, operation, maintenance, repair, or use of the Facility or the Facility Assets. Except as set forth in Section 3.20 of the Seller Disclosure Schedule: (i) no Intellectual Property owned by Seller has been licensed to any third party; (ii) the conduct of the businesses of Seller (including the ownership, operation, maintenance, repair, and use of the Facility and the Facility Assets) as currently conducted does not infringe or otherwise violate any third-party Intellectual Property rights; (iii) no Person has asserted against Seller or any of its Affiliates a claim that any Facility Intellectual Property infringes or misappropriates the Intellectual Property of any Person; and (iv) no third party is infringing or otherwise violating any Intellectual Property rights owned by Seller.

3.21 Resource Data. Section 3.21 of the Seller Disclosure Schedule includes a true, correct, and complete list or copy of the Resource Data. With respect to each item of Resource Data: (i) Seller has made available to GPC true, correct, and complete copies of all reports (including the most recent performance testing reports for the Facility), studies, analyses, tests, monitoring results, and assessments with respect to Resource Data measured or recorded at or with respect to the Facility or related to the Facility Real Property; (ii) the Resource Data is accurate in all material respects; (iii) Seller owns and possesses all right, title, and interest in and to the Resource Data, free of any Liens, other than Permitted Liens; (iv) Seller has not received any notification of any dispute with respect to any Resource Data; (v) the Resource Data is not subject to any outstanding Order, of any Governmental Authority; and (vi) no Person has assigned, transferred, or conveyed any interest in the Resource Data or the information contained therein in any manner that would reasonably be expected to impair GPC's right to use the Resource Data after the Closing.

3.22 Employee Benefit Plan Liabilities. From and after the Closing Date, none of GPC or any of its Affiliates will incur, and no condition or set of circumstances could reasonably be expected to exist under which GPC or any of its Affiliates could incur, directly or indirectly, any Tax, penalty, fine, Liability, loss, cost, or expense under ERISA, the Code or any other applicable law, or pursuant to any indemnification or similar agreement, under the terms of or otherwise in respect of any employee compensation or benefit plan, program, agreement or arrangement, providing retirement, incentive compensation, health, disability, severance, life, change in control, or equity compensation or benefits (including any Benefit Plan), established or maintained by Seller or any of its Affiliates or ERISA Affiliates.

3.23 Undisclosed Liabilities. Seller does not have any Liabilities that would be required by GAAP to be reflected or reserved against on an unaudited balance sheet of Seller, other than Liabilities: (i) adequately reflected or reserved against on the Interim Balance Sheet; (ii) incurred in the ordinary course of business since the Interim Balance Sheet Date; (iii) incurred in compliance with the terms of this APA, any other Transaction Document, or any Facility Contract (other than any Liability resulting from any breach or default by Seller or any of its Affiliates); or (iv) set forth in Section 3.23 of the Seller Disclosure Schedule.

3.24 Absence of Certain Changes. Except as set forth in Section 3.24 of the Seller Disclosure Schedule and except for the negotiation, preparation, and the execution and delivery of this APA, since the Interim Balance Sheet Date: (i) Seller has conducted its business (including the ownership, operation, maintenance, and use of the Facility and the other Facility Assets) in the ordinary course of business; (ii) there has not occurred any change, event, circumstance, development, occurrence, or effect (including any damage, destruction, casualty, or loss of any kind to the Facility) that, individually or in the aggregate with other changes, events, circumstances, developments, occurrences, or effects, has resulted in, or could reasonably be expected to result in, a Seller Material Adverse Effect; and (iii) there has been no action or failure to act that would constitute a violation of Section 5.3.1 (*Interim Period*) if the action or failure to act were to be taken without the consent of GPC from the date of this APA through the earlier of the Closing or the termination of this APA.

3.25 Credit Support. Other than as set forth in Section 3.25 of the Seller Disclosure Schedule, there is no letter of credit, guarantee, bond, cash collateral, or other credit assurance of a comparable nature provided, or to be provided, by or on behalf of Seller or any of its Affiliates for the benefit of the Facility.

3.26 Affiliate Arrangements. Except as set forth in Section 3.26 of the Seller Disclosure Schedule, neither any of Seller's Affiliates or any direct or indirect equity holder of any of Seller's Affiliates, or any director, officer, or employee of any of the foregoing: (i) is a party to any Contract with Seller; (ii) provides services or resources to Seller, or receives services or resources provided by Seller; or (iii) has any material interest in any Person that acquires from or provides to Seller any goods or services that are material to the ownership, operation, maintenance, repair, or use of the Facility as currently conducted (each, an "**Affiliate Arrangement**").

3.27 Brokers. Neither Seller nor any of its Affiliates has any Liability or obligation to pay fees or commissions to any broker, finder, or agent with respect to the transactions contemplated by this APA, or any other Transaction Document for which GPC or any of its Affiliates could become liable or obliged.

3.28 Development Fees. Except as set forth in Section 3.28 of the Seller Disclosure Schedule, there are no amounts due or that may become due and owing by Seller, any Affiliates of Seller, or GPC in connection with any prior development or acquisition agreement or related transaction with respect to the Facility. There are no restrictions on competition, change in control restrictions, direct or indirect equity ownership, or asset transfer restrictions, rights of first refusal, rights of first offer, or other similar rights or restrictions that restrict Seller from entering into, implementing, or consummating the transactions contemplated by this APA.

3.29 Disclosure. Seller has made available for GPC's review all material information in the possession or control of, or reasonably available to, Seller or any Affiliate of Seller relating to the Facility, including the Facility Assets, in connection with GPC's due diligence examination conducted with respect to the transactions contemplated by this APA. None of the information provided by Seller to GPC contains any untrue statement of a material fact, or omits to state a material fact, necessary to make the statements contained therein, in light of the circumstances in which they are made, not misleading. No representation or warranty made by Seller in this APA, or any Transaction Document to which Seller is or will be a party in connection with the transactions contemplated by this APA, and no statement contained in Seller Disclosure Schedule or any certificate or other document furnished or to be furnished to GPC under this APA, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained therein, in light of the circumstances in which they are made, not misleading.

3.30 Reports. Seller has delivered to GPC true, correct, and complete copies of the Reports (including the most recent performance testing reports for the Facility). None of the Reports, individually or in the aggregate, indicate any event, result, occurrence, development, fact, change, or effect of whatever nature or kind that has had or would reasonably be expected to have a Seller Material Adverse Effect.

3.31 Anti-Corruption. None of Seller or any Affiliate of Seller, or any Person acting on behalf of Seller or any Affiliate of Seller, has, directly or indirectly, made contributions, gifts, or payments relating to any political activity or solicitation of business which was prohibited by law or, on behalf of Seller, made any direct or indirect unlawful payment to any official or employee of any Governmental Authority, or established or maintained any unlawful or

unreported funds. None of Seller or any Affiliate of Seller, or any Person acting on behalf of Seller or any Affiliate of Seller, has accepted or received any unlawful contribution, payment, gift, entertainment, or expenditure.

3.32 Sufficient Funds. Seller and Seller Guarantor have sufficient funds available to it in order to meet its obligations under this APA and the Transaction Documents.

3.33 Bankruptcy; Insolvency. There is no bankruptcy, reorganization, or insolvency proceeding pending, being contemplated by or, to Seller's Knowledge, threatened against Seller or Seller Guarantor, and, to Seller's Knowledge, no facts, conditions, or circumstances exist that would permit one or more Persons to bring an involuntary bankruptcy proceeding against Seller or Seller Guarantor. Each of Seller and Seller Guarantor is, and immediately after giving effect to the transactions contemplated by this APA will be, Solvent.

3.34 Data Security and Cybersecurity. Seller has provided true and correct copies of all current cybersecurity and privacy policies with respect to the Facility and the Facility Assets. Except as would not result in a material liability to the Facility, Seller has taken commercially reasonable efforts to protect and maintain data security with respect to the Facility and the Facility Assets.

PART 4. REPRESENTATIONS AND WARRANTIES OF GPC

GPC represents and warrants to Seller as of the date of this APA and as of the Closing Date (except, in each case, for those representations and warranties made as of a specified date, which will be true and correct as of that date) as follows:

4.1 Organization; Existence. GPC is a corporation duly formed, validly existing, and in good standing under the laws of the state of Georgia. GPC has all requisite corporate power and authority to: (i) own, lease, and operate its assets and properties where its assets and properties are currently owned, leased, and operated; and (ii) carry on its business as it is now being conducted. GPC is duly qualified or licensed to do business and is in good standing in each jurisdiction in which the qualification is required.

4.2 Authorization; Enforceability. GPC has full corporate power and authority to enter into this APA and the other Transaction Documents to which it is or will be a party, to perform its obligations under this APA and the other Transaction Documents to which it is or will be a party, and to consummate the transactions contemplated by this APA and the other Transaction Documents to which it is or will be a party. The execution, delivery and performance by GPC of this APA and the consummation by GPC of the transactions contemplated by this APA have been duly authorized by all necessary corporate action on the part of GPC. This APA and the other Transaction Documents to which it is or will be a party: (i) have been (or will be when delivered) duly and validly executed and delivered by GPC; and (ii) constitute (or will constitute when delivered) (assuming the due execution and delivery thereof by Seller or its Affiliates, as applicable) valid and legally binding obligations of GPC, enforceable against GPC in accordance with their terms, subject to the Remedies Exception.

4.3 No Conflicts. The execution, delivery, and performance by GPC of this APA and the other Transaction Documents to which it is or will be a party does not, and the consummation by GPC of the transactions contemplated by this APA and the other Transaction Documents to which it is or will be a party will not: (i) contravene or violate any provision of the Organizational Documents of GPC; (ii) subject to obtaining the Commission Certificate and the FERC Approval and, if filing of a pre-merger notification under the HSR Act is required, subject to the expiration or earlier termination of the applicable waiting period under the HSR Act (including any extensions thereof), conflict with or result in a violation or breach of any term or provision of any law applicable to GPC; or (iii) contravene or violate any provision of, or result in the termination or acceleration of, or entitle any party to accelerate any obligation or Indebtedness under, or require the Consent of any Person under, or give any person the right to terminate or modify, any Contract or Permit to which GPC is a party or by which it is bound, except, in the case of clause (iii), as would not, individually or in the aggregate, reasonably be expected to have a GPC Material Adverse Effect.

4.4 Governmental Consents. Other than the Commission Certificate, the FERC Approval, and any Consent required under the HSR Act, no Consent of or with any Governmental Authority is required to be made or obtained by GPC for or in connection with the execution, delivery, and performance by GPC of this APA and the other Transaction Documents to which it is or will be a party, or the consummation by GPC of the transactions contemplated by this APA or the other Transaction Documents to which it is or will be a party.

4.5 Compliance with Laws. GPC is not in violation of any applicable law, except for violations that would not, individually or in the aggregate, reasonably be expected to have a GPC Material Adverse Effect.

4.6 Legal Proceedings. Except as would not, individually or in the aggregate, reasonably be expected to have a GPC Material Adverse Effect, as of the date of this APA: (a) there is no Action pending or, to Buyer's Knowledge, threatened against GPC or otherwise affecting any of its assets or properties before any Governmental Authority; and (b) neither GPC nor any of its assets or properties is subject to any Order.

4.7 Brokers. Neither GPC nor any of its Affiliates has any Liability or obligation to pay fees or commissions to any broker, finder, or agent with respect to the transactions contemplated by this APA for which Seller or its Affiliates could become liable or obliged.

4.8 Available Funds. At the Closing, GPC will have all immediately available funds necessary for its payment in cash of the Purchase Price, and the satisfaction of all of GPC's obligations under this APA. GPC acknowledges and agrees that the receipt or availability of funds or financing by GPC or any of its Affiliates will not be a condition to GPC's obligations under this APA. To GPC's Knowledge, no funds to be paid to Seller have been derived or will have been derived from, or constitute, either directly or indirectly, proceeds of any criminal activity under any applicable anti-money laundering laws.

PART 5. GENERAL COVENANTS

5.1 Consents; Regulatory Approvals.

5.1.1. Consents. During the Interim Period: (i) Seller will (and will cause its Affiliates to) use commercially reasonable efforts to obtain or make all Consents of or with any Person (other than any Governmental Authority) under any Facility Contract necessary in order to allow the Parties to consummate, as promptly as practicable (but no later than the Outside Date), the transactions contemplated by this APA and the other Transaction Documents; and (ii) GPC will (and will cause its Affiliates to) use commercially reasonable efforts to: (a) cooperate with Seller and its Affiliates in their efforts to obtain the Consents in subpart (i); and (b) obtain or make all Consents of or with any Person (other than any Governmental Authority) under any material Contract to which GPC is a party necessary in order to allow the Parties to consummate, as promptly as practicable (but no later than the Outside Date), the transactions contemplated by this APA and the other Transaction Documents; except that the efforts will not include any requirement or obligation on the part of any Party to make any payment or assume any Liability not otherwise required to be paid or assumed by the terms of an existing Contract or offer or grant any financial accommodation or other benefit not otherwise required to be made by the terms of an existing Contract.

5.1.2. Regulatory Approvals. Each Party will, and will cause its respective Affiliates to, prepare, as soon as is reasonably practical following the date of this APA, all filings required under any applicable law to be made by it or its Affiliates with any Governmental Authority in connection with the transactions contemplated by this APA prior to the Closing Date. Each Party will, and will cause its respective Affiliates to, submit the required filings as soon as reasonably practicable after the date of this APA. The Parties will, and will cause their respective Affiliates to, promptly make any appropriate or necessary subsequent or supplemental filings and cooperate with one another in the preparation of the filings in the manner as is reasonably necessary and appropriate. The Parties will consult with one another and agree in good faith upon the timing of the filings.

5.1.3. Communications. Each Party will notify the other Party promptly upon the receipt by the Party or its Affiliates of: (i) any material comments or questions from any officials of any Governmental Authority in connection with any filings made pursuant to this Section 5.1 (*Consents; Regulatory Approvals*) or the transactions contemplated by this APA; and (ii) any request by any officials of any Governmental Authority for amendments or supplements to any filings made pursuant to any applicable laws or answers to any questions, or the production of any documents, relating to an investigation of the transactions contemplated by this APA by any Governmental Authority. Whenever any event occurs that is required to be set forth in an amendment or supplement to any filing made pursuant to this Section 5.1 (*Consents; Regulatory Approvals*), each Party will promptly inform the other Party of the occurrence, and the Parties will reasonably cooperate in filing promptly with the applicable Governmental Authority the amendment or supplement. Without limiting the foregoing, each Party will provide to the other Party (or its counsel), upon request, copies of all material correspondence between the Party and any Governmental Authority relating to the transactions contemplated by this APA or the other Transaction Documents. In addition, to the extent reasonably practicable, all discussions, telephone calls, and meetings with any Governmental Authority regarding the transactions contemplated by this APA will include representatives of both GPC and Seller. Subject to applicable law, the Parties will consult and cooperate with each other in connection with any analyses, appearances, presentations, memoranda, briefs, arguments, and proposals made or submitted

to any Governmental Authority regarding the transactions contemplated by this APA or the other Transaction Documents by or on behalf of any Party.

5.1.4. Filings with Governmental Authorities Generally. Each Party will, and will cause its Affiliates to, promptly take, in order to consummate the transactions contemplated by this APA, commercially reasonable actions to: (i) make and obtain all Consents with or of, or other permission or action by, and to make all applications and submissions to, Governmental Authorities as are required to be made or obtained by the Party or its Affiliates for the consummation of the transactions contemplated by this APA; (ii) secure the expiration or termination of any applicable waiting period from any Governmental Authority; (iii) defend all Actions associated with subparts (i) and (ii) of this Section 5.1.4 (*Filings with Governmental Authorities Generally*) challenging this APA, or the other Transaction Documents, or the consummation of the transactions contemplated by this APA; and (iv) resolve any objections asserted with respect to the transactions contemplated by this APA, and the other Transaction Documents raised by any Governmental Authority associated with subparts (i) and (ii) of this Section 5.1.4, and to prevent the entry of any related court order and to have vacated, lifted, reversed, or overturned any decree, judgment, permanent, or preliminary injunction, restraining order, or other order associated with subparts (i) and (ii) of this Section 5.1.4. Each Party will, and will cause its Affiliates to, use commercially reasonable efforts to respond to and seek to resolve as promptly as reasonably practicable any objections asserted by any Governmental Authority regarding the transactions contemplated by this APA or the other Transaction Documents.**[*Note to Bidders: This Section may be revised to include specific timeframes for certain filings*.]**

5.1.5. Limitations. Despite any other provision in this APA to the contrary: (i) neither Party will be obligated to provide the other Party with proprietary information relating to the Party's businesses or any information that could reasonably be expected to result in a violation of any applicable law or Contract or constitute waiver of any attorney-client privilege or attorney work product protection; and (ii) GPC will not be required to agree to, accept, or become subject to, any Burdensome Condition. In addition, despite any other provision in this APA, GPC will not be required to: (a) consult with Seller regarding, or permit Seller to review, any filings or other information submitted by or on behalf of GPC to the Commission; (b) incorporate or otherwise address any Seller comments with respect to any filings or other information submitted by or on behalf of GPC to the Commission; (c) provide notice to Seller of communications between GPC and the Commission, or copies of any notices, correspondence, or other written communications between GPC and the Commission; or (d) permit Seller to participate in any discussions or meetings between GPC and the Commission. For the avoidance of doubt, all references to the Commission in this Section 5.1.5 (*Limitations*) include the Commission staff.

5.2 Access to Information.

5.2.1. General Access. During the Interim Period, Seller will, and will cause its Affiliates to, provide GPC and its Representatives with reasonable access to, and the opportunity to make reasonable inspections of, upon reasonable prior notice and during normal business hours, all: (a) Representatives of Seller; (b) Seller's premises and properties (including the Facility and Facility Assets); and (c) all Books and Records and other information (including Tax records) of Seller, in each case, as reasonably requested by GPC; except that neither GPC nor any of its Affiliates or its or their respective Representatives will conduct any subsurface investigation or invasive inspection or testing of any environmental media without the prior written consent of Seller. Despite any other provision in Section 10.1 (*Notices*), email consent from any Representative of Seller or GPC will suffice to satisfy the requirement in this Section 5.2 (*Access to Information*) that notice and consent be given in writing, and each Party will be entitled to rely on the email consent for all purposes of this Section 5.2 (*Access to Information*). Despite the prior sentence, and without limiting the generality of the confidentiality provisions set forth in this APA or any other Transaction Document, Seller will not be required to provide (or cause its Affiliates to provide) any information if: (i) the disclosure would be reasonably likely to contravene any applicable laws, Permits, Contracts, fiduciary duty or other binding obligation of Seller; (ii) the disclosure would be reasonably likely to jeopardize any attorney-client privilege or attorney work product protection; or (iii) the information is pertinent to any litigation in which the Seller or any of its Affiliates, on the one hand, and GPC or any of its Affiliates, on the other hand, are adverse parties; except that nothing in this APA will limit any Party's rights to discovery in connection with any litigation. Any access to the Representatives, premises, properties, books, records, and other information of Seller will be subject to the following additional limitations: (a) GPC, its Affiliates, and its and their respective Representatives will not damage all or any portion of the property of the Seller

or any of its Affiliates; (b) a Representative of Seller will have the right to be present when GPC, any of its Affiliates or any of its or their respective Representatives conducts its inspection; and (c) GPC will (and will cause its Affiliates and its and their respective Representatives to) use commercially reasonable efforts to perform all on-site due diligence reviews and all communications with any Person on an expeditious and efficient basis.

5.2.2. GPC On-Site Representatives. In furtherance of providing GPC reasonable access to the Facility under this Section 5.2 (*Access to Information*), beginning on the later of; (i) the expiration or termination of the applicable waiting period under the HSR Act; or (ii) or the target date specified in Exhibit A-1 (*Facility Information and Additional Details*) (or such other date mutually agreed upon by the Parties in writing), and for the remainder of the Interim Period, Seller must:

(i) Permit up to two representatives of GPC ("**GPC On-Site Representatives**") to remain on-site at the Facility;

(ii) Permit GPC, at GPC's sole cost and expense, to: (a) bring onto and maintain on the Facility site a mobile office unit or trailer that will allow for reasonable access to the Facility (the exact location of which will be subject to the mutual agreement of the Parties) and (b) provide a method and labor as reasonably requested (at GPC's sole cost and expense) to connect the mobile office electrical service to the Facility's station service; and

(iii) Permit GPC to engage a third-party contractor to come onto the Facility site and provide services for temporary voice and data connectivity and to stage materials for permanent installation during the transition and post-Closing periods;

5.2.3. Certain GPC On-Site Representative Limitations. Despite the provisions of Section 5.2.2 (*GPC On-Site Representatives*): (i) the GPC On-Site Representatives (and any replacements thereof) and each such third-party contractor must be approved by Seller in advance, and Seller may require the removal or replacement of any GPC On-Site Representative or any such third-party contractor for any valid reason, as determined by Seller in their reasonable discretion; (ii) the GPC On-Site Representatives and any such third-party contractors will remain on-site at the Facility only during normal business hours and must not interfere with the normal operation of the business of Seller or the Facility; (iii) the GPC On-Site Representatives and any such third-party contractors must comply with all applicable safety, security, business conduct and other rules, regulations and procedures implemented by Seller; and (iv) the GPC On-Site Representatives' and any third-party contractor's access to the Facility and the Seller's facilities may be reasonably restricted by Seller for any valid reason, as determined by Seller in its sole discretion and as communicated to GPC in writing.

5.3 Conduct of Business.

5.3.1. Interim Period. During the Interim Period, except as set forth on Section 5.3.1 of the Seller Disclosure Schedule, as expressly contemplated by this APA, as required by applicable law, or as consented to in writing by GPC, Seller will: (i) conduct its business in the ordinary course of business; (ii) use commercially reasonable efforts to own, operate, maintain, repair, and use the Facility in accordance with Prudent Utility Practice and applicable Permits, laws, and Contracts; and (iii) use commercially reasonable efforts to preserve relationships with its business relations in connection with the Facility in the ordinary course of business. Without limiting the foregoing, during the Interim Period, except as set forth on Section 5.3.1 of the Seller Disclosure Schedule, as expressly contemplated by this APA, as required by applicable law or as consented to in writing by GPC, Seller will not:

(i) amend any of its Organizational Documents or fail to maintain its legal existence as the entity type specified in Exhibit A-1 (*Facility Information and Additional Details*);

(ii) engage in any line of business other than the continued ownership, operation, maintenance, and use of the Facility;

(iii) sell, assign, transfer, lease, license, or otherwise dispose of any Facility Assets, except for sales of obsolete assets or excess construction materials in the ordinary course of business;

(iv) purchase, lease, or otherwise acquire any property or assets having a value that exceeds individual amount or aggregate amount specified in Exhibit A-1 (*Facility Information and Additional Details*), except for purchases of materials, supplies, and spare parts in the ordinary course of business, including as necessary to comply with any Facility Contract;

(v) merge or consolidate with, or acquire, any other Person or enter into any joint venture, partnership, or similar venture with any other Person;

(vi) liquidate, dissolve, reorganize, or otherwise wind up its business or operations;

(vii) make a voluntary assignment for the benefit of its creditors or file a voluntary petition of bankruptcy or insolvency or otherwise institute insolvency proceedings of any type;

(viii) abandon the Facility;

(ix) (a) create, incur, assume, or guarantee Indebtedness; or (b) grant, impose, or permit to exist any Lien (other than a Permitted Lien) on the Facility or any Facility Assets;

(x) enter into any Affiliate Arrangement that will be in effect following the Closing;

(xi) (a) amend or grant any waiver under any Facility Contract or Real Property Agreement (other than: (I) ministerial or immaterial amendments or waivers, in each case, that would not reasonably be expected to have an adverse impact on GPC (either directly or indirectly through ownership of the Facility Assets) or its rights thereunder following the Closing; or (II) as expressly required by the terms thereof as of the date of this APA); (b) terminate any Facility Contract or Real Property Agreement (other than any expiration or termination in accordance with its terms, except as a result of any breach by Seller); (c) assign any Facility Contract or Real Property Agreement; or (d) enter into any Real Property Agreement or any Contract with respect to the Facility or the Facility Assets;

(xii) make any material modification to the design of the Facility;

(xiii) enter into any compromise or settlement of any material Actions;

(xiv) amend, restate, supplement, waive any rights under, terminate, or otherwise fail to maintain in effect any Facility Permit;

(xv) abandon or fail to maintain any Facility Intellectual Property;

(xvi) hire any employee or offer employment to any individual or adopt or enter into any Benefit Plan, or take any action that could result in Seller becoming a joint employer;

(xvii) make any material change in its financial reporting and accounting methods, other than as required by GAAP or applicable law;

(xviii) make any new, or change any existing, election with respect to Taxes or settle any Tax Liability in a manner that would reasonably be expected to have a material adverse effect on GPC after the Closing; or

(xix) agree or commit to do any of the foregoing.

5.3.2. Emergency Circumstances. Despite any other provision in this Section 5.3 (*Conduct of Business*), Seller may take the actions as it reasonably deems necessary to prevent the occurrence of, or mitigate the effects of, damage to property or injury to persons under emergency circumstances. Upon the occurrence of such event, Seller will provide GPC with notice of the action as soon as reasonably practicable and that taking the action will not impact GPC's rights under this APA.

5.3.3. Notification of any Action. During the Interim Period, Seller will promptly (but in any event within five Business Days) notify GPC of any Action from any Person (including any Governmental Authority) against Seller or affecting any of the Facility Assets.

5.3.4. Amendments and Waivers. Seller will provide GPC with a true and complete copy of any amendment to or waiver under any Facility Contract or Real Property Agreement entered into or granted, as the case may be, in accordance with Section 5.3.1 (*Interim Period*) promptly upon the execution and delivery thereof by the parties thereto or the granting thereof, as applicable.

5.3.5. Financial Statements. During the Interim Period, within 30 days after the end of each fiscal quarter, Seller will and will cause Seller Guarantor to provide an unaudited balance sheet, and the related statements of operations and comprehensive income and statements of members' equity and cash flows, as of and for the three-month period then ended.

5.3.6. Transitional Matters. Despite Section 5.3.1 (*Interim Period*), during the Interim Period, GPC and Seller will use commercially reasonable efforts to coordinate efforts to plan and facilitate the orderly and timely transition of the Facility to GPC at Closing in a manner consistent with the terms of this APA and applicable law, including the transition matters relating to procurement, information technology systems, accounting systems, bank accounts, facilities management, those activities addressed in Section 5.19 (*Transfer of Facility to GPC Following Closing*), Books and Records, and any other transition activities as reasonably requested by GPC, which may include: (i) Seller's alteration of certain purchasing or procurement activities (except as otherwise reasonably required in an emergency situation) beginning a reasonable period (not to exceed #two weeks) before Closing in anticipation of GPC's implementation of certain system-wide procurement arrangements on and after Closing; (ii) allowing GPC to stage information technology equipment at the Facility site no earlier than #five days before the Closing in order to prepare for the transition to GPC's information technology systems on the Closing Date; and (iii) permitting GPC and its authorized Representatives to contact Facility suppliers (with prior written notice to Seller) a reasonable time before Closing in order to discuss the Facility and obtain new or replacement Form W-9s (or comparable documentation) from such suppliers.

5.4 Termination of Intercompany Obligations and Affiliate Arrangements. Except as set forth on Section 5.4 of the Seller Disclosure Schedule (solely with respect to subpart (ii) of this Section 5.4 (*Termination of Intercompany Obligations and Affiliate Arrangements*) or otherwise consented to in writing by GPC prior to the Closing, at or prior to the Closing, Seller will cause: (i) all Liabilities between or among Seller, on the one hand, and any of its Affiliates, on the other hand, relating to pre-Closing matters to be settled and released by causing the Liabilities to be either, at Seller's option: (a) paid and discharged, including by netting of payables and receivables; or (b) cancelled, forgiven, or released; and (ii) all Affiliate Arrangements to be terminated, in the case of each of clauses (i) and (ii), without further force or effect, or Liability to GPC (either directly or indirectly through ownership of the Facility Assets), from and after the Closing.

5.5 Confidentiality; Public Statements or Press Releases.

5.5.1. Non-Disclosure. Each Party acknowledges that portions of this APA 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 APA, 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, and advisors who (a) need to know the information in connection with the receiving Party's performance of its obligations under this APA; and (b) are subject to a contractual obligation to maintain the confidentiality of Confidential Information; and (ii) to the extent required by applicable law. Seller acknowledges and agrees that the terms of this APA, and all price and payment information provided by GPC to Seller are Confidential Information.

5.5.2. Disclosure of Confidential Information to the Commission. Each Party agrees to request confidential treatment of the Confidential Information in this APA from the Commission in accordance with the Commission's rule regarding trade secrets, but Seller understands that certain terms, conditions, and provisions of this APA may need to be disclosed in connection with GPC's regulatory obligations before the Commission. GPC makes no assurance or commitment regarding the ability of GPC to obtain confidential treatment from the Commission. The Parties agree that if Confidential Information is required to be disclosed pursuant to applicable law, the Disclosing Party will make reasonable efforts to obtain protection from disclosure pursuant to the trade secret provisions applicable to the Governmental Authority or court to ensure that the Confidential Information is protected from public disclosure.

5.5.3. Survival of Confidentiality Obligations. Despite any other provision in this APA, this Section 5.5 (*Confidentiality; Public Statements or Press Releases*) will survive for a period of two years after the termination or expiration of this APA, except that, to the extent any Confidential Information constitutes a "**trade secret**" under any applicable law the Receiving Party's obligations under Section 5.5 (*Confidentiality; Public Statements or Press Releases*) will apply for the life of the trade secret.

5.5.4. Public Statements or Press Releases. Neither Seller nor any of its Affiliates will issue any public statement (including any news release, internet, website, social media posting, or other publication) concerning: (i) this APA or the transactions described in this APA; (ii) the Facility with respect to this APA; or (iii) Seller's relationship with GPC, in each case, without the communication first being reviewed and agreed upon by GPC before any 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 5.5.4 (*Public Statements or Press Releases*).

5.6 Expenses. Except as otherwise expressly provided in this APA (including Section 5.9 (*Required Seller Payments*)), whether or not the transactions contemplated by this APA are consummated, all costs and expenses incurred in anticipation of, relating to, and in connection with the negotiation and execution of this APA and the consummation of the transactions contemplated by this APA and the Transaction Documents will be paid by the Party incurring the costs and expenses. Despite the prior sentence, Seller will pay all filing fees required by any Governmental Authority in connection with any Consents required to be obtained or made pursuant to this APA.

5.7 Further Assurances.

5.7.1. Further Actions. Prior to the Closing, each Party will, and will cause its respective Affiliates and Representatives to, cooperate and use their respective commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things reasonably necessary or advisable under applicable laws and regulations, or otherwise to consummate and make effective the transactions contemplated by this APA as soon as practicable and to take the actions or do the things as the other Party may reasonably request in order to cause any of the conditions to the other Party's obligation to consummate the transactions specified in Part 6 (*Conditions Precedent*) to be fully satisfied.

5.7.2. Further Instruments. Each Party agrees that from time to time after the Closing, it will execute and deliver or cause their respective Affiliates to execute and deliver further instruments, and take (or cause their respective Affiliates to take) other actions, as may be reasonably necessary or advisable to carry out the purposes and intents of this APA and the other Transaction Documents.

5.8 Exclusivity. From and after the Effective Date until the earlier of: (i) 90 days after the termination of this APA in accordance with Part 10 (*Miscellaneous*); and (ii) the Closing Date, none of Seller, Seller's Affiliates, or any of their respective Representatives, or anyone acting on behalf of them, will, directly or indirectly: (a) encourage, solicit, or initiate, any discussions or negotiations with; or (b) provide any information to, any Person (other than GPC or its Representatives); (c) engage in discussions or negotiations with any Person other than GPC with respect to any Acquisition Proposal or an inquiry or indication of interest that could lead to an Acquisition Proposal; (d) accept any offer or respond to any indications of interest from any Person, or enter into an agreement, arrangement, or understanding with any Person other than GPC or its Affiliates, in each case, concerning any Acquisition Proposal. In the event Seller, any of its Affiliates, or any of its Representatives receives any Acquisition Proposal by any Person other than GPC, Seller will: (I) immediately notify GPC of receipt of the Acquisition Proposal; (II) disclose the details of the Acquisition Proposal to GPC and provide copies of any written materials related to the Acquisition Proposal; and (III) immediately inform all third parties making the Acquisition Proposal of the covenants and prohibitions set forth in this Section 5.8 (*Exclusivity*).

5.9 Required Seller Payments.

5.9.1. Itemized Seller Payments. Seller will be solely responsible for, and will pay, all costs and expenses associated with any of the items set forth on Schedule 5.9 (*Itemized Seller Payments*).

5.9.2. Additional Seller Payments. Without limiting the foregoing Section 5.9.1 (*Itemized Seller Payments*), Seller will be solely responsible for, and will pay, all costs and expenses required for, or incurred in connection with, the development, design, engineering, construction, interconnection, commissioning, completion, ownership, operation, maintenance, repair, and use of the Facility (including, for the avoidance of doubt, accrued property taxes and easement payments) to the extent the costs and expenses arise or are incurred at or prior to the Closing, or are otherwise allocable to activities performed at or prior to the Closing.

5.9.3. Payment. All costs and expenses that are the responsibility of Seller pursuant to Section 5.9.1 (*Itemized Seller Payments*) or Section 5.9.2 (*Additional Seller Payments*), in each case, that are due and payable at or prior to the Closing will be paid by Seller prior to or concurrently with Closing, and all costs and expenses that are the responsibility of Seller pursuant to Section 5.9.1 (*Itemized Seller Payments*) or Section 5.9.2 (*Additional Seller Payments*), in each case, that are due and payable following the Closing will be paid by Seller as and when due and owing by Seller.

5.10 Insurance. Seller will maintain or cause to be maintained in full force and effect, through the Closing Date and for a period of years following the Closing as specified in Exhibit A-1 (*Facility Information and Additional Details*), the Facility Insurance Policies on substantially the same or similar terms (or obtain comparable

replacement or renewal coverage). Seller will promptly notify GPC of any material claim made under any Facility Insurance Policy (or any replacement or renewal coverage) during the Interim Period.

5.11 No Encroachments. Seller will cause all Improvements to be installed and constructed solely on the Facility Real Property and will not permit any encroachments on property that is not Facility Real Property.

5.12 Estoppel Letters. Before the Closing, Seller must use commercially reasonable efforts to obtain estoppel letters, dated not more than 60 days prior to the Closing Date and in form and substance reasonably satisfactory to GPC and the Title Company, executed by the landowners, easement grantors and licensors under the Real Property Agreements.

5.13 Transfer of Facility Contracts and Facility Permits.

5.13.1. Facility Contracts. Before the Closing Date, to the extent that the Consent of a party (other than Seller) (each, a "**Counterparty**") to a Facility Contract is required in order to transfer any Facility Contracts to GPC without violating any provision of any Facility Contract or applicable law: (i) Seller will use commercially reasonable efforts to obtain the written Consent ("**Contract Consent**") of each Counterparty to each Facility Contract to the assignment to GPC, and the assumption by GPC, of each such Facility Contract at the Closing; (ii) in the event that, notwithstanding the use of commercially reasonable efforts, any Facility Contract is not assignable to GPC, Seller will maintain the Facility Contract in full force and effect and enter into back-to-back arrangements with GPC, in form and substance satisfactory to GPC, to provide GPC with the benefits of the Facility Contract; and (iii) GPC will reasonably cooperate with Seller in its efforts to obtain Contract Consents from the Counterparties; so long as GPC or Seller are not required to make any payment to any Counterparty or assume any Liability not otherwise required to be paid or assumed by Seller pursuant to the terms of the Facility Contract, or offer or grant any financial accommodation or other benefit to the Counterparty not otherwise required to be offered or granted by Seller pursuant to the terms of the Facility Contract. Following the Closing, Seller will reasonably cooperate with GPC in GPC's efforts to provide notices to Counterparties to any Facility Contract as GPC (acting reasonably) may deem necessary, including notices providing Counterparties with updated notice information and updated bank account information to which any applicable payments should be made by the Counterparties.

5.13.2. Facility Permits. Before the Closing Date, to the extent the Consent of any Governmental Authority is required in order to transfer any Facility Permit to GPC without violating any provision of any Facility Permit or applicable law: (i) Seller will use commercially reasonable efforts to either transfer or obtain the reissuance of each Facility Permit to GPC at the Closing; (ii) in the event that, notwithstanding the use of commercially reasonable efforts, any Facility Permit is not transferrable or re-issuable to GPC, Seller will maintain the Facility Permit in full force and effect until the time that GPC is able to obtain its own Permit; and (iii) GPC will reasonably cooperate with Seller in its efforts to transfer or obtain the reissuance of any such Facility Permit. GPC will have the right to review in advance all characterizations of the information relating to the transactions contemplated by this APA that appear in any document to be submitted in connection with any filings to transfer the Facility Permits, and Seller agrees to consider in good faith any comments reasonably requested by GPC.

5.13.3. Assignment of Facility Assets. Before the Closing Date, Seller will cause its Affiliates to transfer and assign to Seller all of its Affiliates' right, title, and interest in, to, and under all properties, assets, and rights of any kind, wherever located, whether tangible or intangible, owned, licensed, leased, or otherwise held by any of its Affiliates that are related to, used in or held for use in, or necessary for the ownership, operation, maintenance, repair, or use of the Facility.

5.14 Appraisal, Title Report, Survey, Title Insurance Commitment, & Title Insurance Policy Matters.

5.14.1. Appraisal. Within thirty 30 days after the Effective Date, GPC will, at Seller's cost and expense, use commercially reasonable efforts to retain a nationally or regionally recognized real property appraiser, reasonably acceptable to Seller, in order to prepare an appraisal of the fair market value of the real property interests relating to the Facility Real Property. Seller will reasonably cooperate with GPC in connection with selecting the appraiser and obtaining the appraisal.

5.14.2. Title Report. Within 30 days after the Effective Date, GPC will, at Seller's cost and expense, use commercially reasonable efforts to obtain a preliminary title report with respect to each parcel of real property comprising the Facility Real Property or that is the subject of a Real Property Agreement, including the Easements (the "**Preliminary Title Report**").

5.14.3. ALTA Survey. Within 60 days after GPC's receipt of the Preliminary Title Report, GPC will, at Seller's cost and expense, use commercially reasonable efforts to obtain the ALTA Survey prepared by the Surveyor, in form and substance reasonably acceptable to GPC, which ALTA Survey will be in the name of, and prepared at the direction of GPC.

5.14.4. Title Commitment. Within 30 days after GPC's receipt of the ALTA Survey, GPC will use commercially reasonable efforts to obtain a commitment for title insurance issued by the Title Company ("**Title Commitment**") to issue the Title Policy on the Closing Date.

5.14.5. Title and Survey Objection Notice. GPC may object to any matters shown on the Title Commitment or the ALTA Survey, other than Permitted Liens as of the Closing Date and the standard pre-printed exceptions that appear in the Title Commitment, by delivering written notice ("**Title and Survey Objection Notice**") to Seller no later than 14 days after receipt by GPC of the later of the Title Commitment and the ALTA Survey. If GPC does not deliver the Title and Survey Objection Notice within the prescribed 14-day period, all matters reflected on the Title Commitment and ALTA Survey will be Permitted Liens, and all matters reflected on the Title Commitment and the ALTA Survey to which GPC does not object in the Title and Survey Objection Notice will be Permitted Liens. Seller may, but will have no obligation to, remove or rectify prior to Closing any matters identified as Objectionable Title and Survey Matters in the Title and Survey Objection Notice. Within 14 days after receipt of GPC's Title and Survey Objection Notice, Seller will provide GPC written notice ("**Seller's Title/Survey Objection Response**") of those Objectionable Title and Survey Matters which Seller will remove or rectify and those which Seller elects not to remove or rectify. If Seller elects not to remove or rectify any of the Objectionable Title and Survey Matters, GPC will have the right to terminate this APA by delivering written notice to Seller within 14 days after GPC's receipt of Seller's Title/Survey Objection Response. If GPC does not deliver to Seller a notice of termination within the prescribed 14-day period, then GPC will be deemed to have accepted the Objectionable Title and Survey Matters and they will be deemed to be Permitted Liens.

5.15 Performance Security. Effective as of the Effective Date, and continuing for a period of 36 months following the Closing Date, throughout the Interim Period, Seller must furnish to GPC Performance Security in the aggregate amount of 5% of the Base Purchase Price. If Seller has delivered a Seller Guaranty as the Performance Security and at any time while the Seller Guaranty is required to be maintained, as described in the immediately preceding sentence, the Person providing the Seller Guaranty is not Creditworthy, then Seller must furnish, within 30 days after notice from GPC, a replacement Seller Guaranty from a Person that is Creditworthy. If Seller has delivered a Seller Guaranty as the Performance Security, then on the Closing Date, Seller will also deliver to GPC the Closing Date Letter of Credit, and Seller will cause the Closing Date Letter of Credit to be maintained in full effect until the date that is 36 months after the Closing Date, unless there are outstanding payment obligations at that time, in which case the Closing Date Letter of Credit must be maintained until all outstanding payment obligations have been discharged.

5.16 Performance Test. [***Placeholder for language giving GPC the right to require performance testing at the Facility prior to Closing***]

5.17 Casualty Loss.

5.17.1. Occurrence of Casualty Loss. If any of the Facility Assets are damaged or destroyed by casualty loss or other similar event or circumstance (ordinary wear and tear excepted) during the Interim Period ("**Casualty Loss**"), Seller must notify GPC promptly in writing upon Seller becoming aware of the event. Promptly after the date of the event giving rise to the Casualty Loss, Seller and GPC will obtain a detailed written estimate from a qualified, independent appraisal firm reasonably acceptable to GPC and Seller setting forth: (i) the estimated cost of replacing, repairing and restoring such damaged or destroyed Facility Assets to a condition that: (a) satisfies the Seller's representations, warranties and covenants in this APA, including, for the avoidance of doubt, a condition that satisfies Section 3.14.1 (*Condition of Facility Assets*) and that will enable compliance with Facility Contracts; and (b) otherwise is acceptable to GPC, in its reasonable discretion; and (ii) related expenses plus all lost revenue reasonably expected to result from such Casualty Loss (the estimated costs and expenses regarding the Facility Assets, "**Restoration Cost**"). Seller must pay the costs and expenses associated with obtaining any such written estimate.

5.17.2. Casualty Loss that is Not a Material Casualty Loss. If the Casualty Loss is not a Material Casualty Loss and the work to replace, repair, or restore the Facility Assets as required under this Section 5.17 (*Casualty Loss*) may be completed before the Outside Date, Seller must, at its expense, promptly

replace, repair, and restore the Facility Assets before Closing (and by no later than the Outside Date) to a condition that: (i) satisfies Seller's representations, warranties, and covenants in this APA, including, a condition that satisfies Section 3.14.1 (*Condition of Facility Assets*) and that will enable compliance with Facility Contracts; and (ii) is otherwise is acceptable to GPC, in GPC's reasonable discretion, unless GPC elects, in GPC's sole discretion, to terminate this APA by delivering written notice to Seller within 30 days after GPC's receipt of the Restoration Cost estimate, except that, if GPC does not elect to terminate this APA, Seller may offer to GPC to reduce the amount of the Base Purchase Price by the Restoration Cost in lieu of performing the required replacement, repair, and restoration work. GPC will not be obligated to accept Seller's offer and any GPC acceptance of the offer will be in GPC's sole discretion.

5.17.3. Casualty Loss That Is a Material Casualty Loss. If the Casualty Loss is a Material Casualty Loss, or if the Casualty Loss is not a Material Casualty Loss but the work to replace, repair, or restore the Facility Assets as required under this Section 5.17 (*Casualty Loss*) cannot be completed before the Outside Date, then by written notice to Seller within 30 days after the receipt by GPC of the Restoration Cost estimate, GPC may elect, in its sole discretion, to: (i) terminate this APA; or (ii) enter into negotiations with Seller to try to settle the Material Casualty Loss on terms mutually acceptable to the Parties, in which case Seller must enter into good faith negotiations with GPC; however, GPC may terminate the negotiations at any time and elect to terminate this APA by written notice to Seller. Neither GPC nor Seller will be obligated to reach agreement on any such settlement. GPC will be entitled to condition any settlement of a Material Casualty Loss that does not involve the complete replacement, repair, or restoration of the Facility Assets as required under this Section 5.17 (*Casualty Loss*) upon a fair and equitable reduction to the Base Purchase Price and assignment to GPC of any insurance proceeds Seller received regarding the Casualty Loss and Seller did not use to perform the required replacement, repair, and restoration of such Facility Assets.

5.18 Update of Seller Disclosure Schedule.

5.18.1. Schedule Updates. During the Interim Period, Seller must promptly supplement or amend the Seller Disclosure Schedule with respect to any matter (regardless of whether such matter arose prior to, on or after the Effective Date) if necessary to remedy any inaccuracy of any representation or warranty of Seller (each, a "**Schedule Update**"), but, except as specifically provided in this Section 5.18.1 (Schedule Updates), no Schedule Update will be deemed to be incorporated into or to supplement, amend or modify the Seller Disclosure Schedule. Seller must deliver any such Schedule Update to GPC no later than seven Business Days after the discovery of any such matter by Seller.

5.18.2. Schedule Updates for New Matters. If any event, circumstance, or change that is the subject of any Schedule Update: (i) arose after the Effective Date; (ii) if existing or occurring on or before the Effective Date, would have been required to be set forth or described in the Seller Disclosure Schedule; and (iii) is not the result of a Seller breach of this APA and is not a Casualty Loss addressed by Section 5.17 (*Casualty Loss*) ("**New Matter**"), individually or taken as a whole with all New Matters, would have or would reasonably be expected to have a Seller Material Adverse Effect, or relates to any Seller Fundamental Representation, GPC will have the right to either: (a) terminate this APA by delivering written notice to Seller within ten Business Days after receipt by GPC of the Schedule Update; or (b) consummate the transactions contemplated by this APA. If GPC has the right to terminate this APA in accordance with the preceding but elects to consummate the transactions contemplated by this APA and the Closing occurs, then the Schedule Update will be deemed: (I) to have amended the applicable Seller Disclosure Schedule; (II) to have qualified the representations and warranties contained in Part 3 (*Representations and Warranties of Seller*); and (III) to have cured any inaccuracy in or breach of any representation that otherwise might have existed hereunder by reason of the existence of the New Matter(s) for purposes of determining whether or not the conditions set forth in Section 6.2 (*Conditions to Obligations of GPC*) have been satisfied and for purposes of the indemnification rights contained in Section 8.3 (*Indemnification by Seller*).

5.18.3. Schedule Updates for Breaches. Any Schedule Update that reflects an event, circumstance, or change that either: (i) occurred on or before the Effective Date and should have been set forth or described in the Seller Disclosure Schedule as of the Effective Date in order for Seller's representations and warranties contained in Part 3 (*Representations and Warranties of Seller*) to have been true and correct as of the Effective Date; or (ii) does not give GPC the right to terminate this APA pursuant to Section 5.18.2 (*Schedule Updates for New Matters*), must be deemed to have been provided for information purposes only and must not be deemed to have amended the Seller Disclosure Schedule, to have

qualified the representations and warranties contained in Part 3 (*Representations and Warranties of Seller*), or to have cured any inaccuracy in or breach of any representation or warranty under this APA for purposes of the closing conditions set forth in Section 6.2 (*Conditions to Obligations of GPC*) or for purposes of the indemnification rights contained in Section 8.3 (*Indemnification by Seller*).

5.19 Transfer of Facility to GPC Following Closing. To facilitate GPC's planned transfer of the Facility from Seller to GPC immediately following Closing, during the Interim Period:

5.19.1. GPC will have the right to, and Seller must permit GPC to, contact and discuss with the applicable Governmental Authorities the planned assignment, modification, or other transfer, following the Closing, of the Facility Permits respecting the Facility from Seller to GPC. Following Closing, to the extent necessary and requested by GPC, Seller must reasonably cooperate with GPC's efforts to complete such assignment, modification, or transfer. [***Note to Bidder: Applicable Permit transfer matters to be specifically addressed.***]

5.19.2. For the avoidance of doubt, neither any action taken or not taken by any such Governmental Authorities nor any failure or inability, for any reason, to transfer the Facility (or any part of it) from the Seller to GPC following Closing will affect in any way the liabilities and obligations of the Parties under this APA, including to consummate the transactions contemplated hereby and thereby and the Closing on the terms and conditions set forth in this APA.

5.20 Employment Matters.

5.20.1. Employee Screenings. Promptly following the expiration or termination of the applicable waiting period under the HSR Act, Seller and GPC will hold an initial meeting with all employees of the facility in order for GPC and Seller to make a general presentation regarding the hiring and transition process and schedule for the anticipated transition of the employees to GPC regarding the closing. Additionally, GPC and Seller will coordinate to schedule a meeting with all Facility employees on or about the #75th day before the expected Closing Date (the expected Closing Date to be determined by Seller and GPC in good faith) for GPC to make a presentation regarding employment opportunities with GPC at the Facility, including a discussion of compensation, benefits, and employment positions. At the meeting, GPC will deliver forms of authorization and consent through which an employee may authorize GPC to conduct pre-employment evaluations, including a background check and a drug screen, of the employee for purposes of being considered for employment by GPC at the Facility. Each employee who desires to be considered for employment by GPC must execute and deliver the authorizations to Seller, who must in turn deliver the authorizations to GPC, in each case, within #15 days following the meeting. Following GPC's receipt of the authorizations, GPC will conduct pre-employment evaluations and a job interview of each selected employee who delivers an authorization. Seller must cooperate in good faith with GPC to coordinate the job interview. During the #30 days before the Closing Date, GPC will in its sole discretion have the right (but will not have any obligation) to, directly or through an Affiliate or other third party ("**GPC Employer**"), offer employment to each such employee, which must be conditioned on Closing, the terms and conditions of which (including compensation, benefits, position, and seniority) must be at the sole discretion of the GPC Employer and may or may not be comparable to the terms and conditions of the employee's employment with Seller. During the period, Seller must cooperate with GPC Employer regarding the employment efforts, including providing GPC Employer reasonable access to the employees to communicate and discuss the offers. During the Interim Period, Seller must not: (i) offer employment or transfer to any such employee other than at the Facility; or (ii) encourage any such employee not to accept any offer of employment by GPC Employer or otherwise interfere with GPC Employer's rights under this Section 5.20 (*Employment Matters*).

5.20.2. Liability Regarding Seller Employees. Except for any liability or obligation arising out of any violation by GPC, any other GPC Employer or any Representative thereof of any law (including regarding employment discrimination, ERISA, and plant closings and layoffs) or any collective bargaining agreement, for which Seller will not be liable or responsible, Seller will be responsible for, and none of GPC, GPC Employer, or any of their Affiliates will have any liability or obligation whatsoever for, any compensation, benefits, severance, or any other amounts payable to or damages claimed by any Seller employee (including claims regarding levels of benefits, compensation, seniority, or otherwise): (i) for any period relating to the employee's service with Seller or other relevant employer at any time before the Closing Date; (ii) who is not offered or does not accept an offer of employment with GPC Employer; or (iii) regarding any employee's

termination of employment with Seller or other relevant employer, and Seller must indemnify and hold harmless, release and defend GPC, GPC Employer, and their Affiliates from and against any liability or obligation, and costs and expenses (including reasonable attorneys' fees and expenses) related to subsections (i), (ii), or (iii) of this Section 5.20.2 (*Liability Regarding Seller Employees*).

5.20.3. Non-Solicitation. For a period of #twelve months following the Closing Date ("**Restricted Period**"), Sellers must not, and must cause their Affiliates not to, directly or indirectly, hire or solicit any Person who is offered and accepts employment with a GPC Employer in accordance with Section 5.20.1 (*Employee Screenings*) or is or was employed at the Facility during the Restricted Period (each, a "**Restricted Employee**"), or encourage any Restricted Employee to leave or hire any Restricted Employee who has left the employment, except: (i) in accordance with a general solicitation that is not directed specifically to any Restricted Employees; (ii) any Restricted Employee whose employment has been terminated by GPC Employer; or (iii) after #180 days from the date of termination of employment, any Restricted Employee whose employment has been terminated by the Restricted Employee (provided that the preceding time limitation must not apply to any Restricted Employee who has responded to a general solicitation for employment that is not directed specifically to the Restricted Employee). Seller acknowledges that a breach or threatened breach of this Section 5.21.3 (*Non-Solicitation*) would give rise to irreparable harm to GPC, for which monetary damages would not be an adequate remedy, and accordingly agrees that if there is a breach or a threatened breach by Seller of any such obligations, GPC will, in addition to any other right and remedy that may be available to it regarding the breach, be entitled to equitable relief, including a temporary restraining order, an injunction, specific performance, and any other relief that may be available from a court of competent jurisdiction (without any requirement to post bond). Seller acknowledges that the restrictions contained in this Section 5.21.3 (*Non-Solicitation*) are reasonable and necessary to protect GPC's legitimate interests and constitute a material inducement to GPC to enter into this APA and consummate the transactions contemplated by this APA.

PART 6. CONDITIONS PRECEDENT

6.1 Conditions to Obligations of Each Party. The respective obligations of each Party to this APA to consummate the transactions contemplated by this APA are subject to the satisfaction (or waiver by the applicable Party) of each of the following conditions at or prior to the Closing:

6.1.1. [**Consents**. All Consents listed on Schedule 6.1.1 (*Consents*) have been obtained and are in full force and effect.]**[*Note to Bidders: Placeholder for any required third-party Consents.*]**

6.1.2. No Injunction. There exists no law, Order, or Permit that restrains, enjoins, or otherwise prohibits or makes illegal the consummation of the transactions contemplated by this APA, and there is no pending action or proceeding initiated by any Governmental Authority seeking an Order prohibiting the consummation of the transactions contemplated by this APA.

6.1.3. Government Approvals; Consents.

(i) Interim Period Obligations. During the Interim Period, Seller must: (a) use commercially reasonable efforts to obtain and maintain in effect all consents, approvals, ratifications, waivers, notices, or other authorizations given by or to any Person that is not a Governmental Authority (including all required consents identified in Schedule 6.1.3(i)) and obtain all Consents and make all filings with, and give all notices to, all Governmental Authorities (including regarding all Required Regulatory Approvals) and any other Person that may be or become necessary for Seller to execute and deliver this APA or perform its respective obligations under this APA; and (b) cooperate with GPC in seeking to obtain all the Consents and approvals, including giving the notices and making the filings, all in accordance with the provisions of this Section 6.1.3 (*Government Approvals; Consents*).

During the Interim Period, GPC will: (I) use commercially reasonable efforts to obtain and maintain in full effect all consents, approvals, ratifications, waivers, notices, or other authorizations given by or to any Person that is not a Governmental Authority, obtain all Consents, and make all filings with, and give all notices to, all Governmental Authorities (including regarding all Required Regulatory Approvals) and any other Person that may be or become necessary for GPC to execute and deliver this APA or perform its obligations under this APA; and (II) cooperate with Seller in promptly seeking to obtain all the Consents and approvals and provide the notices and

making the filings, all in accordance with the provisions of this6.1.3 (*Government Approvals; Consents*).

(ii) Obligations of the Parties. Without limiting the generality of the undertakings under Section 6.1.3(i) (*Interim Period Obligations*), and subject to the limitations set forth in this Sections 6.1.3 (*Government Approvals; Consents*) and 6.1.5 (*Adverse Conditions*), each Party must, and must cause its respective Affiliates to: (a) use all commercially reasonable efforts to: (I) gather and obtain all necessary information to complete the filings, which will be prepared and filed by Seller, GPC, or any ultimate parent entity of GPC or Seller, as required, seeking the Required Regulatory Approvals (including all reports, studies, and exhibits related to the Required Regulatory Approvals); and (II) consult with each other regarding any filings and consider all reasonable comments (if any) submitted by the other Party or its Representatives; and (b) before and during the pendency of any notice and approval or waiting period concerning the filings: (I) consult with the other Party before providing any supplemental information to the applicable Governmental Authority and provide prompt written notice to the other Party of all Orders and actions from the Commission and all material communications from other Governmental Authorities, and, except regarding the Commission and except as otherwise directed by the applicable Governmental Authority, permit the other Parties, at their election, to participate in any substantive discussions or meetings with, the applicable Governmental Authority that reasonably relate to or bear upon the filings; and (II) use commercially reasonable efforts to expedite and obtain the Required Regulatory Approvals without material modification by the relevant Governmental Authority.

(iii) Concerning the preceding:

(a) GPC will cause its ultimate parent entity to prepare, and Seller will cause its ultimate parent entity to prepare, a Notification and Report Form seeking the HSR Approval and in each case cause the Notification and Report Forms to be filed not later than #Number days after the Effective Date;

(b) Each Party will, or will cause its Affiliate(s) to, prepare the application for FERC Approval and file the application no later than #Number days after the Effective Date. Each Party agrees that any application to, or filing with, FERC associated with the transactions contemplated this APA, including any amendments or supplements to this APA, will be subject to review and approval of the other Party, which approval will not be unreasonably withheld, delayed, or conditioned;

(c) Each Party will, or will cause its Affiliates to, prepare and file the Person's application for FCC Approval not later than #Number days after the Effective Date;

(d) Seller and GPC, as applicable, will, in a timely manner, file the required forms and notices with the United States Environmental Protection Agency, the State Department of Environmental Management and other appropriate Governmental Authorities, if any, to provide notice of a change in the designated Representatives and authorized account Representatives, respectively, regarding GPC or Seller's Emission Allowance compliance accounts for the Facility and Seller and GPC will reasonably cooperate regarding the filings;

(e) GPC will prepare, file, and prosecute the Commission Certificate for Commission approval in accordance with the terms and subject to the conditions of this APA;

(f) Seller will not, and will not cause or permit any of its Affiliates to: (a) extend any waiting period or withdraw its filings seeking the Required Regulatory Approvals referred to in this Section 6.1.3 (*Government Approvals; Consents*); or (b) enter into any agreement with any Governmental Authority agreeing not to consummate the transactions contemplated by this APA, in each case, without the prior written consent of the other Party, which consent may not be unreasonably withheld; and

(g) During the Interim Period, if GPC learns, or otherwise has reason to believe, that the Commission's Certificate will not be obtained in the manner required by this APA, then GPC will provide Seller with reasonable written notice regarding the status of the Commission's approval.

(iv) Designation of Competitively Sensitive Materials. Each Party may, as it deems advisable and necessary, designate any competitively sensitive materials provided to the other

concerning the Parties' obligations set forth in this Section 6.1.3 (*Government Approvals; Consents*) as "outside counsel only" and may redact from the "outside counsel only" material: (a) any competitively sensitive information that contains valuation information; or (b) that is unrelated to the transactions contemplated by this APA. The material and information contained in the "outside counsel only" materials will be given only to outside counsel of the recipient and the outside counsel must not disclose the "outside counsel only" material to any other recipient Representatives without the advance written consent of the Party providing the materials. Additionally, if any of the competitively sensitive information will be presented or discussed at a meeting, the Party who is providing the information may request the other Party and its Affiliates and Representatives to leave the meeting while the information is being presented or discussed, and the other Party will, and will cause its Affiliates and Representatives, to do so.

(v) Fee Responsibility. (a) GPC will be responsible for fees associated with obtaining HSR Approval and the Commission Certificate; and (b) GPC and Seller will be equally responsible for the fees associated with obtaining FERC Approval and FCC Approval, but: (I) each Party will bear its own costs and expenses (including legal fees) incurred in the preparation of the filings, and (II) Seller must pay the costs and expenses of a Seller Affiliate (including legal fees) incurred in the preparation of the filings.

(vi) Adverse Conditions. Despite any other provision in this APA, nothing contained in this Section 6.1.3 (*Government Approvals; Consents*) will require GPC to take any action that is or would result in a Burdensome Condition.

6.1.4. Regulatory Matters.

(i) Filing Application with Commission. GPC will use reasonable efforts to obtain the Commission Certificate, and in furtherance thereof, to target a filing of the application as soon as reasonably practicable after execution of this APA, and to pursue the issuance of the Commission Certificate. Seller agrees to assist and support GPC, in a timely manner and to the extent reasonably requested by GPC, in obtaining the Commission Certificate.

(ii) Certificate Conditions. If: (a) the Commission issues a Commission Certificate that is subject to material qualifications or conditions that adversely affect GPC; (b) the Commission has not approved this APA through the granting of a Commission Certificate for the recovery in rates for the purchase of the Facility Assets; or (c) the Commission fails to issue a Commission Certificate by the date required in Commission Rule 515-3-4-.07(1)(e)(5), then GPC may terminate this APA upon written notice to Seller. If GPC terminates this APA under subpart (a) or (b), then GPC must give Seller notice of termination no later than 30 days after the issuance of the Order either approving the Commission Certificate with material qualifications or conditions or denying the Commission Certificate. If GPC terminates this APA under subpart (c), then GPC must give Seller notice of termination within 30 days after the date by which the Commission was required to issue the Commission Certificate under Commission Rule 515-3-4-.07(1)(e)(5). If, within 30 days after the Order approving or denying the Commission Certificate, GPC appeals the issuance or denial of the Commission Certificate to the Commission or Fulton County Superior Court, then GPC's right to terminate this APA will be extended until the date that is 80 days after the date of the Order approving or denying the Commission Certificate. Upon a termination under this Section 6.1.4(ii) (*Certificate Conditions*): (A) neither Party will have any further liability to the other Party under this APA; and (B) GPC will promptly return to Seller any unused portion of the Performance Security and Upgrade Security, if applicable;

(iii) Revocation, Qualifications, or Conditions. Despite the provisions of Section 6.1.4(ii) (*Certificate Conditions*), if at any time during the term of this APA, the Commission issues an Amended Commission Certificate that imposes a material qualification or condition that adversely affects GPC, unless GPC and Seller agree to an amendment in accordance with Section 6.1.4(v) (*APA Amendment*), GPC will have the right to terminate this APA if such material qualification or condition is not acceptable to GPC. Within 15 days after GPC's receipt of the Amended Commission Certificate, GPC will provide Seller with written notice of whether the Amended Commission Certificate is subject to a material qualification or condition and, if so, whether GPC elects to terminate this APA. If GPC fails to provide notice within the 15-day period, the Amended Commission Certificate will be deemed to be acceptable to GPC. Upon a termination pursuant to

this Section 6.1.4(iii) (*Revocation, Qualifications, or Conditions)*: (a) neither Party will have any further liability to the other Party under this APA; and (b) GPC will promptly return to Seller any unused portion of the Performance Security and Upgrade Security, if applicable.

(iv) Change in Economic Circumstances or Market Conditions. Despite any other provision in this APA, and provided it is not otherwise required by Commission Rule 515-3-4.08, neither Party will seek to have the Commission revoke or amend the Commission Certificate on the Party's own initiative for reasons solely related to changed economic circumstances or market conditions affecting this APA.

(v) APA Amendment. If the Commission issues an Order approving this APA with any modification or condition, or issues an Amended Commission Certificate, as applicable, this APA will not be amended to include the modification or condition unless the Parties execute a written amendment agreeing to the modification or condition. If, within 30 days after the Order, GPC requests that Seller execute a written amendment agreeing to the modification or condition, and Seller does not execute a written amendment within 30 days after the request, GPC may terminate this APA. Upon termination of this APA under this Section 6.1.4(v) (*APA Amendment*), GPC will promptly return to Seller any unused portion of the Performance Security and Upgrade Security, if applicable, and thereafter, neither Party will have any further obligation to the other Party under this APA.

(vi) Affiliate FERC Approval. If Seller is an Affiliate of GPC and if required by applicable law, FERC will have approved this APA without modification or conditions, or if approved subject to modification or conditions, only with such modifications or conditions that are acceptable to both Parties.

(vii) FERC Filings Waiver. The Parties waive all rights to submit filings to FERC seeking modification or rescission of this APA under Section 205 or 206 of the Federal Power Act. In any proceeding before FERC involving this APA, the Parties will request 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), and clarified by NRG Power Marketing LLC v. Maine Public Utility Commission, 130 S. Ct. 693 (2010).

6.2 Conditions to Obligations of GPC. GPC's obligations under this APA to consummate the transactions contemplated by this APA are subject to the satisfaction (or waiver by GPC) of each of the following conditions at or before the Closing:

6.2.1. Seller's Representations and Warranties. The representations and warranties of Seller set forth in Part 3 (*Representations and Warranties of Seller*), disregarding any "materiality," "Seller Material Adverse Effect," or other similar qualifications, are true and correct in all material respects, in each case on and as of the Closing Date with the same force and effect as though such representations and warranties were made on and as of the Closing Date (except to the extent that such representations and warranties expressly are made as of an earlier date, in which case, as of the applicable earlier date);

6.2.2. Performance Prior to and at Closing. Each of the covenants and agreements of the Seller that are to be complied with or performed under this APA at or prior to the Closing have been complied with and performed in all material respects.

6.2.3. Seller Material Adverse Effect. No Seller Material Adverse Effect has occurred and is continuing as of the Closing.

6.2.4. Seller Closing Deliveries. Seller has delivered (or caused to be delivered) to GPC the following:

(i) a counterpart of the Bill of Sale, duly executed by Seller;

(ii) a counterpart to the Assignment Agreement, duly executed by Seller;

(iii) a counterpart to the Deed/Lease Assignment, duly executed by Seller;

(iv) a certificate, dated as of the Closing Date, duly executed by an officer of Seller certifying: (a) that the conditions described in Sections 6.2.1 (*Seller's Representations and Warranties*) and 6.2.2 (*Performance Prior to and at Closing*) have been satisfied; (b) that true and complete copies

of resolutions of Seller authorizing the consummation of the transactions contemplated by this APA are attached to the certificate and that the resolutions were duly adopted, have not been rescinded, or amended and remain in full force and effect; and (c) as to the incumbency and signature of each Person executing documents on behalf of Seller or its Affiliates (the "**Seller Closing Certificate**");

(v) [a counterpart of [●], duly executed by [●];]**[*Note to Bidders: To include any agreements Seller or its Affiliates will enter into to perform work or services after the Closing.*]**

(vi) if required pursuant to Section 5.15 (*Performance Security*), the Closing Date Letter of Credit;

(vii) all guarantees required under the other Transaction Documents, duly executed by Seller Guarantor;

(viii) estoppel certificates executed on behalf of at least the threshold (specified in Exhibit A-1 (*Facility Information and Additional Details*)) of the landowners, easement grantors, and licensors under the Real Property Agreements;

(ix) the Title Policy;

(x) the Updated Surveys;

(xi) a Form W-9 properly completed and duly executed by Seller;

(xii) a certificate in accordance with Treasury Regulations Section 1.1445-2(b);

(xiii) if applicable, a completed Domestic Content Certificate in substantially the form of Exhibit H (*Form of Domestic Content Certificate*) attached to this APA;

(xiv) (a) a current and valid Phase I environmental site assessment conducted in accordance with ASTM #E1527-13 regarding the Facility Real Property and, if required pursuant to ASTM #E1527-13, a current and valid Phase II environmental site assessment, in each case, dated no more than the number of days before the Closing Date as specified in Exhibit A-1 (*Facility Information and Additional Details*); and (b) a reliance letter in favor of GPC with respect to each applicable assessment, in each case of clauses (a) and (b), in form and substance reasonably acceptable to GPC;

(xv) payoff letters and other evidence of the satisfaction of all Indebtedness of Seller prior to or concurrent with the Closing and the termination of all Liens on the Facility Assets and other documents and agreements evidencing such Indebtedness effective on or prior to the Closing; and

(xvi) any other documents required by applicable law, or expressly required under this APA, in each case, to consummate the transactions contemplated by this APA.

6.2.5. Facility Permits. All Facility Permits have been duly transferred to GPC, or reissued in the name of GPC in accordance with applicable law, and are valid and binding and in full force and effect.

6.2.6. Facility Contracts. All Facility Contracts have been duly assigned to GPC as of Closing, and are valid and binding and in full force and effect.

6.2.7. Commission Certificate. The Commission Certificate has been duly obtained on terms that do not constitute a Burdensome Condition and is in full force and effect.

6.3 Conditions to Obligations of Seller. The obligations of Seller under this APA to consummate the transactions contemplated by this APA are subject to the satisfaction (or waiver by Seller) of each of the following conditions at or prior to the Closing:

6.3.1. GPC's Representations and Warranties. The representations and warranties of GPC set forth in Part 4 (*Representations and Warranties of GPC*), disregarding any "materiality," "GPC Material Adverse Effect," or other similar qualifications set forth therein, are true and correct in all respects, in each case, on and as of the Closing Date with the same force and effect as though such representations and warranties were made on and as of the Closing Date (except to the extent that such representations and

warranties expressly are made as of an earlier date, in which case, as of the applicable earlier date) except as would not, individually or in the aggregate, have a GPC Material Adverse Effect.

6.3.2. Performance Prior to and at Closing. Each of the covenants and agreements of GPC that are to be complied with or performed under this APA at or prior to the Closing have been complied with and performed in all material respects.

6.3.3. GPC Closing Deliveries. GPC has delivered (or caused to be delivered) the following:

(i) to Seller, the Closing Purchase Price in accordance with Section 2.1.2 (*Payment of Purchase Price; Closing Deliveries*);

(ii) to the holders of outstanding Indebtedness as of the Closing, if any, by wire transfer of immediately available funds, the amount of money due and owing from Seller to such Persons in the amounts and in accordance with payment instructions set forth on the payoff letters delivered in accordance with Section 6.2.4 (*Seller Closing Deliveries*);

(iii) to Seller, a counterpart of the Bill of Sale, duly executed by GPC;

(iv) to Seller, a counterpart of the Assignment Agreement, duly executed by GPC;

(v) to Seller, a counterpart of the Deed/Lease Assignment, duly executed and acknowledged by GPC;

(vi) to Seller, a certificate, dated as of the Closing Date, duly executed by an officer of GPC certifying: (a) that the conditions described in Sections 6.3.1 (*GPC's Representations and Warranties*) and 6.3.2 (*Performance Prior to and at Closing*) have been satisfied; (b) that true and complete copies of resolutions of GPC authorizing the consummation of the transactions contemplated by this APA are attached to the certificate, and that the resolutions were duly adopted, have not been rescinded or amended, and remain in full force and effect; and (c) as to the incumbency and signature of each Person executing documents on behalf of GPC or its Affiliates ("**GPC Closing Certificate**");

(vii) to Seller, [a counterpart of the [●], duly executed by GPC]**[*Note to Bidders: To include any agreements Seller or its Affiliates will enter into to perform work or services after the Closing.*]** and

(viii) any other documents required by applicable law, or expressly required under this APA, in each case, to consummate the transactions contemplated by this APA.

PART 7. TAX MATTERS

7.1 Transfer Taxes. Seller will bear and timely pay all Transfer Taxes and prepare and file all Tax Returns and other documentation necessary with respect to all Transfer Taxes. The Parties to this APA will use their commercially reasonable efforts to cooperate with each other upon request in the preparation and execution of the Tax Returns and other documentation, and to take any available steps under applicable law to mitigate the amount of any Transfer Taxes.

7.2 Seller Tax Indemnity. Seller will indemnify and hold GPC harmless from and against: (a) any Seller Income Taxes; (b) any Pre-Closing Taxes; and (c) any Transfer Taxes. The limitations of liability in Part 8 (*Risk and Claims*) will not apply with respect to any indemnification Claim under this Section 7.2 (*Seller Tax Indemnity*).

7.3 Seller Tax Returns. For any Tax Returns that relate to a taxable period ending on or prior to the Closing Date, Seller will timely prepare and file, or will cause to be timely prepared and filed, with the appropriate authorities, all Tax Returns required to be filed with respect to the Facility and the Facility Assets; and all Tax Returns must correctly and accurately set forth the amount of any Taxes relating to the applicable Tax period and Seller must pay within the time and manner prescribed by law all Taxes due and payable with respect to the applicable Tax period.

7.4 Tax Contests. Despite any other provision in this APA to the contrary, as between GPC and Seller, GPC will have exclusive control of: (i) any income Tax audit, litigation, or other proceeding of GPC (or any affiliated, combined, consolidated, or unitary group of GPC is a member); and (ii) any Tax audit, litigation, or other proceeding with respect to the Facility or the Facility Assets.

7.5 Assistance and Cooperation. GPC and Seller will provide each other with the assistance and cooperation as may reasonably be requested by the other Party in connection with the preparation of any Tax Return, any audit or other examination by any Taxing Authority, or any judicial or administrative proceedings relating to Liability for Taxes. Such assistance and cooperation will include the retention and (upon the other Party's request) the provision of records and information that are reasonably relevant to any audit, litigation, or other proceeding and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided under this APA. Each Party will retain and provide the requesting Party with any records or information until the expiration of the statute of limitations (and, to the extent notified by the other Party, any extensions thereof) of the respective taxable periods which may be relevant to the Tax Return, audit or examination, proceedings, or determination.

7.6 Allocation of Taxes. For purposes of determining the amount of Taxes with respect to the Facility attributable to the portion of the Straddle Period ending on the Closing Date, any Liability for Taxes attributable to a Straddle Period will be apportioned between the portion of the period ending on the Closing Date and the portion of the period beginning on the day after the Closing Date: (i) in the case of real and personal property Taxes, by apportioning the Taxes on a per diem basis; and (ii) in the case of all other Taxes, on the basis of a closing of the books as of the close of business on the Closing Date, as described in Section 7.2 (*Seller Tax Indemnity*).

7.7 Tax Benefits. Neither Seller nor any Affiliate of Seller will engage in any action or fail to take any action that would be reasonably likely to jeopardize the realization by or allowance to GPC or any of its Affiliates of any Tax Benefits or the eligibility of the Facility (or any property that is part of the Facility) for any other Tax Benefit.

7.8 [Prevailing Wage and Apprenticeship.] [#AddPrevailingWageandApprenticeshipRequirements][***Note to Bidders: Prevailing Wage & Apprenticeship requirements may be added for applicable Facilities.***]

7.9 Recordkeeping Requirements. Seller must maintain and preserve, and must cause its contractors and subcontractors to maintain and preserve, sufficient records, including books of account or records for work performed by Seller, its contractors, or its subcontractors to establish that the PWA Requirements have been satisfied (or deemed satisfied), in each case in accordance with the general recordkeeping requirements under Code section 6001 and section 1.6001-1 et seq. of the Treasury Regulations. Such records must include: (i) the identification of the laborers and mechanics who performed construction, alteration, or repair work on the Facility; (ii) the determination of the prevailing wage applicable to each such laborer and mechanic; (iii) the classification of work each such laborer and mechanic performed; (iv) the hours worked in each classification; (v) the wage rates paid for the work; (vi) the number of hours of work performed by apprentices; (vii) the applicable apprentice to journeyworker ratios; (viii) emails to and from Governmental Authorities; (ix) computer screenshots and exports from **www.sam.gov**; (x) Deemed PWA Compliance documentation; (xi) Good Faith Effort documentation; and (xii) copies of certified payroll and U.S. Department of Labor Wage Hour Form WH-347, true and correct copies of which will be provided to GPC at Closing and thereafter at GPC's request. Such records must be maintained for at least 10 years following Closing. Seller agrees to notify, and to cause its contractors and subcontractors to notify, GPC at least 45 Business Days in advance of discarding or destroying any such information in order to provide GPC the opportunity to copy or otherwise take possession thereof.

PART 8. RISK AND CLAIMS

8.1 Survival. All representations and warranties made by Seller or GPC in this APA will survive the Closing for a period of 24 months after the Effective Date, except that the Seller Fundamental Representations and the GPC Fundamental Representations will survive until 60 days after the expiration of the applicable statutes of limitations (giving effect to any extensions or waivers thereof). The covenants and agreements of the Parties contained in this APA to be performed by their terms at or prior to the Closing will survive the Closing for a period of 24 months after the Closing Date, and the covenants and agreements of the Parties contained in this APA to be performed by their terms after the Closing will survive the Closing until fully performed in accordance with their terms. However, the covenants set forth in Sections 1.1 (*Purchase and Sale; Assumption and Exclusion of Liabilities*) and 5.4 (*Termination of Intercompany Obligations and Affiliate Arrangements*) will survive the Closing until 60 days after the expiration of the applicable statutes of limitations (giving effect to any extensions or waivers thereof). The indemnities covered by Section 8.3(iv) (*Indemnification by Seller*) will survive the Closing until 60 days after the expiration of the applicable statutes of limitations (giving effect to any extensions or waivers thereof). All representations, warranties, covenants, and agreements will survive beyond the period specified in this Section 8.1 (*Survival*) with respect to any inaccuracy or breach thereof, if notice of the inaccuracy or breach has been duly given within the applicable period in accordance with Section 8.5 (*Notice of Proceeding*) but only to the extent,

and for the time period, necessary to resolve any Claim for indemnification arising from an asserted inaccuracy in or breach of the applicable representation or warranty or breach of the applicable covenant or agreement.

8.2 Liability for the Facility. Prior to the Closing Date, as between the Parties, Seller retains all liability and risk regarding the Facility and the Facility Real Property. GPC: (i) assumes no duty, responsibility, obligation, or liability regarding the Facility or the Facility Real Property or the condition or operation of the Facility or Facility Real Property; (ii) is not liable for injury or damage associated with the Facility (including its operation, maintenance, repair, or replacement) or the Facility Real Property; and (iii) is not responsible for transmission, distribution, or control of electric energy within the Facility or at the Facility Real Property. **Without limiting the generality of the previous sentence, GPC is not responsible for physical damage to, or destruction of, Seller's property, and Seller will not seek recovery from GPC for property damage, except in the case of the sole negligence or intentional wrongdoing by GPC**.

8.3 Indemnification by Seller. To the fullest extent allowed by law, Seller must indemnify, release, hold harmless, and at GPC's request, defend GPC and its Affiliates and any GPC Related Party (each, an "**Indemnified GPC Party**" and collectively, "**Indemnified GPC Parties**") from or against any Claim caused by, arising out of, or related to:

(i) any breach or inaccuracy of a representation, warranty, or other statement made by Seller in this APA, or any other Transaction Document, or the Seller Closing Certificate;

(ii) any breach by Seller of, or default in, the performance by Seller of any covenant or obligation to be performed by Seller under this APA, or any other Transaction Document;

(iii) the Excluded Assets or the Excluded Liabilities;

(iv) any fraud, intentional misrepresentation, or willful misconduct of Seller in connection with this APA, or any other Transaction Document, or the transactions contemplated by this APA;

(v) any loss in value of, or any inability to claim or otherwise take advantage of: (a) relevant federal, state, or local Tax credits or accelerated depreciation (MACRS); or (b) Tax Benefits, in either case, due to any act or omission by Seller or any Person acting on Seller's behalf;

(vi) any security breach, cyber-attack, other data security or cyber incident, or unauthorized access to any Facility IT Assets that resulted in the unauthorized use, misappropriation, modification, encryption, corruption, disclosure, or transfer of any material information or data relating to the Facility Assets due to any act or omission by Seller or any Person acting on Seller's behalf;

(vii) infringement or violation of any Intellectual Property Right of a third party with regard to the ownership or operation of the Facility or the Facility Assets;

(viii) any Claim or Liability arising from any oral farming lease pertaining to any part of the Facility Real Property that was not properly and legally terminated in accordance with applicable law prior to the Closing Date; and

(ix) any defect in title upon any of the Facility Assets or the Facility purchased under this APA;

(x) any: (a) Outage Period occurring during the Interim Period; (b) Outage Period that Seller does not fully resolve or cause to be fully resolved within the time agreed upon by GPC and Seller; or (c) Outage Period occurring during the Interim Period or scheduled for after Closing for which Seller does not complete the required maintenance; and

(xi) an act or omission associated with the Facility by Seller or any of its Affiliates unless the Claim resulted from the sole negligence or intentional wrongdoing of an Indemnified GPC Party, in which case Seller will not be liable under this subpart (xi).

8.4 Environmental Indemnity. Without limiting GPC's other rights to indemnification under this APA, Seller will indemnify and hold harmless (and at GPC's request, defend, unless GPC elects in its sole discretion to so defend) the Indemnified GPC Parties from and against any Claim, and will compensate or reimburse the Indemnified GPC Parties for, any Claim that arises out of or in connection with, or relates to: (i) any loss, obligation, or other responsibility under any Environmental Law (whether or not the loss, obligation, or other responsibility existed on or before the Closing Date) arising out of or relating to: (a) the ownership, operation, or condition at any time on or before the Closing Date, of the Facility, the Facility Real Property, or any of the other Facility Assets; (b) any

Hazardous Substance that was present or existing on, at, or under the Facility, the Facility Real Property, or any of the other Facility Assets at any time on or prior to the Closing Date; (c) any Hazardous Substance, wherever located, that was generated, transported, stored, treated, Released, or otherwise handled by Seller or its Affiliates in connection with the Facility at any time on or before the Closing Date; or (d) any Hazardous Activity conducted by Seller, or by any other Person for whose conduct Seller is or may be held responsible; or (ii) loss of life, bodily injury, property damage, or other damage of or to any Person, including any employee or former employee of any Seller Representative, regardless of when the loss of life, bodily injury, property damage, or other damage occurred or manifested, in any way arising from or allegedly arising from any Hazardous Activity conducted on or before the Closing Date with respect to the Facility, the Facility Real Property, or any of the other Facility Assets, or with respect to the operation of the Facility, or from any Hazardous Substance that was: (I) present on or before the Closing Date on, at, or under the Facility Real Property (or present on, at, or under any other property, if the Hazardous Substance emanated or allegedly emanated from any of the Facility Real Property on or before the Closing Date); or (II) Released by Seller, a Seller Representative, or any other Person for whose conduct Seller is or may be held responsible, at any time on or before the Closing Date. GPC will be entitled (at its election) to control any investigatory, cleanup, remedial, or response activity, any related Action, and, except as provided in the following sentence, any other Action for which relief may be sought under this Section 8.4 (*Environmental Indemnity).* The procedure described in Section 8.5 (*Notice of Proceeding*), however, will apply to any Third-Party Claim solely for monetary damages relating to a matter covered by this Section 8.4.

8.5 Notice of Proceeding. GPC will promptly notify Seller of any Claim or proceeding in respect of which GPC seeks to be indemnified under this APA ("**Indemnification Claim**"). Any notice must be given as soon as reasonably practicable after the Indemnified GPC Party becomes aware of the Indemnification Claim. Failure to give this notice will not excuse the indemnification obligation of Seller except to the extent failure to provide notice prejudices Seller. If requested by GPC, Seller will assume the defense of the Indemnification Claim with counsel designated by GPC. However, if the defendants in any such action include both an Indemnified GPC Party and Seller, and the Indemnified GPC Party reasonably concludes that there may be legal defenses available to it that are different from, additional to, or inconsistent with, those available to Seller, the Indemnified GPC Party will have the right to select and be represented by separate counsel, at the expense of Seller. If, following a request by GPC, Seller fails to assume the defense of an Indemnification Claim, the indemnification of which is required under this APA, the Indemnified GPC Party may, at the expense of Seller, contest, settle, or pay the Indemnification Claim, but settlement or full payment of the Indemnification Claim may be made only with Seller's consent or, absent such consent, written opinion of the Indemnified GPC Party's counsel that the Indemnification Claim is meritorious or warrants settlement.

8.6 Materiality. Despite any other provision in this APA, for purposes of Section 8.3(i) (*Indemnification by Seller*), in determining: (i) whether any inaccuracy or breach has occurred in any representation or warranty contained in this APA, any Transaction Document, or the Seller Closing Certificate; or (ii) the amount of any damage or loss suffered by an Indemnified GPC Party as a result of any such inaccuracy or breach, this determination will be made without regard to any "materiality," "Seller Material Adverse Effect," or similar qualification.

8.7 Effect of Investigation. An Indemnified GPC Party's right to indemnification, payment, reimbursement, or any other remedy based upon any representation, warranty, covenant, agreement, or obligation contained in this APA or any Transaction Document will not be limited, diminished, or otherwise affected by any investigation conducted, or any knowledge acquired at any time, whether before or after the Closing and regardless of whether knowledge came from GPC, Seller, their respective Representatives, or any other Person, with respect to the accuracy or inaccuracy of or compliance or noncompliance with any representation, warranty, covenant, agreement, or obligation.

8.8 No Duplicate Payments. Despite any other provision in this APA to the contrary, all amounts payable under the indemnification obligations of this APA will be paid without duplication.

8.9 Right to Specific Performance. Despite any other provision in this APA to the contrary, without limiting or waiving any right or remedy of a Party under this APA now or hereafter existing at law, in equity, or by statute, each Party will be entitled to specific performance of the obligations to be performed by the other Party in accordance with the provisions of this APA.

8.10 Tax Characterization. Unless otherwise required by applicable law, any indemnity payment made under this APA will be treated as an adjustment to the Purchase Price for all Tax purposes.

8.11 Waiver of Consequential Damages. Unless expressly provided in this APA, and except for the payment of liquidated damages to the extent specified in this APA, neither Party nor any of its Affiliates nor any Person claiming through either Party will be liable to the other Party for: (i) consequential, incidental, special, punitive, exemplary, treble, or indirect damages (including lost profits, loss of use, loss of 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 APA, any damage or delay in connection with this APA, a Party's act or failure to act, or a Party's performance or non-performance under this APA, whether or not reasonable, foreseeable, contemplated, or avoidable and whether by statute, in tort or contract, or otherwise. However, the foregoing limitation will not apply in the case of any amount owed to a third party for which this APA requires indemnification, or to limit the liability of a Party whose actions giving rise to such Liability constitute gross negligence or willful misconduct, nor will such limitation limit or reduce any amount owed by a defaulting Party under Section 9.2 (*Effect of Termination*), it being expressly agreed by the Parties that no portion of the Termination Payment will be considered consequential, special, incidental, punitive, exemplary, or indirect damages, lost profits, or other business interruption damages and it being expressly agreed that the lost value of any ITC, PTC, or any other similar Tax credit or benefit will not be considered consequential damages for purposes of this Section 8.11 (*Waiver of Consequential Damages*). If the damages required to be paid under this APA are liquidated, the Parties acknowledge that: (a) the actual damages likely to be incurred are difficult or impossible to determine; (b) otherwise obtaining an adequate remedy is inconvenient; and (c) the liquidated damage does not constitute a penalty and is a reasonable approximation of the actual harm or loss. The limitation in this Section 8.11 applies regardless of fault and will survive APA termination, cancellation, suspension, completion, or expiration.

PART 9. TERMINATION

9.1 Termination.

9.1.1. Termination for Failure to Close by Outside Date. Either Party may terminate this APA, upon written notice to the other Party, if the Closing has not occurred on before the Outside Date. However, GPC may not terminate under this Section 9.1.1 (*Termination for Failure to Close by Outside Date*) if the failure of the Closing to occur is the result of a material breach by GPC of any of its representations, warranties, covenants or agreements under this APA, and Seller may not terminate this APA under this Section 9.1.1 if the failure of the Closing to occur is the result of a material breach by Seller of any of its representations, warranties, covenants, or agreements under this APA. In addition, if the sole reason that the Closing has not occurred is that the Commission Certificate or FERC Approval, or both, has not been obtained on or prior to the Outside Date, but GPC reasonably believes that the Commission or FERC Approval, or both, may be forthcoming, GPC may extend the Outside Date by up the number of days specified in Exhibit A-1 (*Facility Information and Additional Details*).

9.1.2. Termination by GPC. GPC may terminate this APA, upon written notice to Seller, if Seller has breached any of its representations, warranties, covenants, or agreements contained in this APA or any Transaction Document, and the breach causes the Closing conditions set forth in Section 6.2.1 (*Seller's Representations and Warranties*) or Section 6.2.2 (*Performance Prior to and at Closing*) to not be satisfied. However, if the breach is capable of being cured and Seller has given written notice to GPC of its intention to cure the breach and has promptly commenced and diligently proceeded to cure the breach, this APA will only terminate under this Section 9.1.2 (*Termination by GPC*) if the breach has not been cured by Seller on or prior to the earlier to occur of: (i) 60 days following Seller's receipt of written notice of the breach from GPC; and (ii) the Outside Date. GPC may not terminate this APA pursuant to this Section 9.1.2 if GPC is then in breach of any of its representations, warranties, covenants, or agreements contained in this APA or any Transaction Document, and the breach causes any of the Closing conditions set forth in Section 6.3.1 (*GPC's Representations and Warranties*) or Section 6.3.2 (*Performance Prior to and at Closing*) to not be satisfied.

9.1.3. Termination by Seller. Seller may terminate this APA, upon written notice to GPC, if GPC has breached any of its representations, warranties, covenants, or agreements contained in this APA or any Transaction Document, and the breach causes the Closing conditions set forth in Section 6.3.1 (*GPC's Representations and Warranties*) or Section 6.3.2 (*Performance Prior to and at Closing*) to not be satisfied. However, if the breach is capable of being cured and GPC has given written notice to Seller of its intention to cure the breach and has promptly commenced and diligently proceeded to cure the breach, this APA will only terminate under this Section 9.1.3 (*Termination by Seller*) if the breach has not been

cured by GPC on or prior to the earlier to occur of: (i) 60 days following GPC's receipt of written notice of the breach from Seller; and (ii) the Outside Date. In addition, Seller will not terminate this APA pursuant to this Section 9.1.3 if Seller is then in breach of any of its representations, warranties, covenants, or agreements contained in this APA or any Transaction Document, and the breach causes any of the Closing conditions set forth in Section 6.2.1 (*Seller's Representations and Warranties*) or Section 6.2.2 (*Performance Prior to and at Closing*) to not be satisfied.

9.1.4. Law or Order Termination Right by Either Party, Either Party may terminate this APA, upon written notice to the other, if there is in effect any law or non-appealable Order restraining, enjoining, or otherwise prohibiting or making illegal the consummation of the transactions contemplated by this APA. However, the Party seeking to terminate this APA under this Section 9.1.4 (*Law or Order Termination Right by Either Party*) must have complied with its obligations under this APA in all material respects, with respect to the applicable law or Order.

9.1.5. Insolvency. A Party may terminate this APA upon written notice to the other, upon the Insolvency of the other Party.

9.1.6. Termination by Mutual Agreement. This APA may be terminated by mutual written agreement of GPC and Seller.

9.1.7. Schedule Update for New Matters or Casualty Losses. GPC may terminate this APA in accordance with Section 5.17 (*Casualty Loss*), Section 5.18 (*Schedule Updates*), or as otherwise set forth in this APA. [***Note to Bidders: Additional termination rights may be added based on deal specifics.***]

9.1.8. GPC Termination for Convenience. GPC may terminate this APA for GPC's convenience.

9.2 Effect of Termination. Upon the valid termination of this APA, all further obligations of the Parties will terminate, and the provisions of this APA will be of no further force or effect, in each case, other than those provisions (and obligations thereunder) that by the terms of this APA are intended to survive termination. If this APA is terminated as permitted by Section 9.1 (*Termination*) (other than pursuant to Section 9.1.2 (*Termination by GPC*) or 9.1.3 (*Termination by Seller*)), the termination will be without Liability of any Party (or any Party's Affiliates or Representatives).

If this APA is terminated by GPC in accordance with Section 9.1.2 (*Termination by GPC*), then: (i) Seller will be liable to GPC for the Seller Termination Payment, and Seller will pay the Seller Termination Payment to GPC within 10 days of the date of the termination; and (ii) GPC may retain any Upgrade Security pursuant to Section 1.2 (*Grid Improvements*). Payment of the Seller Termination Payment by Seller and the drawdown of the Upgrade Security by GPC, if applicable, will be Seller's exclusive liability, and GPC's exclusive remedy, if this APA is terminated by GPC in accordance with Section 9.1.2.

If this APA is terminated by Seller pursuant to Section 9.1.3 (*Termination by Seller)*, then GPC will be liable to Seller for the GPC Termination Payment, and GPC will pay the GPC Termination Payment to Seller within 10 days of the date of the termination. Payment of the GPC Termination Payment by GPC will be GPC's exclusive liability, and Seller's exclusive remedy, in the event this APA is terminated by Seller pursuant to Section 9.1.3.

If GPC terminates this APA for GPC's convenience under Section 9.1.8 (*GPC Termination for Convenience*): (a) GPC will pay to Seller, as full and final relief to Seller for GPC's termination, liquidated damages equal to the **Cancelation Payment**; and (b) all further obligations of the Parties under this BTA (other than the provisions that by their terms are intended to survive BTA expiration or termination) will be terminated (with no other fees or damages payable by GPC).

The Parties acknowledge and agree that: (I) the agreements contained in this Section 9.2 (*Effect of Termination*) are an integral part of the transactions contemplated by this APA; (II) it would be difficult or impossible to determine accurately the damages that GPC or Seller, as applicable, would incur if this APA were terminated in accordance with Section 9.1.2, Section 9.1.3, or Section 9.1.8 respectively; (III) the Parties have estimated and agreed that the Seller Termination Payment, GPC Termination Payment, and Cancellation Payment, as applicable, constitutes a reasonable estimate of the monetary damages likely to be suffered by GPC or Seller, as applicable, in the circumstances; and (IV) neither the Seller Termination Payment, nor the GPC Termination Payment, nor the Cancellation Payment is a penalty.

9.3 Survival. Section 5.5 (*Publicity; Confidentiality*), Section 5.6 (*Expenses*), Section 5.8 (*Exclusivity*), Part 8 (*Risk and Claims*), Part 9 (*Termination*), and Part 10 (*Miscellaneous*) (and, in each case, the applicable definitions set forth in the Schedule of Defined Terms) will survive the termination of this APA.

PART 10. MISCELLANEOUS

10.1 Notices. Exhibit A-2 (*Notices*) lists each Party's point-of-contact for APA notices and correspondence. Each Party will provide notice to the other as provided in Exhibit A-2. Notice under this Section 10.1 (*Notices*) must include the 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) prepaid 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). Any notice, request, consent, claim, demand, waiver, and other communication under this APA must be in writing (including email) and will be sent, delivered, mailed, or addressed to the applicable point-of-contact specified in Exhibit A-2. Seller must deliver the Letter of Credit or Seller Guaranty to the address indicated in Exhibit A-2 (*Notices*).

10.2 Severability. The provisions of this APA are severable, and the invalidity or unenforceability of any provision will not affect the validity or enforceability of the other provisions of this APA. If any provision of this APA, or the applicability of the provision to any Person or any circumstance, is found to be invalid or unenforceable in any jurisdiction: (i) the provision or the permissible portions of the provision, or the application of the provision, as applicable, will be enforced to the fullest extent permitted by law; and (ii) the remainder of this APA and the application of the provision to other Persons or circumstances will not be affected by the invalidity or unenforceability, nor will the invalidity or unenforceability affect the validity or enforceability of this APA, or the provision, or the application of the provision, in any other jurisdiction.

10.3 Assignment. Neither this APA, nor any of the rights or obligations under this APA, may be assigned or delegated by any Party without the prior written consent of the other Party. However, GPC may transfer its rights and obligations under this APA to an Affiliate with the approval of the Commission. This APA will be binding upon, inure to the benefit of, and be enforceable by, the Parties and their respective successors and permitted assigns. Any attempted assignment in violation of the terms of this Section 10.3 (*Assignment*) will be void.

10.4 Electronic Signature. This APA 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. Each Party acknowledges that electronic records and Electronic Signatures may be used in connection with the execution of this APA, 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 APA had been delivered and signed using a handwritten signature. Each Party: (i) agrees that an Electronic Signature, whether digital or encrypted, is intended to authenticate this APA and to have the same effect as a handwritten signature; and (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. If a Party executes this APA by Electronic Signature, the Party 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.

10.5 Digital or Electronic Signature. In addition to this APA, any other documents to be delivered in connection with this APA may be executed by handwritten signature or Electronic Signature. Each Party 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 APA or other documents to be delivered in connection with this APA are the same as handwritten signatures for the purposes of validity, enforceability, or admissibility, and that delivery to the other Party of an Electronic Signature, or a signed copy of, this APA and related documents may be made by facsimile, email, or other electronic transmission.

10.6 Counterparts. This APA may be executed in multiple counterparts, and by electronic transmission of signatures in portable document format (PDF) or other electronic format, each of which will be deemed an original and all of which, taken together, will constitute one and the same agreement.

10.7 Entire Agreement; No Third-Party Beneficiaries. This APA (together with any other Transaction Document, exhibit, schedule, and certificate referred to in this APA or the other Transaction Documents, or delivered under this APA or the other Transaction Documents on or prior to the Effective Date) constitute the entire agreement and supersede all prior agreements and understandings, both written and oral, among the Parties with respect to the subject matter hereof. Except as set forth in Part 8 (*Risk and Claims*), the terms and conditions of

this APA are intended solely for the benefit of the Parties, their respective successors or permitted assigns, and it is not the intention of the Parties to confer third-party beneficiary rights upon any other Person.

10.8 Dispute Resolution; Governing Law.Dispute Resolution. Each 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 APA. This notice ("**Notice of Dispute**") will describe with specificity the basis for the Disputing Party's belief and may propose a resolution of the dispute. Within 15 Business Days after receiving the Notice of Dispute, the Responding Party will provide the Disputing Party with a written response to the Notice of Dispute, describing with specificity the basis for the Responding Party's position, and which may include: (i) additional issues (if any) with respect to the dispute raised by the Notice of Dispute; and (ii) a proposal for the resolution of the dispute (the "**Dispute Response**"). Within five Business Days after the submission of the Dispute Response, the dispute will be submitted to a designated senior Representative of Seller and a designated senior Representative of GPC 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 in writing, then either Party may pursue any rights and remedies as may be available under applicable law, subject to the terms and conditions of this APA.

> **10.8.2. Governing Law.** The validity, interpretation, and performance of this APA, and each of its provisions, will be governed by the laws of the state of Georgia without giving effect to principles of conflicts of law that would require the application of laws of another jurisdiction.

10.9 Consent to Jurisdiction. Any legal suit, action or proceeding arising out of or based upon this APA or the transactions contemplated by this APA will be brought in the Federal District Court for the Northern District of Georgia, Atlanta Division, or the Superior Court of Fulton County, Georgia, and each Party irrevocably submits to the exclusive jurisdiction of those courts in any suit, action, or proceeding. Each Party irrevocably and unconditionally waives any objection to the laying of venue of any suit, action, or any proceeding in the courts described above and irrevocably waives and agrees not to plead or claim in those courts that any suit, action, or proceeding brought in those courts has been brought in an inconvenient forum.

10.10 Headings. The headings contained in this APA are for reference purposes only and will not affect in any way the meaning or interpretation of this APA.

10.11 Contract Interpretation. Each exhibit, attachment, appendix, schedule, regulatory requirement, policy, procedure, standard, or other document attached to or referenced in this APA (expressly including the *Schedule of Defined Terms*) is incorporated into, and is integral to, this APA as if included in the main body. In this APA 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 APA 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 an APA part by caption (e.g., (*Conditions Precedent*) or number (e.g., Part 6 (*Conditions Precedent*)) includes all separate sections (e.g., Section 6.3 (*Conditions to Obligations of Seller*) and clauses (e.g., Section 6.3.1 (*GPC's Representations and Warranties*)) within that part and reference to a section by caption or number includes all separate subsections within that section.

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 APA documents. Captions are for convenience only, and do not affect APA interpretation.

Time is of the essence in this APA. Whenever this APA refers to a number of days, the number will refer to calendar days unless Business Days are specified, and any date specified for action that is not a Business Day will mean

the first Business Day after the applicable date. Relative to the determination of any period of time, "from" means "including and after," "to" means "to but excluding" and "through" means "through and including."

All accounting terms used in this APA and not expressly defined will have the meanings given to them under, and all accounting determinations under this APA will be made in accordance with GAAP.

Each Party acknowledges that this APA was negotiated by it with the benefit of representation by legal counsel, and any rule of construction or interpretation otherwise requiring this APA to be construed or interpreted against any Party will not apply to any construction or interpretation of this APA.

All references in this APA to "dollars" or "$" will, in each case, be deemed to refer to United States currency.

The phrases "delivered" or "made available" when used with respect to information or documents means that the information or documents have been physically or electronically delivered to the relevant Party (including, in the case of "made available" to GPC, posted and provided to GPC through the online Data Site established by Seller), in each case, prior to the date of this APA.

10.12 Amendments and Waivers; Consents. This APA may not be amended, supplemented, or modified except by an instrument in writing signed on behalf of GPC and Seller. Any term or condition of this APA may be waived at any time by the Party that is entitled to the benefit of that term or condition, but no waiver will be effective unless set forth in a written instrument duly executed by or on behalf of the Party waiving the term or condition. No waiver by any Party of any term or condition of this APA, in any one or more instances, will be deemed to be or construed as a waiver of the same or any other term or condition of this APA on any future occasion. The Parties further acknowledge and agree that, in giving any consent under this APA, the Party giving its consent is not in any way waiving or altering any of its rights under this APA or any of the conditions precedent to Closing, and no consent will constitute a course of dealing or performance with respect to the terms and conditions of this APA.

10.13 Exhibits and Schedules. Except as otherwise provided in this APA, all Exhibits and Schedules referred to in this APA are intended to be and are made a part of this APA. Any disclosure in the Seller Disclosure Schedule under this APA corresponding to and qualifying a specific representation or warranty will be deemed to correspond to and qualify any other representation or warranty to which the applicability of the disclosure is reasonably apparent on its face. Certain information set forth in the Seller Disclosure Schedule is included solely for informational purposes, is not an admission of Liability with respect to the matters covered by the information and may not be required to be disclosed under this APA. The specification of any dollar amount in the representations and warranties contained in this APA or the inclusion of any specific item in the Seller Disclosure Schedule is not intended to imply that the amounts (or higher or lower amounts) are or are not material, and no Party may use the fact of the setting of the amounts or the fact of the inclusion of any item in the Seller Disclosure Schedule in any dispute or controversy between the Parties as to whether any obligation, item, or matter not described in this APA or included in the Seller Disclosure Schedule is or is not material for purposes of this APA.

10.14 Relationship of the Parties. Neither the execution nor delivery of this APA, nor the consummation of the transactions contemplated by this APA, will create or constitute a partnership, joint venture, trust, limited liability company, corporate, or any other form of business organization or arrangement among the Parties.

Each Party agrees to all terms and conditions of this APA. The Parties may exchange counterparts of this APA 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. The **"Effective Date"** is the date on which the last Party signs, as shown below.

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

EXHIBIT A-1 – FACILITY INFORMATION AND ADDITIONAL DETAILS

Table A-1.1 **Facility, Site, and Seller Information**	
Site	#Street Address# #City, #State, #ZipCode
GPS Coordinates	#Latitude latitude and #Longitude longitude
Facility Description	#FacilitySize MW (AC) #combined cycle generation***OR***#combustion turbine generation***OR***#solar photovoltaic energy generation with energy storage system***OR***#energy storage system
Facility Name	#FacilityName
Facility Nameplate Capacity	#FacilityNameplateCapacity MW (AC)
Seller Information	#SellerName, #a***OR***#an #OrgState# #limited liability company***OR***#OtherOrgStructure
Facility Original In-Service Date	#Month #Day, #Year

Table A-1.2 **Dates**	
Required Closing Date	#Month #Day, #Year
Outside Date	#Month #Day, #Year
Outside Date Extension (see APA Section 16.3.1 (*Termination for Failure to Close by Outside Date*))	#Number days
ALTA survey for Facility Real Property Completion Date (see APA Section 3.12.2 (Complete Copies))	#Month #Day, #Year
Phase I and Phase II Environmental Assessment Latest Date (As Applicable)	#Number days before the Closing Date
GPC On-Site Representatives Proposed Date (see APA Section 5.22 (GPC-On-Site Representatives))	#Month #Day, #Year

Table A-1.3 **Financial Information**	
Base Purchase Price Amount	$#BasePurchasePriceAmount
Termination Payment Amount	$#TerminationPaymentAmount
Cancellation Payment Amount	Amount to be agreed upon by GPC and Seller
Tax Benefit Percentage	#Number%
Interim Balance Sheet Date	#Month #Day, #Year
Period for Related Seller Statements of Operations and Comprehensive Income and Statements of Members Equity and Cash Flows (See APA Section 3.16.1 (*Seller Financial Statements*))	#Number-month period then ended
Seller Unaudited Balance Year (See APA Section 3.16.1 (*Seller Financial Statements*))	#Year
Period for Related Seller Guarantor Statements of Operations and Comprehensive Income and Statements of Members Equity and Cash Flows (See APA Section 3.16.2 (*Guarantor Financial Statements*))	#Number-month period then ended
Guarantor Unaudited Balance Year (See APA Section 3.16.2 (*Guarantor Financial Statements*))	#Year

Table A-1.4 **Title Insurance Information and Post-Closing Insurance Policy Period**	
Title Company	#TitleCompanyName, #a***OR***#an #OrgState# #limited liability company***OR***#OtherOrgStructure
Existing Title Insurance Policy Information	ALTA Owner's Policy of Title Insurance No. #Number, dated #Date, issued by the Title Company.
Post-Closing Insurance Policy Period (see APA Section 5.10 (*Insurance*))	#Number years following the Closing Date
Material Casualty Loss Threshold Amount	#Number% (of Base Purchase Price)

Table A-1.5 **Facility Contracts Threshold Amounts**	
Facility Contracts Extended Credit Threshold Amount (See APA Section 3.11.1(vi) (*List of Facility Contracts*))	$#Amount
Facility Contracts Payments Threshold Amount (Payments by or to Seller) (See APA Section 3.11.1(vii) (*List of Facility Contracts*))	$#Amount
Facility Contracts Threshold Amount for Items that Constitute Capital Expenditures (See APA Section 3.11.1(viii)(a) (*List of Facility Contracts*))	$#Amount
Facility Contracts Threshold Amount for Items Involving or Reasonably Expected to Involve Capital Expenditures (See APA Section 3.11.1(viii)(b) (*List of Facility Contracts*))	$#Amount
Property or Asset Purchase, Lease, or Acquisition Individual Threshold Amount (see APA Section 5.3.1(iv) (*Interim Period*))	$#Amount
Property or Asset Purchase, Lease, or Acquisition Aggregate Threshold Amount (see APA Section 5.3.1(iv) (*Interim Period*))	$#Amount

Table A-1.6 **Title Insurance Information and Post-Closing Insurance Policy Period**	
Title Company	#TitleCompanyName, #a*OR*#an #OrgState# #limited liability company*OR*#OtherOrgStructure
Existing Title Insurance Policy Information	ALTA Owner's Policy of Title Insurance No. #Number, dated #Date, issued by the Title Company.

Post-Closing Insurance Policy Period (see APA Section 5.10 (*Insurance*))	#Number years following the Closing Date

Table A-1.7 **Estoppel Certificates Threshold**	
Estoppel Certificate Threshold (see APA Section 6.2.4(ix) (*Seller Closing Deliveries*))	At least #Number %

Table A-1.8 **Delay Liquidated Damages**	
Delay Liquidated Damages	**[*Note to Bidders: This table will be populated with the applicable amounts stated in the RFP Exhibit E, Attachment 2 (Delay Liquidated Damages Summary).*]**

EXHIBIT A-2 – NOTICE CONTACTS

Address for delivery of Upgrade Security in accordance with Eligible Collateral for Performance Security in accordance with APA Section 5.15.1 (*Delivery of Eligible Collateral for Performance Security*) and APA Section 1.2 (*Grid 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 APA Section 10.1 (*Notices*):

In accordance with APA Section 10.1 (*Notices*), all notices must include the GPC Facility 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 (which will not constitute Notice):

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#

With Copy to (which will not constitute Notice):

#SellerLegalName#
Attention: #SellerContactIndividualName#
#Title
#SellerAddress
#City, #State #Zip
Email: #SellerContactEmail#

EXHIBIT B – FORM OF STANDBY LETTER OF CREDIT

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 SC 1407 30 Ivan Allen Jr Blvd., NW Atlanta, GA 30308
Project ID:	GPC-[Add Project ID]
Program ID:	2029–2031 All-Source Capacity RFP
"Account Party":	_____
Address:	_____
"Expiry Date":	_____, 20__, and any automatically extended date, as provided in this Standby Letter of Credit [(but in no event later than _____, 20__)]
"Total Amount":	_____United States Dollars (U.S. $_____)

We, the Issuer, 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 90 days prior to any applicable date, in accordance with the notice provisions set forth in this Standby Letter of Credit, that we have elected not to extend the Expiry Date for the 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 the demand and the certificate are received at any office on or prior to the Expiry Date, we agree with you that we will duly honor the same within three business days after 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, and each demand that is paid by us will reduce the amount available under this Standby Letter of Credit.

Except as is expressly set forth in this Standby Letter of Credit, 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 Beneficiary under this Letter of Credit, so long as, the transfer to the 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 presentation, we will immediately issue an irrevocable letter of credit to transferee with provisions 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 the undertaking may not be modified, annulled, or amplified by reference to any other document, instrument, or agreement referred to in this Standby Letter of Credit or in which the Standby Letter of Credit is referred or to which the Standby Letter of Credit relates, and any reference may not be deemed to incorporate herein by reference any document, instrument, or agreement.

To the extent not contrary to the express terms of this Standby Letter of Credit, 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 in this Standby Letter of Credit. 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: _____

#Name#

#Title#

Date: _____

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: _____

#Name#

#Title#

Date: _____

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], 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: _____

#Name#

#Title#

Date: _____

_____

ANNEX 3

INSTRUCTION TO ASSIGN IN ENTIRETY

Re: Irrevocable Standby Letter of Credit No.

Ladies and Gentlemen:

For value received, the undersigned beneficiary 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 the Standby Letter of Credit are transferred to the assignee and the assignee will hereafter have the sole rights as beneficiary. 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.

This Standby Letter of Credit is returned and in accordance with the return, 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: _____

#Name#

#Title#

Date: _____

EXHIBIT C – FORM OF GUARANTY

Guaranty

This **Guaranty Agreement** ("**Guaranty**"), effective as of _____, 20__ ("**Effective Date**"), is entered into by _____ ("**Guarantor**") in favor of Georgia Power Company ("**Beneficiary**"). Guarantor acknowledges:

- Beneficiary and _____ ("**Company**"), [an Affiliate of Guarantor], have entered into an **Asset Purchase Agreement for 2029-2031 All-Source RFP at #FacilityName#** dated as of _____, 20__ (as amended, restated, supplemented or otherwise modified from time to time, the "**APA**") regarding a facility located in #FacilityCity, Georgia.
- Beneficiary has required, as an inducement to its entry into the APA, that Guarantor deliver to the Beneficiary this Guaranty or other Performance Security as and when required under the APA;
- Guarantor qualifies as a Seller Guarantor under the APA, and this Guaranty qualifies as Performance Security under the APA; and
- Guarantor will derive substantial direct and indirect benefit from the transactions contemplated by the APA.

To induce Beneficiary to enter into and perform its obligations under the APA, and for and in consideration of the foregoing premises, the mutual agreements contained in this Guaranty, 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 APA.

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 APA or under any other documents or instruments now or in the future evidencing, securing, or otherwise relating to the APA ("**Guaranteed Obligations**"), except that Guarantor's liability under this Guaranty will in no event exceed the aggregate amount of Performance Security that Company must provide in accordance with Section 5.15 (*Performance Security*) of the APA (plus costs of enforcement of this Guaranty as provided in Section 5.6 (*Expenses*) of the APA). 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 APA, 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 APA. This Guaranty constitutes a guarantee of payment and not of collection. The obligations of Guarantor under this Guaranty are primary obligations and are several from Company or any other Person, and Guarantor is the principal obligor under this Guaranty. Guarantor's liability under this Guaranty will be direct and immediate and not conditional or contingent upon the pursuit of any remedies against Company or any other person, nor against securities or liens available to Beneficiary or Beneficiary's successors or assigns. **Guarantor's liability under this Guaranty will be irrevocable, absolute, and unconditional irrespective of, and Guarantor unconditionally and irrevocably waives any defenses it may now have or later acquire in any way relating to:**

(i) any change in the time, manner, or place of payment of, or in any other term of, any of the Guaranteed Obligations, or any other amendment, modification, or waiver of, or any consent to departure from, the terms of any Guaranteed Obligations, or any compromise, settlement, release, or termination of any of the Guaranteed Obligations;

(ii) any change, restructuring, or termination of the corporate structure or existence of Company or any of its subsidiaries, including Guarantor's disposal of any part of Guarantor's interest in

Company, or Guarantor's alteration of Guarantor's investment in Company in any manner;

(iii) any lack of validity or enforceability, in whole or in part, of the Guaranteed Obligations, the APA, or any agreement or instrument relating the Guaranteed Obligations or the APA;

(iv) any failure of Beneficiary to disclose to either Company or Guarantor any information relating to the business, condition (financial or otherwise), operations, performance, properties, or prospects of either Company or any of its subsidiaries now or in the future known to Beneficiary (Guarantor waiving any duty on the part of Beneficiary to disclose the information);

(v) any failure, omission, delay, or lack on the part of Beneficiary to enforce, ascertain, or exercise any right, power, or remedy under or pursuant to the terms of the APA, the Guaranteed Obligations, or this Guaranty;

(vi) any failure by Beneficiary to commence an action against Company, including as contemplated by the provisions of O.C.G.A. Section 10-7-24, as amended; any lack of due diligence by Beneficiary in the collection or protection of or realization upon any collateral securing the Guaranteed Obligations;

(vii) the bankruptcy, insolvency, winding up, dissolution, liquidation, administration, reorganization, or other similar or dissimilar failure or financial disability of Guarantor or Company, or any legal limitation, disability, incapacity, or other circumstance relating to Guarantor or Company;

(viii) the addition, substitution or partial or entire release of any guarantor, maker, or other Parson (including Company) primarily or secondarily liable or responsible for the payment and observance of the Guaranteed Obligations or by any extension, waiver, amendment, or other action or instrument that may release or discharge (in whole or in part) a guarantor, maker, or other Person (other than as a result of the indefeasible payment of the Guaranteed Obligations in full);

(ix) the taking, variation, renewal, addition, substitution, subordination, or partial or entire release of any security or other credit support for the Guaranteed Obligations, or the enforcement or neglect to perfect or enforce the security or support; or

(x) except as provided in Section 2.3.3 (*Waiver of Rights and Remedies*), 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 the case may be, 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 Seller Default. In the case of Seller Default under the APA or Seller's failure to perform any of the Guaranteed Obligations, Guarantor agrees that Beneficiary will have the right to enforce its rights, powers, and remedies under the APA 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 APA, 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. The provisions of this Guaranty will extend and be applicable to any modification of the APA.

2.3.3. Waiver of Rights and Remedies. Guarantor unconditionally and irrevocably waives all rights and remedies accorded by application of law to sureties or guarantors and Guarantor must not assert or take advantage of those rights or remedies, including:

(i) any right to require Beneficiary to proceed against Company or any other person or to proceed against or exhaust any security held by Beneficiary at any time or to pursue any other remedy in Beneficiary's power before proceeding against Guarantor;

(ii) any defense that may arise because of the incapacity, lack of authority, death, or disability of any other Person or the failure of Beneficiary to file or enforce a claim against the estate (in administration, bankruptcy, or any other proceeding) of any other Person; or

(iii) any defense arising because of the exercise of any right or remedy available to, or election made by, Beneficiary under the U.S. Bankruptcy Code, whether as an unsecured or under secured creditor, seeking adequate protection or otherwise.

2.3.4. Guarantor's Waiver of Defenses Based on Set-Off or Counterclaim. Guarantor unconditionally and irrevocably waives any defense based on any right of set-off or counterclaim against or concerning the obligations of Guarantor under this Guaranty.

2.3.5. Guarantor Waiver of Defenses, Claims, and Discharges. Guarantor unconditionally and irrevocably waives all defenses, claims, and discharges of Company, or any other obligor regarding the Guaranteed Obligations. Without limiting the generality of the preceding sentence, Guarantor will not assert, plead, or enforce against Beneficiary or any other Person any defense of waiver, release, statute of limitations, res judicata, statute of frauds, fraud, incapacity, minority, usury, illegality, or unenforceability that may be available to Company or any other person liable concerning any indebtedness, or any setoff available against Beneficiary to Company or any other Person, whether or not on account of a related transaction. Guarantor expressly waives reliance on any anti-deficiency statute(s). If a foreclosure proceeding is commenced, Guarantor expressly agrees that Guarantor will be and remain unconditionally liable, to the fullest extent permitted by applicable law, for any deficiency remaining after foreclosure of any mortgage or security interest securing indebtedness, whether or not the liability of Company or any other person for the deficiency is discharged under statute or judicial decision.

2.4 Subrogation. Despite any payment or payments made by Guarantor under this Guaranty, Guarantor unconditionally and irrevocably waives any rights of subrogation to the rights of Beneficiary against Company and any rights of reimbursement, assignment, indemnification, or implied contract or any similar rights (including any statutory rights of subrogation under U.S. Bankruptcy Code Section 509 (11 U.S.C. § 509)) against Company or against any other guarantor of all or any part of the Guaranteed Obligations until when the Guaranteed Obligations have been indefeasibly performed in full. If, despite the preceding sentence, any amount will be paid to Guarantor on account of the subrogation or similar rights at any time when all of the Guaranteed Obligations will not have been indefeasibly paid in full, those amounts will be held by Guarantor in trust for Beneficiary and Guarantor must turn over to Beneficiary those amounts in the exact form received by Guarantor, to be applied against the Guaranteed Obligations in the order that Beneficiary may determine in Beneficiary's sole discretion.

2.5 Contribution, Indemnification, Reimbursement. Guarantor unconditionally, irrevocably, and absolutely waives all right of contribution, indemnification, reimbursement, or similar rights against Company regarding the Guaranty, whether the rights arise under an express or implied contract or by operation of law, and it is the intention of Guarantor and Company that Guarantor will not be deemed to be a "creditor" (as defined in U.S. Bankruptcy

Code Section 101 or any other applicable law) of Company because of the existence of this Guaranty if Company becomes a debtor in any proceeding under the U.S. Bankruptcy Code or any other applicable law.

2.6 Agreement regarding Bankruptcy of Company. So long as any Guaranteed Obligations are owed to Beneficiary, Guarantor must not, without the prior written consent of Beneficiary, commence, or join with any other person in commencing, any bankruptcy, reorganization, or insolvency proceeding against Company.

PART 3 - REPRESENTATIONS AND WARRANTIES

Guarantor hereby represents and warrants as follows:

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

3.2 Authorization; No Conflict. The execution and delivery by Guarantor of this Guaranty, and the performance by Guarantor of its obligations under this Guaranty: (i) are within Guarantor's #GuarantorEntityType# powers; (ii) have been duly authorized by all necessary #GuarantorEntityType# action; (iii) do not contravene its #bylaws ***OR*** #operating agreement ***OR*** #OtherOrganizationalDocument or any law or regulation applicable to or binding on Guarantor or any of its properties; and (iv) do not require the consent or approval of any Person that has not already been obtained or the satisfaction or waiver of any conditions precedent to the effectiveness of this Guaranty that have not been satisfied or waived.

3.3 Enforceability. This Guaranty constitutes the legal, valid, and binding obligation of Guarantor, enforceable against Guarantor in accordance with its terms, except to the extent that that enforceability may be limited by applicable bankruptcy, insolvency, dissolution, reorganization, moratorium, liquidation, or other similar laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

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

3.5 No Legal Proceedings. There are no legal proceedings that would be reasonably likely to materially adversely affect Guarantor's ability to perform this Guaranty.

PART 4 - MISCELLANEOUS

4.1 Continuing Guaranty; Assignment. This Guaranty is a continuing guaranty and will: (i) remain in full force and effect until all of the Guaranty Obligations have been satisfied; (ii) consistent with the terms of this Guaranty, apply to all Guaranteed Obligations whenever arising; (iii) be binding upon Guarantor, its successors and assigns; and (iv) inure to the benefit of, and be enforceable by, Beneficiary and its permitted assignees under this Guaranty. Guarantor must not assign or delegate Guarantor's rights or obligations under this Guaranty without: (i) the prior written consent of Beneficiary, which consent may be withheld in Beneficiary's sole discretion; and (ii) a written assignment and assumption agreement in form and substance reasonably acceptable to Beneficiary. Without prejudice to the survival of any of the other agreements of Guarantor under this Guaranty, the agreements and obligations of Guarantor contained in Section 4.4 (*Expenses*) (regarding enforcement expenses) and the last sentence of Section 2.2.1 (*Guarantor Guarantees*) will survive the payment in full of the Guaranteed Obligations and all of the other amounts payable under this Guaranty.

4.2 Notices. All notices, requests, demands and other communications that are required or may be given under this Guaranty must be in writing and will be deemed to have been given when actually received if: (i) personally delivered; (ii) transmitted by facsimile, electronic, or digital transmission method; or (iii) if sent by certified or registered mail, return receipt requested. In each case, notice will be to the contacts identified in this Section 4.2 (*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
30 Ivan Allen Junior Boulevard, NW
Bin SC1407
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 law s 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 HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR PROCEEDING BETWEEN THEM ARISING OUT OF OR RELATING TO THIS GUARANTY BROUGHT IN ANY COURT IN OR OF THE STATE OF GEORGIA, AND HEREBY FURTHER IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY COURT IN OR OF THE STATE OF GEORGIA HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.]

4.7.7. [Applicable Only to Foreign Guarantor: Waiver of Immunity. TO THE EXTENT THAT THE GUARANTOR HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT IN THE STATE OF GEORGIA OR FROM ANY LEGAL PROCESS THEREIN, GUARANTOR HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, SUCH IMMUNITY, AND AGREES NOT TO ASSERT, BY WAY OF MOTION, AS A DEFENSE, OR OTHERWISE, IN ANY SUCH SUIT, ACTION OR PROCEEDING, THE DEFENSE OF SOVEREIGN IMMUNITY, OR ANY CLAIM: (1) THAT IS NOT PERSONALLY SUBJECT TO THE JURISDICTION OF THE COURTS IN THE STATE OF GEORGIA BY REASON OF SOVEREIGN IMMUNITY OR OTHERWISE; (2) THAT IT IS IMMUNE FROM ANY LEGAL PROCESS (WHETHER THROUGH SERVICE OR NOTICE, ATTACHMENT PRIOR TO THE JUDGMENT, ATTACHMENTS IN AID OF EXECUTION, EXECUTION OR OTHERWISE) REGARDING ITSELF OR ITS PROPERTY, BY REASON OF SOVEREIGN IMMUNITY; (3) THAT ANY ACTION IS BROUGHT IN AN INCONVENIENT FORUM; (4) THAT THE VENUE OF ANY ACTION IS IMPROPER; OR (5) THAT THIS GUARANTY MAY NOT BE ENFORCED IN OR BY A FEDERAL COURT IN THE STATE OF GEORGIA. THE GUARANTOR EXPRESSLY ACKNOWLEDGES THAT THE FOREGOING WAIVERS AND SUBMISSIONS TO JURISDICTION ARE INTENDED TO BE IRREVOCABLE UNDER THE LAWS OF THE STATE OF GEORGIA AND OF THE UNITED STATES OF AMERICA AND OF THE LAWS APPLICABLE TO THE

GUARANTOR, INCLUDING THE LAWS OF THE JURISDICTION IN WHICH THE GUARANTOR IS ORGANIZED.]

4.7.8. Waiver of Right to Jury Trial. GUARANTOR UNCONDITIONALLY AND IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT, OR OTHERWISE) ARISING OUT OF OR RELATING TO, THIS GUARANTY, OR THE ACTIONS OF BENEFICIARY IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE OR ENFORCEMENT OF THIS GUARANTY.

4.8 Severability. Any provision of this Guaranty that is prohibited or unenforceable will be ineffective to the extent of the prohibition or unenforceability without invalidating the remaining provisions of this Guaranty.

4.9 Execution and Attestation.

4.9.1. Electronic Signature. This Guaranty may be executed by handwritten signature or Electronic Signature. An "**Electronic Signature**" means any electronic sound, symbol, or process attached to or logically associated with a record and executed and adopted by a Person with the intent to sign the record, including facsimile or e-mail electronic signatures. Guarantor acknowledges that electronic records and Electronic Signatures may be used in connection with the execution of this Guaranty and Electronic Signatures transmitted by electronic mail in so-called ".pdf" format will be legal and binding and will have the same full force and effect as if a paper original of this Guaranty had been delivered and signed using a handwritten signature. Guarantor: (i) agrees that an Electronic Signature, whether digital or encrypted, is intended to authenticate this Guaranty and to have the same effect as a handwritten signature; (ii) intends to be bound by the signature (whether original, faxed, or electronic) on any document sent or delivered by facsimile, electronic mail, or other electronic means; (iii) is aware that Beneficiary will rely on the signatures; and (iv) waives any defenses to the enforcement of the terms of this Guaranty based on the forms of signature described in this Section 4.9. If Guarantor executes this Guaranty by Electronic Signature, Guarantor expressly consents under the Electronic Signatures in Global and National Commerce Act ("**E-SIGN**"), and Uniform Electronic Transactions Act as enacted in the State of Georgia ("**UETA**"), that a signature by fax, email, or other electronic means will constitute an Electronic Signature to an Electronic Record under both E-SIGN and UETA regarding this transaction.

4.9.2. Digital or Electronic Signature. In addition to his Guaranty, any other documents to be delivered in connection with this Guaranty may be executed by handwritten signature or Electronic Signature. Guarantor acknowledges that any digital or Electronic Signature (including pdf, facsimile, or electronically imaged signatures provided by DocuSign or any other digital signature provider) appearing on this Guaranty or other documents to be delivered in connection with this Guaranty are the same as handwritten signatures for the purposes of validity, enforceability, or admissibility, and that delivery to Beneficiary of an Electronic Signature, or a signed copy of, this Guaranty and related documents may be made by facsimile, email, or other electronic transmission.

Guarantor has caused this Guaranty to be executed and delivered under seal by its authorized representative as of Effective Date.

#GuarantorLegalName#

By: _____

Name

Printed: _____

Title: _____

Date: _____

EXHIBIT D – FORM OF BILL OF SALE AGREEMENT

This **Bill of Sale Agreement** (the "**Agreement**"), dated as of as of _____, 20__ ("**Closing Date**") is entered into by **#AssignorLegalName#**, #a/an# #OrgState# #limited liability company# ***OR*** #OtherOrgStructure# ("**Assignor**") and Georgia Power Company, a Georgia corporation ("**GPC**"). Assignor and GPC are each sometimes referred to in this Agreement individually as a "**Party**" and collectively as the "**Parties**." Assignor and GPC acknowledge as follows:

- The Parties have entered into an **Asset Purchase Agreement for 2029-2031 All-Source RFP at #FacilityName#** (the "**APA**"), where Assignor will sell, convey, transfer, assign, and deliver to GPC all of Assignor's right, title, and interest in and to the Acquired Assets, and GPC has agreed to purchase from Assignor the same; and

- The Parties are executing and delivering this Agreement to evidence the sale, conveyance, transfer, assignment, and delivery to GPC of the Facility Assets effective as of the Closing Date.

To induce GPC to enter into and perform its obligations under the APA, and for and in consideration of the foregoing statements, the mutual agreements contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Assignor and GPC agree as follows:

PART 1 - DEFINITIONS

1.1 Definitions. Unless otherwise defined in this Agreement, capitalized terms have the meanings specified or referred to in the APA.

PART 2 - SALE, TRANSFER, AND ASSIGNMENT

2.1 Sale, Transfer, and Assignment to GPC. Effective as of the Closing Date, and subject to the terms and conditions contained in the APA, Assignor sells, conveys, transfers, assigns, and delivers to GPC**,** and GPC purchases and accepts, all of Assignor's right, title and interest in and to the Facility Assets, free and clear of all Liens other than Permitted Liens, and GPC purchases all of Assignor's right, title, and interest in and to all of the Facility Assets as set forth in the APA.

2.2 No Further Rights of Assignor. From and after the date of this Agreement, Assignor will have no further right, title, or interest in and to the Acquired Assets, and GPC will be entitled to exercise all rights, powers, and privileges with respect to the Acquired Assets. Without limiting the generality of the foregoing, GPC will succeed to the entire right, title, and interest of Assignor in and to the Acquired Assets.

2.3 Recordation. Simultaneously with the execution and delivery of this Agreement, the Parties will record a memorandum of assignment publishing notice of the transfer of all Facility Real Property that is being assigned and the Parties to the assignment in the real property records of the county in which the Facility Real Property is located.

2.4 Further Assurances. Each Party agrees to do and take, or cause to be done or taken, all further acts, assurances, and things, and to execute, acknowledge, and deliver, or cause to be executed, acknowledged, and delivered, all further instruments and other documents, in each case, as may be reasonably requested by any other Party in order to better consummate and carry out the intent of this Agreement and give effect to this Agreement. Without limiting the generality of the foregoing, each Party agrees, on the request of any other Party, to execute or re-execute, as the case may be, new or additional assignments or memorandums of assignment, in recordable form, with respect to the Facility Assets, including the Facility Real Property.

2.5 Asset Purchase Agreement. This Agreement is executed and delivered and is subject to in all respects the terms and conditions of the APA. GPC acknowledges and agrees that Assignor makes no, and GPC is not relying on any, representation, or warranty with respect to the Facility Assets except as expressly set forth in the APA, and each of the Parties acknowledges and agrees that neither the representations and warranties nor the rights and remedies of the Parties under the APA will be deemed to be enlarged, modified, or altered in any way by this Agreement. To the extent a conflict should arise between this Agreement and the APA, the APA will control.

PART 3 - MISCELLANEOUS

3.1 Governing Law. This Agreement 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.

3.2 Successors and Assigns. This Agreement will be binding upon, inure to the benefit of, and be enforceable by the Parties and their respective successors and permitted assigns.

3.3 Amendment. This Agreement may not be amended, supplemented, or modified except by an instrument in writing signed on behalf of GPC and Assignor.

Each Party agrees to all terms and conditions of this Agreement. The Parties may exchange counterparts of this Agreement 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 E – FORM OF ASSIGNMENT AGREEMENT

This **Assignment Agreement** ("**Agreement**"), dated as of as of _____, 20__ (the "**Closing Date**") is entered into by **#AssignorLegalName#**, #a/an# #OrgState# #limited liability company# ***OR*** #OtherOrgStructure# ("**Assignor**") and Georgia Power Company, a Georgia corporation ("**GPC**"). Assignor and GPC are each sometimes referred to in this Agreement individually as a "**Party**" and collectively as the "**Parties**." Assignor and GPC acknowledge as follows:

- The Parties have entered into an **Asset Purchase Agreement for 2029-2031 All-Source RFP at #FacilityName#** (the "**APA**"), where Assignor has agreed to assign to GPC the Facility Contracts (including the Real Property Agreements); and
- The Parties are executing and delivering this Agreement to evidence: (i) the sale, transfer, and assignment of all Facility Contracts (including the Real Property Agreements) by Assignor; and (ii) GPC acceptance of the assignment of the Facility Contracts effective as of the Closing Date subject to the terms of the APA other than Excluded Liabilities.

To induce GPC to enter into and perform its obligations under the APA, and for and in consideration of the foregoing statements, the mutual agreements contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Assignor and GPC agree as follows:

PART 1 - DEFINITIONS

1.1 Definitions. Unless otherwise defined in this Agreement, capitalized terms have the meanings specified or referred to in the APA.

PART 2 - ASSIGNMENT

2.1 Assignment to and Assumption by GPC. Effective as of the Closing Date, and subject to the terms and conditions contained in the APA, Assignor assigns and delegates to GPC, and GPC assumes and will pay, perform, and discharge when due, all of Assignor's right, title and interest in and to the Facility Contracts (including the Real Property Agreements), free and clear of all Liens other than Permitted Liens, and GPC purchases all of Assignor's right, title, and interest in and to all of the Facility Contracts (including all Real Property Agreements) as set forth in the APA.

2.2 Excluded Liabilities. GPC assumes no Excluded Liabilities, and the Parties agree that all Excluded Liabilities will remain the sole responsibility of and will be retained, paid, performed, and discharged solely by Assignor.

2.3 Asset Purchase Agreement. This Agreement is executed and delivered and is subject to in all respects the terms and conditions of the APA. GPC acknowledges and agrees that Assignor makes no, and GPC is not relying on any, representation, or warranty with respect to the Assumed Liabilities except as expressly set forth in the APA, and each of the Parties acknowledges and agrees that neither the representations and warranties nor the rights and remedies of the Parties under the APA will be deemed to be enlarged, modified, or altered in any way by this Agreement. To the extent a conflict should arise between this Agreement and the APA, the APA will control.

PART 3 - MISCELLANEOUS

3.1 Governing Law. This Agreement 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.

3.2 Successors and Assigns. This Agreement will be binding upon, inure to the benefit of, and be enforceable by the Parties and their respective successors and permitted assigns.

3.4 Amendment. This Agreement may not be amended, supplemented, or modified except by an instrument in writing signed on behalf of GPC and Assignor.

Each Party agrees to all terms and conditions of this Agreement. The Parties may exchange counterparts of this Agreement 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 F – LEASE ASSIGNMENT CONSENT

This **Lease Assignment Consent** ("**Consent**"), dated as of as of _____, 20__ (the "**Closing Date**") is entered into by **#LandlordLegalName#**, #a/an# #OrgState# #limited liability company# ***OR*** #OtherOrgStructure# ("**Landlord**") and **#TenantLegalName#**, #a/an# #OrgState# #limited liability company# ***OR*** #OtherOrgStructure# ("**Tenant**"). Landlord and Tenant are each sometimes referred to in this Consent individually as a "**Party**" and collectively as the "**Parties**." Landlord and Tenant acknowledge as follows:

- Landlord and Tenant have entered into a Lease Agreement, dated as of #Date#, which is attached to this Consent as Exhibit A (the "**Lease**");
- Tenant and Georgia Power Company ("**GPC**") have entered into an **Asset Purchase Agreement for 2029-2031 All-Source RFP at #FacilityName#** ("**APA**"), where Tenant will sell, convey, transfer, assign, and deliver to GPC all of Tenant's right, title, and interest in and to the Lease; and
- Landlord and Tenant are executing and delivering this Consent to evidence the consent of Landlord to the assignment of the Lease from Tenant to GPC.

In consideration of the mutual covenants contained in this Consent and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Landlord and Tenant agree as follows:

PART 4 - ASSIGNMENT OF LEASE

4.1 Landlord Consent. Landlord consents to the assignment by Tenant to GPC of the Lease, together with all of Tenant's rights under the Lease with respect to the real property described in Exhibit B (the "**Property**").

4.2 Landlord Acknowledgment. Landlord acknowledges that: (i) the Lease is, at the date of this Consent, in full force and effect and, to the best knowledge of the Landlord, no default exists on the part of Landlord or Tenant; (ii) Landlord has no claims, offsets, credits, deductions, or other defenses as to the performance of Landlord's duties under the Lease; and (iii) the Lease constitutes the complete agreement between Landlord and Tenant regarding the Property, and there are no other agreements, provisions, options, or rights existing between Landlord and Tenant with respect to the Property, except as contained in the Lease.

4.3 Landlord Representations and Warranties. Landlord represents and warrants that Landlord is the only person or entity having the right to consent to Tenant's assignment of the Lease and that there are no lienholders, partners, trustees, owners, or other parties or entities whose consent is required for the assignment of the Lease.

4.4 Further Assurances. Each Party agrees to do and take, or cause to be done or taken, all further acts, assurances, and things, and to execute, acknowledge, and deliver, or cause to be executed, acknowledged, and delivered, all further instruments and other documents, in each case, as may be reasonably requested by any other Party in order to better consummate and carry out the intent of this Agreement and give effect to this Agreement. Without limiting the generality of the foregoing, each Party agrees, on the request of any other Party, to execute or re-execute, as the case may be, new or additional assignments or memorandums of assignment, in recordable form, with respect to the Lease or the Property.

PART 5 - MISCELLANEOUS

5.1 Governing Law. This Consent 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.

5.2 Successors and Assigns. This Consent will be binding upon, inure to the benefit of, and be enforceable by the Parties and their respective successors and permitted assigns.

5.3 Amendment. This Consent may not be amended, supplemented, or modified except by an instrument in writing signed on behalf of Landlord and Tenant.

5.4 Third Party Beneficiaries. Landlord and Tenant agree and acknowledge that GPC is an intended third party beneficiary and is entitled to rely on the representations, warranties, covenants, and remedies set forth in this Consent as if an original party to this Consent.

Each Party agrees to all terms and conditions of this Consent. The Parties may exchange counterparts of this Consent 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.

#LandlordLegalName#

By: _____

#LandlordSignatureName#

#LandlordSignatureTitle#

Date: _____

#TenantLegalName#

By: _____

#TenantSignatureName#

#TenantSignatureTitle#

Date: _____

EXHIBIT G – CLOSING TITLE ENDORSEMENTS

[Subject to revision during APA finalization]

1. ALTA 3 (Zoning) as applicable
2. ALTA 8.2-06 (Environmental Protection Lien)
3. ALTA 9 (Comprehensive) as applicable
4. ALTA 9.9-06 (Private Rights)
5. ALTA 17 (Access and Entry) as applicable
6. ALTA 17.2.06 (Utility Access)
7. ALTA 18-06 (Single Tax Parcel)
8. ALTA 22-06 (Location)
9. ALTA 25-06 (Same as Survey)
10. ALTA 26 (Subdivision)
11. ALTA 36 (Energy Project) as applicable
12. ALTA 39-06 (Policy Authentication)

EXHIBIT H – FORM OF DOMESTIC CONTENT CERTIFICATE

#Insert date#

This Domestic Content Certificate (this "**Certificate**") is furnished in accordance with the **Asset Purchase Agreement for 2029-2031 All-Source RFP at #FacilityName#** by and between Georgia Power Company, a Georgia corporation ("**Company**") and **#SellerLegalName#**, #a/an# #OrgState# #limited liability company# ***OR*** #OtherOrgStructure# (the "**Agreement**").

Seller hereby acknowledges that the items listed on Exhibit A attached to this Certificate that has been incorporated into the facility located in #FacilityCity, Georgia ("**Facility**"). Seller certifies that: (1) all Manufacturing Processes with respect to any Steel or Iron Items incorporated into the Facility took place in the United States, except metallurgical processes involving refinement of steel additives; and (2) either: (a) all of the Facility Components are United States Manufactured Products; or (b) the sum of the total Direct Cost of the United States Manufactured Products and the United States Components equals or exceeds forty percent (40%) of the total Direct Cost of all Facility Components.

For the purposes of this Certificate, except as otherwise expressly provided or unless the context otherwise requires, the following terms have the following meanings.

Code: The Internal Revenue Code of 1986, as amended.

Direct Cost: Direct costs as defined in Treasury Regulations Section 1.263A-1(e)(2)(i) that are paid or incurred (within the meaning of Section 461 of the Code) to produce the Manufactured Product by its manufacturer.

Facility Component: Any article, material, or supply, which is directly incorporated into the Facility that is a Manufactured Product.

Manufactured: Produced as a result of the Manufacturing Process.

Manufacturing Process: The application of processes to alter the form or function of materials or elements of a product in a manner adding value and transforming those materials and elements so that they represent a new item functionally different from that which would result from mere assembly of the elements or materials.

Manufactured Product: An item produced as a result of the Manufacturing Process.

Manufactured Product Component: Any article, material, or supply, whether or not Manufactured, that is directly incorporated into a Facility Component.

Mined: Derived from the extraction of ores or minerals from the ground or from the waste or residue of prior mining.

Non-United States Manufactured Product: A Manufactured Product all or a portion of the Manufacturing Processes of which occurred outside the United States or all or a portion of the Manufactured Product Components of which are of non-United States origin.

Steel or Iron Items: Construction materials made primarily of steel or iron that are structural in function.

United States: The several states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

United States Component: Any Manufactured Product Component of a Non-United States Manufactured Product if the Manufactured Product Component is Mined or Manufactured in the United States.

United States Manufactured Product: A Manufactured Product all of the Manufacturing Processes for which occurred in the United States and all of the Manufactured Facility Components of which have been Manufactured in the United States.

Seller acknowledges that this Certificate may be relied on by the Company and the Internal Revenue Service to determine whether the Facility qualifies for an increase in the energy credit under Section 48 of the Internal Revenue Code of 1986, as amended, (the "Code") or the clean electricity investment credit under Section 48E of the Code, with respect to facilities that satisfy the "domestic content" provisions of Sections 48(a)(12) or 48E(a)(3)(B) of the Code, and certifies that the information is this Certificate is true, correct, and complete to the best of Seller's knowledge and belief.

#SellerLegalName#

By: _____

Name

Printed: _____

Title: _____

Date: _____

EXHIBIT I – CLOSING DATE WORKING CAPITAL METHODOLOGY

Working Capital Methodology

This Exhibit I (*Working Capital Methodology*) sets forth the line items and methodology used to determine Closing Date Working Capital.

The Closing Date Working Capital will be calculated in accordance with this Exhibit I in the same way both for Estimated Closing Working Capital and Closing Date Working Capital included in the computation of resulting adjustment in accordance with APA Section 2.2.2 (*Settlement of Final Closing Adjustment*).

The Closing Date Working Capital will be calculated using only those Seller current assets and current liabilities as of the Closing Date that appear in the sample computation of Closing Date Working Capital below, and the amounts associated with those line items will be the amounts reflected in the financial records Seller maintains in the ordinary course of business consistent with past practice, as further provided below.

The current assets and current liabilities each will be determined in accordance with GAAP consistent with the accounting practices, policies, levels of aggregation, classification of assets and liabilities, reserves, degree of conservatism, and methodologies used in the preparation of the #YearofMostRecentAnnualFinancialStatements balance sheet of Seller (except as set forth in this Exhibit I, including regarding the line items that will be included as current assets and current liabilities).

Despite the preceding paragraph or GAAP:

1. [Specific Accounting Methodologies TBD]

2. The sample computation of Closing Date Working Capital below illustrates the computation of Closing Date Working Capital, using amounts outstanding for those items as of #RecentMonthEndBeforeEffectiveDate.

Remainder of Page Intentionally Left Blank;
Sample Computation of Closing Date Working Capital Follows on Next Page

EXHIBIT I – ATTACHMENT 1 – SAMPLE CALCULATION OF CLOSING DATE WORKING CAPITAL

[Add Sample Computation of Closing Date Working Capital]

THIS DRAFT DOES NOT CONSTITUTE A BINDING OFFER AND PROVIDES NO BASIS FOR AN AGREEMENT BY ESTOPPEL OR OTHERWISE. GPC RESERVES THE RIGHT, IN ITS SOLE DISCRETION, TO MODIFY THIS DRAFT AT ANY TIME. ANY ACTION TAKEN BY A PARTY IN RELIANCE ON THE TERMS IN THIS DRAFT OR ON ANY STATEMENT MADE DURING NEGOTIATIONS REGARDING THIS DRAFT WILL BE AT THAT PARTY'S OWN RISK. UNTIL GPC HAS COMPLETED ITS DUE DILIGENCE AND THIS AGREEMENT IS NEGOTIATED, APPROVED BY MANAGEMENT AND THE COMMISSION, EXECUTED, AND DELIVERED, NO PARTY WILL HAVE ANY LEGAL OBLIGATION, EXPRESS OR IMPLIED, OR ARISING IN ANY OTHER MANNER UNDER THIS DRAFT OR IN THE COURSE OF ANY NEGOTIATION.

Build Transfer Agreement
for
2029–2031 All-Source RFP
at
#ProjectName#
between
Georgia Power Company
and
#SellerLegalName#

Dated as of #Date#

This agreement contains confidential information for use by GPC, Seller, or their Affiliates only; do not disclose, copy, or scan for any other purpose, except to the extent required by Law or allowed by contract.

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SCHEDULE OF DEFINED TERMS

This BTA uses the defined terms identified in this *Schedule of Defined Terms* or in the body of this BTA and the rules of construction described in Section 21.19 (*Contract Interpretation*).

Action: Any demand, complaint, claim, action, legal proceeding (whether at law or in equity), investigation, request for information, arbitration, hearing, audit, or suit commenced, brought, conducted, or heard by or before, or otherwise involving, any Governmental Authority.

Additional Report: As defined in Section 6.24.2 (*Change to Reports*).

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

Affected System Upgrade: Any addition, modification, or upgrade to an Affected System's Electric System that would be necessary for safe, and reliable operation of the Electric System during parallel operation of the Project. The Affected System will construct and own each addition, modification, or upgrade.

Affiliate: For any specific Person, any other Person directly or indirectly controlling, 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 BTA, it is assumed that the direct or indirect owner of 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 a given payment required to be made to any Person, the amount of the payment ("**Base Payment**") supplemented by a further payment ("**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 income taxes required to be paid by the Person regarding the receipt or accrual of the Base Payment and the Additional Payment (taking into account the net present value of any reduction in the income taxes resulting from tax benefits realized by the recipient because of the payment or the event giving rise to the payment), be equal to the amount required to be received. The calculations will be made based on the highest generally applicable federal, state, and local income tax rates applicable to the Person for whom the calculation is being made for all relevant periods and will consider the deductibility of state and local income taxes for federal income tax purposes.

All-Source RFP: GPC's All-Source Capacity Request for Proposals for 2029–2031.

ALTA Survey: A current survey regarding each parcel of real property described in the Title Commitment prepared and certified by the Surveyor and conforming to the 2016 ALTA/ASCM Minimum Standard Detail Requirements for Land Title Surveys (including items 1, 3, 4, 8, 11, and 16 (if a wetlands delineation is available) of Table A) and disclosing the location of all existing improvements, plottable easements, encroachments, roadways, utility lines, set back lines, and other matters shown customarily on project surveys for projects similar to the Project, and showing access affirmatively to public streets and roads.

Amended Commission Certificate: As defined in Section 1.4.5 (*Regulatory Matters*).

Anti-Forced Labor Law: (i) the anti-forced labor provisions of Section 307 of the Tariff Act of 1930 (19 U.S.C. § 1307); (ii) the Uyghur Forced Labor Prevention Act (Public Law 117–78; 117th Congress; Dec. 23, 2021; H.R. 6256; 135 STAT. 1525); and (iii) any other law pertaining to Forced Labor.

Apprenticeship Requirements: The requirements of Code sections 45(b)(8), 45Y(g)(10), 48(a)(11), and 48E(d)(4), as applicable, and any guidance or other legal authorities applicable thereto, including any guidance published or issued by the U.S. Department of the Treasury (including any guidance issued by the IRS) or the U.S. Department of Labor.

Assignment Agreement: Assignment Agreement entered into by Seller and GPC in accordance with this BTA, in substantially the form of Exhibit C (*Form of Assignment Agreement*) attached to this BTA.

Assumed Liabilities: As defined in Section 1.2.5 (*Assumed Liabilities*).

Bankruptcy Code: Title 11 of the United States Code, as amended from time to time, or any similar federal or state law for the relief of debtors.

Bankruptcy Laws: The Bankruptcy Code and all other liquidation, bankruptcy, assignment for the benefit of creditors, conservatorship, moratorium, receivership, insolvency, rearrangement, reorganization, or similar debtor relief law of the United States or any other applicable jurisdiction in effect from time to time.

Base Purchase Price: The amount set forth in Section 1.3.1 (*Base Purchase Price*).

Benefit Plan: Any "pension plan" or "welfare plan" within the meaning of Section 3(2) or 3(1) of ERISA, or other employee benefit plan, program, agreement or arrangement or employment, compensation, bonus, incentive, retirement, deferred compensation, severance or fringe benefit plan, program, agreement, or arrangement.

Bill of Sale: Bill of Sale and Assignment Agreement to be entered into by Seller and GPC at the Closing, in substantially the form of Exhibit B (*Form of Bill of Sale*).

Books and Records: All data, books, records, files, documents, instruments, papers, correspondence that can be reasonably and practically provided, journals, deeds, licenses, Permits, Resource Data, computer files and programs, studies and reports (including environmental and construction studies and reports), annual operating plans, monthly operating reports, operating logs, operation and maintenance records, purchase orders, safety and maintenance manuals, incident reports, standard OSHA logs, engineering design plans, blue prints and as-built plans, records, drawings, specifications, test reports, quality documentation and reports, hazardous waste disposal records, training records, procedures, and similar items, in each case: (a) in all formats in which they are reasonably and practically available, including electronic, where applicable; and (b) in the possession or control of Seller or its Affiliates and to the extent the same relate to Seller, the Project Real Property or the Project, including the Project Assets, but excluding any Excluded Assets.

BTA: This Build Transfer Agreement for 2029–2031 All-Source RFP for the Facility, as further described in Exhibit A-1 (*Project Information*), between GPC and Seller, including all Exhibits and Schedules.

Burdensome Condition: Any requirement, term, obligation, condition, or other measure imposed on GPC, any GPC Affiliate, the Project, or any of the Project Assets by a Governmental Authority concerning the Commission Certificate or any other Consent required to be obtained by GPC in connection with this BTA or the transactions contemplated by this BTA that, individually or in the aggregate with any other requirement, term, obligation, condition or other measure: (i) requires GPC to sell, divest, or dispose of any asset or business of GPC or any GPC Affiliate; (ii) would reasonably be expected to be adverse to GPC's ability to operate the Project, the Project Assets, or other assets or businesses of GPC or any GPC Affiliate in any material respect; (iii) would prohibit or limit the ownership of any portion of the Project, the Project Assets, or any other asset or business of GPC or any GPC Affiliate; (iv) results in less than all of the Project Assets or less than all of the Purchase Price being eligible for inclusion in GPC's rate base; (v) prohibits GPC from recovering the transaction costs relating to the transactions contemplated by this BTA; (vi) prohibits GPC from deferring the incremental net costs and benefits associated with the transactions contemplated by this BTA between the Closing and GPC's next rate case proceeding; or (vii) would otherwise reasonably be expected to have a material adverse effect on GPC.

Business Day: Any Day except: (i) Saturday; (ii) Sunday; and (iii) any Day on which banking institutions in Atlanta, Georgia are closed because of a federal holiday.

Capacity Guarantee: The Capacity Guarantee as described in Exhibit S (*Commissioning and Testing*).

Capacity Test: The Capacity Test as described in Exhibit S (*Commissioning and Testing*).

Change: Any alteration of the Work whether by way of addition, deletion, modification, substitution, or omission as authorized in accordance with Section 9.1 (*Changes*), but not including any instruction to the extent that the instruction is issued because of any breach by Seller of this BTA or otherwise to require Seller to fulfill its obligations under this BTA. Changes include changes to scope of Work, Project Schedule, and Purchase Price. Re-performance of any Work required to rectify or recover Work that is necessary due to Seller's (or a Seller Party's) negligence or breach of this BTA will not constitute a Change.

Change in Law: (i) the enactment, adoption, taking effect of, promulgation, modification, change, amendment, replacement, successor, or repeal, or change in application, after the Effective Date of any applicable law, including change in rates as it relates to laws imposing Taxes and Tariffs, or a petition, investigation or commencement of a proceeding seeking or in furtherance of the foregoing (provided that a petition, investigation or proceeding will only constitute a Change in law to the extent that it impacts Project Equipment that is being imported from outside of the U.S.); or (ii) the imposition of any material conditions on the issuance or renewal of any applicable Permit, occurring after the Effective Date.

Change Order: A written modification in the form of Exhibit R (*Form of Change Order*) authorizing a Change and executed by GPC and Seller in accordance with the terms of this BTA.

Change Order Directive: As defined in Section 9.2.10 (*GPC Change Order Directive*).

Change Order Notice: The written notice of Change Order issued to Seller by GPC under Section 9.2.2 (*Changes Initiated by GPC*).

Change Order Request: The written request for a Change Order issued to GPC by Seller under Section 9.2.1 (*Changes Initiated by Seller*).

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).

Closing: As defined in Section 1.4.1 (*Closing Date*).

Closing Date: The date that the Closing occurs.

Closing Payment: As defined in Section 1.4.2 (*Closing Payment*).

Closing Title Endorsements: The title insurance endorsements in substantially the forms attached to this BTA as Exhibit E (*Closing Title Endorsements*), together with any other endorsement GPC may reasonably require following its review of the Real Property Surveys, and any preliminary title commitment or report prepared by the Title Company regarding the Project Site.

Code: The Internal Revenue Code of 1986, as amended.

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

Commission Certificate: Certificate of Public Convenience and Necessity for this BTA issued by the Commission.

Commissioning and Test Plan: The plan for the performance of the Commissioning Tests and the Performance Tests, as further described in Exhibit S (*Commissioning and Testing*), and as updated in accordance with Section 10.2 (*Commissioning and Performance Tests*).

Commissioning Tests: Those tests required concerning the commissioning of the Project, as further described in Exhibit S (*Commissioning and Testing*).

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 any Person 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 BTA, including this BTA. 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 BTA; (ii) was, at the time of the disclosure, already in receiving party's possession; (iii) is disclosed to receiving party by a third party who, to receiving party's knowledge, is not prohibited from disclosing the information under any agreement; (iv) receiving party develops or derives without the aid, application, or use of the privileged or proprietary information; or (v) receiving party is required to disclose in accordance with applicable law.

Consent: Any approval, consent, authorization, or other applicable requirement regarding the Project or this BTA 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.

Construction: Any activity or action that constitutes construction for the purpose of Code Section 45(b)(7) and (8) and Code Section 48(a)(10) and (11) and any PWA Guidance.

Construction Costs: The aggregate of all costs and expenses incurred or accrued by or on behalf of Seller, any of its Affiliates, or any prior developer of the Project, to site, design, develop, engineer, procure, supply, construct,

interconnect, permit, startup, commission, or test the Project or any part or component of the Project, or materials used in the Project (including the Project Assets), in each case, in order for the Project (including the Project Assets) to achieve Substantial Completion and Final Completion, including any amount owing under the Project Contracts to achieve Substantial Completion and Final Completion, but excluding any amount to the extent arising as a result of GPC's commercial operation or use of the Project following Closing.

Construction Period Performance Security: As defined in Section 4.1.2 (*Construction Period Performance Security*).

Contract: Any oral or written contract, lease, sublease, use or occupancy agreement, license (other than a Permit), evidence of indebtedness, mortgage, indenture, purchase order, binding bid, letter of credit, security agreement, undertaking, or other agreement that is legally binding.

Contract Consent: As defined in Section 6.34.1 (*Project Contracts*).

Contractor Drawings and Manuals: All drawings and information developed by EPC Contractor and Subcontractors and provided to Seller concerning EPC Contractor's and any Subcontractor's obligations under the EPC Contract, all in accordance with the requirements of this BTA.

Counterparty: As defined in Section 6.34.1 (*Project Contracts*).

Credit Support Obligations: As defined in Section 7.4 (*Performance Security*).

Creditworthy: 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.

Critical Milestones: Certain Milestones, set forth in Exhibit O (*Critical Milestones and Critical Milestone Completion Dates*), designated in the Project Schedule as Milestones that are critical to the ability of the Project to achieve Substantial Completion by the Guaranteed Substantial Completion Date.

Critical Milestone Completion Date: The completion date, set forth in Exhibit O (*Critical Milestones and Critical Milestone Completion Dates*), by which Seller will achieve the corresponding Critical Milestone.

Data Site: The website established by Seller for the purposes of this BTA, to which GPC has been provided access.

Deed/Lease Assignment: General Warranty Deed/Lease Assignment to be entered into by Seller and GPC at the Closing, in substantially the form of Exhibit D (*Form of Deed/Lease Assignment*) attached to this BTA.

Deemed PWA Compliance: As defined in Section 2.25.12 (*Tax Benefits*).

Defect or Defects: As defined in Section 14.1(i) (*Warranties*).

Deferred Permit: As of any date, any Project Permit that has not been obtained: (i) that is not required to have been obtained on or before the date by applicable law, or the requirements of any Project Contract; and (ii) that Seller has a reasonable expectation will be obtained in the ordinary course of business.

Delay Liquidated Damages: Collectively, Mechanical Completion Delay Liquidated Damages and Substantial Completion Delay Liquidated Damages.

Design Documents: As defined in Section 13.2.1 (*Review*).

Disclosure Items: As defined in Section 6.32.1 (*Seller Material Adverse Effect Update Matters*).

Dispute Response: As defined in Section 19.1 (*Dispute Resolution*).

Disputing Party: As defined in Section 19.1 (*Dispute Resolution*).

Draft Manuals: As defined in Section 6.11.3 (*Draft Manuals*).

Easement: Any easement (other than those easements included in the Real Property Agreements), right-of-way, license, occupancy or encroachment permit, or similar entitlement that is used, or to be used, for or in installation and maintenance of overhead or underground transmission for the Project, collection or communication lines, and facilities for the Project, and other appliances or fixtures for use in connection with lines and facilities development, construction, ownership, operation, use, or maintenance of the Project.

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

EH&S Procedures: As defined in Section 6.31.2 (*EH&S Procedures*).

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

Eligible Collateral: Either: (i) a Letter of Credit; (ii) a Seller Guaranty; or (iii) cash deposited into a Security Account, or as otherwise deposited with GPC as the Parties may agree. However, at least 50% of any Eligible Collateral required under any provision of this BTA must be in the form of either a Letter of Credit or cash whenever a Seller Guarantor supplying a Seller Guaranty under this BTA 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; (c) and BBB by Fitch, if rated by Fitch. For 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 Rating Agencies.

Emerging Contaminants: Chemicals and other substances not currently regulated under any Environmental Law that: (i) have been discovered in natural streams; and (ii) potentially cause a deleterious effect in aquatic life, including vegetation and water quality, at environmentally relevant concentrations, including per- and polyfluoroalkyl substances.

Energization and Synchronization: The Project: (i) has been energized; (ii) has been synchronized with and is capable of transmitting electric energy to the Transmission Service Provider; and (iii) is ready to be placed into service.

Energization Notice: As defined in Section 12.3 (*No Energization*).

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

Environmental Claim: Any written notice, Claim, complaint, or Action by any Person alleging any actual or potential Liability or violation under any Environmental Law.

Environmental Condition: The Release to the environment of a Hazardous Substance, including any migration of a Hazardous Substance through air, soil, or water.

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 (r) state equivalents to items (a) through (q). However, the term "Environmental Law" does 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.

EPC Change Order: Any order identified as a "Change Order" and issued by the Seller to EPC Contractor, under the EPC Contract.

EPC Contract: An Engineering, Procurement and Construction Agreement between Seller and the EPC Contractor, in the form of Exhibit I (*EPC Contract*).

EPC Contract Performance Security: Security in the form of Eligible Collateral that secures EPC Contractor's proper performance of the EPC Contract.

EPC Contract Price: The total amount that would be due to EPC Contractor under the EPC Contract for full satisfaction of all of EPC Contractor's obligations under the EPC Contract, including completion of the Project at the Project Nameplate Capacity.

EPC Contractor: The counterparty (other than Seller) to the EPC Contract.

ERISA: The Employee Retirement Income Security Act of 1974.

ERISA Affiliate: Any entity that, together with a Person, would be deemed a single employer within the meaning of Code Section 414(b), (c), or (m) or ERISA Section 4001(b).

Excluded Assets: The items listed on Schedule 1.1(d).

Excluded Liabilities: As defined in Section 1.2.4 (*Excluded Liabilities*).

Excusable Event: (i) an FME; (ii) a Change in Law; or (iii) a GPC-Caused Delay.

Exhibit: Any schedule, exhibit, or attachment that is attached to or incorporated into this BTA.

Extended FME: An FME that is preventing the affected Party from performing its obligations under this BTA for a period of six Months or longer.

Facility: The energy generator or storage, as applicable, facility to be built by Seller under this BTA, including all equipment and facilities that, before Closing, are not owned by GPC.

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

FERC Approval: Any approval by FERC of the transaction contemplated by this BTA that is required under Sections 203 or 205 of the Federal Power Act or other applicable law.

Final Completion: The condition where the Project demonstrates that all the Final Completion Criteria have been satisfied in accordance with the requirements of this BTA and the EPC Contract.

Final Completion Certificate: As defined in Section 12.6.1 (*Final Completion Certificate*).

Final Completion Criteria: The criteria set forth in Exhibit W-3 (*Final Completion Criteria*).

Final Completion Date: The date on which GPC accepts Seller's Final Completion Certificate in accordance with Section 12.6.2 (*GPC's Review of Final Completion Certificate*).

Final Lien Waiver: As applicable: (i) a lien waiver from Subcontractors to be delivered by Seller in accordance with Section 6.26.2 (*Lien Waivers at the Closing Date*) or 6.26.3 (*Final Lien Waivers*) in the form of Exhibit F-4 (*Form of Subcontractors' Final Lien Waiver*); and (ii) a lien waiver from EPC Contractor to be delivered by Seller in accordance with Section 6.26.3 (*Final Lien Waivers*) in the form of Exhibit F-3 (*Form of EPC Contractor's Final Lien Waiver*).

Firm Date: As defined in Section 1.1.1 (*Firm Date Conditions*).

Firm Date Conditions: As defined in Section 1.1.1 (*Firm Date Conditions*).

Firm Date Deadline: As defined in Section 1.7.1(ix) (*Termination Prior to Closing Date*).

Firm Date Reports: Those Reports specifically identified on Schedule 2.3(a)(i)(D).

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.

FME: As defined in Section 11.1.1 (*Definition of Force Majeure Event (FME)*).

FME Remedy Plan: The plan submitted to a Party in accordance with Section 11.1.6 (*Extended FME*) in the event of an Extended FME.

Forced Labor: All work or service exacted from any natural Person under the menace of any penalty, and for which the said natural Person has not offered him/herself voluntarily, such as any form of forced labor, child labor, indentured labor, bonded labor (including debt bondage, trafficked or slave), prison labor, or trafficking in natural Persons.

Full Notice to Proceed: The notice to proceed issued under the EPC Contract authorizing the EPC Contractor to begin the full scope of work of the EPC Contract without being limited or contingent upon the satisfaction of any condition.

GAAP: Generally accepted accounting principles in the United States, as modified from time to time.

Gap Warranty: As defined in Section 14.3 (*Gap Warranty*).

Georgia DNR: The Georgia Department of Natural Resources, or any Governmental Authority succeeding to the powers and functions of the Georgia DNR.

Good Faith Effort: As defined in Section 2.25.12 (*Tax Benefits*).

Governmental Authority: Any court, tribunal, arbitrator, authority, agency, commission, legislative body, official, or other instrumentality of the United States or any foreign, state, county, city, or other political subdivision or similar governing entity, and including any governmental, quasi-governmental, or non-governmental body administering, regulating or having general oversight over electric reliability or gas, electricity, power, or other markets.

GPC: Georgia Power Company, a Georgia corporation, which is a subsidiary of Southern Company, and any successor or permitted assign.

GPC Authorized Representative: As defined in Section 7.2.1 (*GPC's Designated Representative*).

GPC Closing Certificate: As defined in Section 1.6.6(v) (*Closing Deliveries*).

GPC Default: As defined in Section 15.2 (*GPC Default*).

GPC Design Review Parties: As defined in Section 13.2.1 (*Review*).

GPC Disclosure Schedule: The Schedules prepared by GPC and delivered to Seller in conjunction with the execution of this BTA.

GPC Fundamental Representations: The representations and warranties set forth in Section 3.1 (*Organization; Existence*), Section 3.2 (*Authority*), Section 3.3 (*Binding Agreement*), and Section 3.7 (*Brokers*).

GPC Indemnified Parties: As defined in Section 17.3 (*Indemnification by Seller*).

GPC Material Adverse Effect: Any change, event, circumstance, development, occurrence, or effect that, individually or in the aggregate with any other change, event, circumstance, development, occurrence, or effect, would reasonably be expected to prevent or materially delay the ability of GPC to perform its obligations under this BTA or consummate the transactions contemplated by this BTA.

GPC Obligation: As defined in Section 8.2 (*Form of Project Schedule*).

GPC-Caused Delay: Any event or circumstance or combination of events or circumstances, other than a GPC-Initiated Change, that affects, prevents, or delays Seller's ability to perform its obligations under this BTA in accordance with the Project Schedule, if the event or circumstance is solely caused by GPC or a GPC Affiliate or Representative.

GPC-Initiated Change: As defined in Section 9.2.2 (*Changes Initiated by GPC*).

GPC-Initiated Change Order Costs: As defined in Section 1.3.4 (*GPC-Initiated Change Order Costs*).

GPC's Consents: As defined in Section 3.4 (*No Conflicts*).

Guaranteed Performance Ratio: The Guaranteed Performance Ratio as described in Exhibit S (*Commissioning and Testing*).

Guaranteed Substantial Completion Date: The guaranteed Substantial Completion date specified in Exhibit A-1 (*Project Information*), subject to extension as provided in this BTA.

Hazardous Activity: The distribution, generation, handling, importing, management, manufacturing, processing, production, refinement, Release, storage, transfer, transportation, treatment, or use of a Hazardous Substance, or any other act, business, operation, or activity that increases the danger, or poses a risk of harm, to the environment.

Hazardous Substance: Any substance or material listed, defined, or classified as a pollutant, contaminant, hazardous substance, hazardous material, toxic substance, toxic pollutant, hazardous waste, or words of similar import under any Environmental Law, including, petroleum, petroleum products, polychlorinated biphenyls, flammable materials, explosives, radioactive materials, urea formaldehyde foam insulation, and friable asbestos.

HSR Approval: The expiration or termination of any applicable waiting period, including any extension, under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and related rules and regulations.

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

Indemnification Claim: As defined in Section 17.5 (*Notice of Proceeding*).

Initial Performance Security: As defined in Section 4.1.1 (*Initial Performance Security*).

Insolvency: Regarding a Person, that the Person: (i) commences a voluntary case under the Bankruptcy Code; (ii) files a petition seeking to take advantage of any Bankruptcy Laws; (iii) consents to or fails to contest in a timely and appropriate manner any petition filed against it in an insolvency case under the Bankruptcy Laws; (iv) applies for, consents to, or fails to contest in a timely and appropriate manner, the appointment of, or the taking of possession by, a receiver, custodian, trustee, liquidator, or the like of itself or of a substantial part of its assets; (v) becomes insolvent, admits in writing its inability to pay, or generally not be paying, its debts (other than those that are the subject of bona fide disputes) as they become due; (vi) makes a general assignment for the benefit of creditors; (vii) takes any action for the purpose of effecting any of the preceding; or (viii) has a case or other proceeding commenced by a third party against it seeking: (a) relief under any Bankruptcy Laws; or (b) the appointment of a trustee, receiver, custodian, liquidator, or the like of the Person of all or any substantial part of its assets, and the case or proceeding continues undismissed or unstayed for a period of 60 days.

Intellectual Property Right: Any right to a United States or foreign: (i) patent and industrial design (including any continuation, continuation-in-part, renewal, reissue, and application for any of the preceding); (ii) copyright (including any registration and application for any of the foregoing); (iii) trademark, service mark, trade name, logo, slogan, trade dress, and application for registration of the foregoing; and (iv) trade secret and confidential information, including confidential know-how, process, formula, algorithm, model, or methodology.

Interconnection Agreement: The agreement between Seller and the applicable Interconnection Provider containing terms and conditions governing the interconnection and parallel operation of the Project with the Electric System.

Interconnection Costs: The costs, including transmission customer interconnection costs, transmission provider interconnection costs, network upgrades, and affected systems costs, if any, charged by the Transmission Service Provider, applicable balancing authority, or operators of affected systems, or costs incurred by the Seller, or EPC

Contractor concerning the interconnection of the Project to the Point of Interconnection, excluding any costs to be borne by GPC to improve the Electric System beyond the Point of Interconnection as described in Section 1.8 (*Grid Improvements*).

Interconnection Facilities: The specific transmission or distribution line and substation facility additions or modifications that are or will be owned by an Interconnection Provider, and that are necessary to provide the physical electrical connection at the Point of Interconnection between the Project and the Electric System.

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

Interim Lien Waiver: As applicable: (i) a lien waiver from EPC Contractor to be delivered by Seller in accordance with Section 6.26.2 (*Lien Waivers at the Closing Date*) in the form of Exhibit F-1 (*Form of EPC Contractor's Interim Lien Waiver*); and (ii) a lien waiver from Subcontractors to be delivered by Seller in accordance with Section 6.26.2 (*Lien Waivers at the Closing Date*) in the form of Exhibit F-3 (*Form of Subcontractors' Interim Lien Waiver*).

IRS: The Internal Revenue Service or any Governmental Authority succeeding to the powers and functions of the IRS.

ITC: The investment tax credit under Sections 48 and 48E of the Code.

Knowledge: With respect to a Party, actual knowledge after reasonable due inquiry.

Letter of Credit: An irrevocable standby letter of credit that is: (i) substantially in the form set forth in Exhibit B (*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 10 billion dollars ($10,000,000,000.00); and (b) 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) acceptable to GPC in GPC's sole discretion.

Liability: Regarding any Person, any liability, indebtedness, or obligation of that Person of any kind, character, or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, due or to become due.

Lien: Any charge, claim, lien, option, encumbrance, mortgage, deed of trust, pledge, assessment, lease, levy, security interest, equitable interest, easement, restrictive covenant, encroachment, title imperfection, conditional sale or other title retention arrangement, purchase right, right of first refusal, right of first offer, or other restriction on use, transfer, voting, receipt of income, or exercise of any other attribute of ownership.

Major Equipment: The major equipment to be incorporated into the Project, as described in Exhibit A-1 (*Project Information*).

Major Equipment Warranty Requirements: As set forth in Section 14.4.2 (*Extended Warranty Period for Certain Equipment*).

Major Subcontractors: Those Subcontractors supplying Major Equipment.

Major Supply Agreements: The agreements under which the Major Subcontractors will supply the Major Equipment, in the form attached to this BTA as Exhibit K (*Major Supply Agreements*).

Materials: All Intellectual Property Rights, equipment, machinery, apparatus, materials, articles, and things of all kinds to be provided and incorporated into the Project by Seller, EPC Contractor, or the Subcontractors under this BTA (including spare parts and tools to be supplied under this BTA), other than the Project Equipment.

Material Credit Change: That Seller or Seller's Guarantor is no longer Creditworthy.

Mechanical Completion: The condition where the Project demonstrates that all the Mechanical Completion Criteria have been satisfied in accordance with the requirements of this BTA and the EPC Contract.

Mechanical Completion Criteria: The criteria set forth in Exhibit W-1 (*Mechanical Completion Criteria*).

Mechanical Completion Certificate: As defined in Section 12.2.1 (*Mechanical Completion Certificate*).

Mechanical Completion Date: The date on the Mechanical Completion Certificate provided by Seller that GPC accepts in accordance with the requirements of Section 12.2.2 (*GPC's Review of Mechanical Completion Certificate*).

Mechanical Completion Delay Liquidated Damages: As defined in Section 12.8.1 (*Mechanical Completion*

Delay Liquidated Damages).

Milestone: As defined in Section 8.1 (*Project Schedule*).

Milestone Completion Dates: As defined in Section 8.1 (*Project Schedule*).

Monthly Progress Report: As defined in Section 6.25.1 (*Monthly Progress Reports*).

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.

NERC: The North American Electric Reliability Corporation, including any successor organization that is responsible for establishing reliability criteria and protocols.

NERC Reliability Requirements: Those requirements in the NERC Reliability Standards for Bulk Electric Systems in North America.

Notice of Dispute: As defined in Section 19.1 (*Dispute Resolution*).

Objectionable Title and Survey Matters: All matters shown on the Title Commitments or the ALTA Survey (other than Permitted Liens) that GPC has identified as requiring cure, including title matters that: (i) relate to a fee mortgage that is superior to any Real Property Agreements that could be cured by the provision of a non-disturbance and attornment agreement acceptable to GPC in its reasonable discretion, or the payment of funds to have the mortgage released; (ii) relate to overdue tax payments, mechanics liens, judgment liens, or other, similar liens on the fee property that could be released with the payment of funds; (iii) as to each individual non-monetary Lien, could be cured with the payment of monetary consideration; (iv) could be cured with endorsements to the Title Policy that are acceptable to GPC in its reasonable discretion, and required to address Objectionable Title and Survey Matters; (v) if not cured could materially detract from the value or materially interfere with the operation of the Project, as determined by GPC in its reasonable discretion; or (vi) [_____]**[*Note to Bidders: Placeholder for other relevant title issues*]**.

Operating Period Performance Security: As defined in Section 4.1.4 (*Operating Period Performance Security*).

Order: Any award, decision, injunction, judgment, order, writ, decree, ruling, subpoena, or verdict entered, issued, made, or rendered by any Governmental Authority that possesses competent jurisdiction (in each case, whether preliminary or final).

Organizational Documents: (i) Regarding any corporation, its articles or certificate of incorporation and bylaws, (ii) regarding any limited liability company, its articles or certificate of organization or formation, and its operating agreement or limited liability company agreement or documents of similar substance, (iii) regarding limited partnership, its certificate of limited partnership and partnership agreement or governing or organizational documents of similar substance and (iv) regarding any other entity, governing or organizational documents of similar substance to any of the foregoing and in the case of each of clauses (i) through (iv), in effect from time to time.

OSHA: As defined in Section 6.13.1 (*Seller Safety Obligations*).

Outside Closing Date: The outside Closing Date specified in Exhibit A-1 (*Project Description and Additional Information*).

Party or **Parties:** Either GPC or Seller or both.

Performance Guarantee: Each of the Performance Guarantees described in Exhibit S (*Commissioning and Testing*).

Performance Security: Eligible Collateral delivered to GPC by Seller to secure Seller's due performance of its obligations under this BTA.

Performance Test: Each of the Performance Tests described in Exhibit S (*Commissioning and Testing*).

Permit: Any permit, certificate, license, franchise, consent, approval, registration, franchise, tariff, rate, waiver, exemption, condition, order, or authorization issued, made, or rendered by, or any registration, notice, declaration or filing with, any Governmental Authority that possesses competent jurisdiction.

Permit Application: As defined in Section 6.6.2 (*Permit Application Review*).

Permitted Indebtedness: (i) any Indebtedness that is (or will be) released on or prior to Closing; and (ii) any

Indebtedness set forth on Schedule 4.9.

Permitted Lien: (i) Any Lien for Taxes not yet due and payable or that are being contested in good faith by appropriate proceedings, and for which adequate reserves have been established in accordance with GAAP; (ii) any mechanics', workmen's, repairmen's, warehousemen's, carriers' or other like Lien arising in the ordinary course of business concerning the construction of the Project, in each case, for amounts that are not due or, if relating to overdue amounts, that are being contested in good faith, and for which adequate reserves have been established in accordance with GAAP; (iii) any zoning, planning, or other similar limitation or restriction, and all rights of any Governmental Authority to regulate the Project Real Property, to the extent that no violation exists at the Closing; (iv) regarding the Project Real Property, the terms and conditions of the Real Property Agreements; (v) any Lien disclosed on Schedule 1.1(e); (vi) any other Lien, imperfection or irregularity of title, right-of-way, easement, servitude, restriction, covenant, or other similar non-monetary matter of record that does not, and would not reasonably be expected to, individually or in the aggregate: (a) materially detract from the value of the Project or the Project Assets; or (b) materially interfere with the use or operation of the Project or the Project Assets; and (vii) any Lien created by the action of GPC or any of its Affiliates.

Permitted Update Matter: Unless notice to or the consent of GPC is otherwise required under this BTA: (i) any new or updated Real Property Agreement with the existing parties that is substantially and in all material respects "in the form of" the applicable Real Property Agreements existing and scheduled as of the Effective Date; or (ii) any Contract, matter, or other item that constitutes an Excluded Liability.

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

Placed in Service: The date on which each of the following has occurred: (i) the Project has been successfully commissioned; (ii) the Project has achieved the minimum performance levels; (iii) the Project is capable of being operated on a regular and continuous basis; (iv) GPC has operational control the Project; and (v) all Permits required for the Project are in full force and effect.

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

Post-Closing GPC EPC Change Order Costs: Any increase in the EPC Contract Price attributable to: (i) any EPC Change Order requested by GPC following the Closing Date that requests a change to the Scope of Work or Project Schedule, each as defined in the EPC Contract, and not comprising recovery Work due to the negligence of or breach of this BTA by any Seller Party; or (ii) any GPC-Caused Delay under this BTA after the Closing Date.

Post-Closing Tax Period: Any Tax period beginning after the Closing Date and the portion of any Straddle Period beginning on the date immediately following the Closing Date.

Post-Construction Period Performance Security: As defined in Section 4.1.3 (*Post-Closing Period Performance Security*).

Pre-Closing Taxes: (i) any Tax imposed on or regarding the Project Assets or the Project regarding any Pre-Closing Tax Period and, in the case of any Straddle Period, the portion of the period ending on and including the Closing Date; (ii) any Tax imposed on or regarding the Seller, EPC Contractor, any Subcontractor, or any of their respective Affiliates; (iii) any Tax for which Seller is responsible under Section 18.1 (*Transfer Tax*) and Section 18.9 (*Tax Characterization*); (iv) any Claim and Liability (including any Tax Benefit Loss) attributable to a breach by Seller of any of any representation, warranty, or covenant under Section 2.25 (*Tax Benefits*), Section 2.26 (*Taxes*), or Part 18 (*Tax Matters*); (v) any Tax and Tax Benefit Loss attributable to a breach by Seller of any of any representation, warranty, or covenant in this BTA; (vi) any Tax imposed on GPC or any of its Affiliates, as a transferee or successor, by contract or under any law, which Tax relates to an event or transaction occurring during the Pre-Closing Tax Period regarding the Project or the Project Assets; (vii) payment of any Tax as a result of any obligation to indemnify any other Person or because of any obligation under any agreement or arrangement (other than any obligation or indemnification for Tax under any Project Contract relating to a Tax period beginning after the Closing Date or the portion of any Straddle Period beginning after the Closing Date) entered into on or before the Closing Date regarding the Project or the Project Assets; (viii) any withholding Tax on GPC or any of its Affiliates resulting from the transactions contemplated by this BTA to the extent not withheld under Section 1.4 (*The Closing; Purchase Price Payment*); and (ix) any reasonable cost and expense associated with the investigation, review, remediation, and resolution of any of the preceding items described in clauses (i) to (viii), including reasonable legal fees and expenses.

Prevailing Wage Requirements: The requirements of Code sections 45(b)(7), 45Y(g)(9), 48(a)(10), and 48E(d)(3), as applicable, and any guidance or other legal authorities, including any guidance published or issued by the U.S. Department of the Treasury (including IRS Notice 2022-61 or any other guidance issued by the IRS) or the U.S. Department of Labor.

Pre-Closing Tax Period: Any Tax period ending on or before the Closing Date, and the portion of any Straddle Period ending on the Closing Date.

Pro-Ratable Items: As defined in Section 1.3.3 (*Pro-Ratable Items*).

Project: The project, as further described in Exhibit A-1 (*Project Information*), being developed by Seller consisting of the Project Assets and located on the Project Site.

Project Assets: All properties, assets, rights, and interests of any kind, nature, character, and description, whether real, personal, or mixed, whether tangible or intangible, whether now existing or acquired prior to the Closing, and wherever located, and any goodwill related to them, owned, licensed, leased, or otherwise held by Seller that relate to, are used or held for use concerning, or are necessary for the ownership, operation, maintenance, repair, or use of the Project (other than the Excluded Assets), including the following:

(a) Books and Records;

(b) Project Real Property;

(c) Project Contracts (including the Interconnection Agreement);

(d) Project Equipment;

(e) Project Improvements;

(f) Project Insurance Policies;

(g) Project Intellectual Property;

(h) Project IT Assets;

(i) Project Permits;

(j) Environmental Attributes;

(k) Renewable Energy Incentives;

(l) Reports; and

(m) Resource Data.

Project Contracts: All Contracts (other than any Excluded Assets, but including the Real Property Agreements) that are or will be associated with, relate to or concern the Project or the Project Assets and to which Seller or any Seller Affiliate is a party, all as listed in Schedule 2.12(i) (other than the Real Property Agreements, which are listed on Schedule 2.12(i)).

Project Equipment: All equipment, materials, supplies, tools, inventory, and other tangible personal property comprising the Project or otherwise related to, used, or held for use by Seller or any Seller Affiliate for or concerning, or necessary for the operation, maintenance, repair, ownership or use of the Project (including all equipment and tangible personal property up to the point of interconnection), in each case, whether located at or deliverable to the Project Site, other than the Excluded Assets, all as listed on Schedule 1.1(b).

Project Facilities: The Project Equipment and the Project Improvements comprising the Project.

Project Improvements: All buildings, structures, fixtures, access roads, and other improvements located at or on the Project Site that will comprise the Project, Project Assets, and other improvements made under this BTA, as listed on Schedule 1.1(c).

Project Intellectual Property: As defined in Section 2.20 (*Intellectual Property*).

Project IT Assets: All the software, computer systems, workstations, routers, hubs, switches, circuits, servers, and other information technology equipment of the Seller used in connection with the Project or the Project Assets.

Project Nameplate Capacity: The nameplate capacity (in MW (AC)) specified in Exhibit A-1 (*Project Information*).

Project Permits: All Permits required by applicable law and Prudent Utility Practices for the development, design, engineering, supply, construction, installation, testing, commissioning, and, as of Substantial Completion, operation, maintenance, repair, ownership, and use of the Project at the Project Site, and the generation, transmission, and sale of electric power (except for any Permit required because of the specific legal, regulatory, or financial status of GPC or its Affiliates, or because of any other fact or circumstance that specifically relates to the business or activities in which GPC or its Affiliates are or proposed to be engaged).

Project Problem: As defined in Section 6.25.2(ii) (*Project Problems*).

Project Safety Assurance Program: As defined in Section 6.13.1 (*Seller Safety Obligations*).

Project Schedule: As defined in Section 8.1 (*Project Schedule*).

Project Site: The physical location (i.e., real property) where the Project is or will be located, as further described in Schedule 1.1(a).

Project Site Plan: The site layout for the Project, including the intended location of each of the Project Facilities as depicted in the EPC Contract.

Prudent Utility Practices: Any of the practices, methods, standards, procedures and acts: (i) required by the National Electric Safety Code or NERC, whether or not Seller is a member thereof; or (ii) engaged in or approved by a significant portion of Persons performing similar acts in the electric generating industry in the southeastern United States regarding the development, design, engineering, construction, interconnection, commissioning, completion, ownership, leasing, licensing, operation, or maintenance of electric generation or storage projects of similar type and size as the Project during the relevant time period, or any of the practices, methods, and acts that, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known, when the decision is made, could have reasonably been expected to accomplish the desired result in a manner consistent with commercially reasonable business practices, safety, reliability, economy, and expedition. Prudent Utility 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, and acts generally accepted in the United States having due regard for, among other things, manufacturers' warranties, applicable law, and, as applicable, requirements of this BTA.

PTC: The production tax credit under Sections 45 and 45Y of the Code.

Purchase Price: As defined in Section 1.3.2 (*Purchase Price Adjustments*).

Punch List: As defined in Section 12.5.1 (*Punch List*).

Punch List Holdback Amount: 150% of the value of all Punch List items outstanding as of Substantial Completion.

PWA Guidance: IRS Notice 2022-61 (November 29, 2022) and any further guidance issued by the Secretary of the U.S. Department of the Treasury (including any guidance issued by the IRS) under Sections 45(b)(7), 45Y(g)(9), 45(b)(8), 45Y(g)(10), 48(a)(10), 48E(d)(3), 48(a)(11), and 48E(d)(4) of the Code, or any provision of the Code that is cross-referenced therein.

PWA Requirements: Collectively, the Prevailing Wage Requirements and the Apprenticeship Requirements.

Qualified Apprentice: An individual who is employed by a contractor or subcontractor, and who is participating in a Registered Apprenticeship Program.

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 with a nationally recognized rating agency mutually agreed upon by the Parties.

Real Property Agreements: Any purchase and sale agreement, easement, lease, license, occupancy, right-of-way, concession, surface or encroachment agreement, setback waiver agreement, special use permit, conditional use permit, cross or co-location agreement, crossing agreement, buildout agreement, subordination and non-disturbance agreement, road user agreement, neighbor agreement, or other similar agreement to which Seller is a party, and pursuant to which Seller holds a fee interest, an easement, a leasehold or a subleasehold estate in or is granted the right to use or occupy any real property, including any option held by Seller relating to any of the foregoing.

Real Property Estoppels: As defined in Section 1.5.6(viii) (*Closing Deliveries*).

Real Property Survey: The as-built ALTA Survey of the Project Site, and the Project Improvements on the Project Site, dated within 30 days prior to the Closing Date, certified to the Title Company and GPC and in form and substance reasonably satisfactory to GPC, and sufficient to enable the Title Company to remove its standard survey exception, and to issue the Closing Title Endorsements.

Recommended Best Practices: Those "Recommended Practices" recommended by the Georgia DNR, as made available at https://gadnr.org.

RECs: See *Renewable Energy Credits*.

Recovery Plan: As defined in Section 8.5 (*Recovery Plan*).

Registered Apprenticeship Program: As defined in Section 3131(e)(3)(B) of the Code and any PWA Guidance.

Related Person: Regarding each Party, its Affiliates, and the employees, officers, and directors of that Party, and its Affiliates.

Release: As defined in 42 U.S.C. § 9601(22), without regard to the exceptions set forth in clause (A) of 42 U.S.C. § 9601(22).

Reliability Guarantee: The Reliability Guarantee as described in Exhibit S (*Commissioning and Testing*).

Remediation: Action required under any Environmental Law or by a Governmental Authority, or a Claim by a third party against a GPC Indemnified Party, in each case to address an Environmental Condition, including any monitoring, investigation, assessment, characterization, treatment, cleanup, containment, removal, mitigation, response or restoration work.

Remedies Exception: The effects of bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium, and other laws relating to or affecting creditors' rights generally and general equitable principles.

Renewable Energy Credits (RECs): All credits, including any emissions reduction credits, such as CO2 emission reduction credits, for renewable energy that could qualify or do qualify for application toward compliance with any local, state, federal, or international renewable energy portfolio standard, green pricing program, or other renewable energy or environmental mandate or objective.

Renewable Energy Incentives: Any applicable: (i) federal, state, or local tax credit or other tax benefit (such as accelerated depreciation or the ITC) associated with the construction or ownership of, or the sale or production of electricity from, the Project, including any ITC, PTC, or governmental payment made in lieu of a credit; (ii) federal, state, or local grant, rebate, subsidized financing, or any other subsidy relating to the property of the Project or the output of the Project; or (iii) other form of incentive that is not an Environmental Attribute and that is available concerning the Project.

Reports: All third-party reports, studies, analyses, and tests and test reports (and all amendments and supplements) prepared for, or commissioned by, and delivered to, Seller or any of its Affiliates that relate to the Project, including the Project Assets or the Project Real Property. Reports include Phase I (and Phase II, if applicable) environmental assessments, environmental impact studies, geotechnical studies, boundary and topography surveys, transportation studies, cultural resources studies, transmission or interconnection studies, including interconnection system impact studies, wildlife studies, studies or analysis of or reports on the environmental condition of the Project Real Property or compliance by the Project or the Project Real Property with Environmental Laws, Federal Aviation Administration analyses, state department of transportation analyses, zoning studies, visual impact studies, and wetlands studies, in each case, together with all necessary reliance letters and in form and substance reasonably acceptable to GPC, all as listed on Schedule 6.24.

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, representatives, consultants, attorneys, agents, bankers, insurers, financiers, accountants, contractors, or subcontractors, of each of them, but in no event will Seller or Seller Affiliate be a Representative of GPC for purposes of this BTA.

Required BMPs: Those "Best Management Practices" required by a Governmental Authority.

Required Change Order: As defined in Section 9.2.3 (*Required Change Orders*).

Required Change Order Costs: As defined in Section 1.3.5 (*Required Change Order Costs*).

Resource Data: All forms of technical and operational information, documents, and materials essential for the design, construction, commissioning, testing, and operation of the facility, including site analysis records,

engineering drawings and schematics, specifications, performance data, environmental impact assessments, regulatory approvals and compliance documentation, grid connection data, and maintenance protocols.

Responding Party: As defined in Section 19.1 (*Dispute Resolution*).

Restricted Equipment: As defined in Section 2.27 (*Anti-Forced Labor Compliance*).

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.

SCADA: The supervisory control and data acquisition system (including all necessary monitoring/control hardware and software, field instrumentation and communication devices), as more particularly described in Exhibit A (*Technical Specifications*).

Securities Act: The Securities Act of 1933.

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

Seller: The counterparty to GPC in this BTA.

Seller Closing Certificate: As defined in Section 1.5.6(iv) (*Closing Deliveries*).

Seller Default: As defined in Section 15.1 (*Seller Default*).

Seller Fundamental Representations: The representations and warranties in Section 2.1 (*Existence*), Section 2.2 (*Authority*), Section 2.3 (*Binding Agreement*), Section 2.8 (*Title to Project Assets*), Section 2.10.1 (*Real Property Agreements*), Section 2.15 (*Sufficiency of Assets*), Section 2.25 (*Tax Benefits*), Section 2.26 (*Taxes*), Section 2.17 (*Environmental Matters*), Section 2.19 (*Brokers*), Section 2.29 (*Disclosure*), and Section 2.24 (*Solvency*).

Seller Guarantor: A Person that is: (i) either (a) a Seller Affiliate; or (b) otherwise an entity acceptable to GPC; and (ii) Creditworthy.

Seller Guaranty: A guaranty provided by Seller Guarantor that is substantially in the form of Form of Guaranty in Exhibit G-1 (*Form of Guaranty*).

Seller Income Taxes: Any income, franchise, or similar Taxes imposed on, or Taxes imposed on or measured by reference to the net income or net worth of, Seller or any Affiliate of Seller.

Seller Material Adverse Effect: Any change, event, circumstance, development, occurrence, or effect that, individually or in the aggregate with any other change, event, circumstance, development, occurrence, or effect: (i) has had or would reasonably be expected to have a material adverse effect on the business, assets, liabilities, operations, condition (financial or otherwise), or prospects of Seller, the Project, or the Project Assets; (ii) would reasonably be expected to prevent or materially delay the ability of Seller to perform its obligations under this BTA or consummate the transactions contemplated by this BTA; or (iii) has had or would reasonably be expected to have a material adverse effect on the business, assets, liabilities, operations or condition (financial or otherwise) of Seller Guarantor, except, in each case of clauses (i), (ii), and (iii), for any change, event, circumstance, development, occurrence, or effect resulting from or arising out of: (a) a change in economic conditions generally affecting the international, national, regional, state, or local industries in which Seller operates; (b) a change in international, national, regional, state or local wholesale or retail markets (including market description or pricing) for energy, electricity, fuel supply, or ancillary services, including those due to actions by competitors or changes in international, national, regional, state, or local electric transmission or distribution systems, including the operation or condition of the electric transmission or distribution systems; (c) a change in general regulatory or political conditions, including any act of war, civil unrest or terrorist activity; (d) a change or adverse condition in the securities markets, interest rates, or currency exchange rates; (e) any action expressly required to be taken or not taken in accordance with this BTA or the other Transaction Documents entered into or in effect on the date of this BTA or requested, or consented to, in writing by GPC; (f) any breach of this BTA or the other Transaction Documents by GPC or any of its Affiliates or Representatives; or (g) the announcement or execution of this BTA or the other Transaction Documents entered into on the date of this BTA, including the identity of GPC or any of its Affiliates (including the impact thereof on relationships, contractual or otherwise, of Seller or any of its Affiliates with Seller's customers, suppliers, distributors, contractors, lenders, partners, employees or service providers, so

long as in the case of the preceding clauses (a) through (d), the change, event, circumstance, development, occurrence, or effect does not disproportionately impact Seller, the Project, or the Project Assets relative to other similarly-situated industry participants, projects, or project assets.

Seller Party: Each of Seller, EPC Contractor, any Subcontractor, and, if applicable, Seller Guarantor, and each contractor, supplier, contractual party, officer, director, employee, representative, or agent of any one of them.

Seller-Initiated Change: As defined in Section 9.2.1 (*Changes Initiated by Seller*).

Seller's Consents: As defined in Section 2.4(ii) (*No Conflicts*).

Seller's Disclosure Schedules: The Schedules prepared by Seller and delivered to GPC in conjunction with the execution of this BTA.

Serial Defect: A Defect occurring during the Warranty Period that includes 10% or more of the same or substantially similar component(s) resulting from the same failure mode of the same manufacturer.

Serial Defect Warranty Work: As defined in Section 14.8(ii) (*Serial Defects*).

Serial Defect Warranty Work Completion Date: As defined in Section 14.8(ii) (*Serial Defects*).

Solvent: Regarding a Person on any date of determination, that on the date: (i) the fair valuation of the sum of the assets of the Person is greater than the sum of liabilities of the Person, in each case, at a fair market valuation; (ii) the fair market valuation of the sum of the assets of the Person is not less than the amount that will be required to pay the debts of the Person as they become absolute and matured; (iii) the Person does not intend to incur debts or liabilities beyond the Person's ability to pay its debts and liabilities as they mature taking into account the possibility of refinancing such obligations and selling assets; and (iv) the Person has the present ability to pay its debts and liabilities as they become due.

Straddle Period: Any Tax period beginning before or on and ending after the Closing Date.

Subcontractor: Any Person (including vendors, suppliers, contractors, and consultants), other than EPC Contractor, retained by Seller to perform a part of Seller's obligations under any Transaction Document, including any Major Subcontractor.

Substantial Completion: The condition where the Project demonstrates that all of the Substantial Completion Criteria have been satisfied in accordance with the requirements of this BTA, and the EPC Contract.

Substantial Completion Certificate: As defined in Section 12.4.1 (*Substantial Completion Certificate*).

Substantial Completion Criteria: The criteria set forth in Exhibit W-2 (*Substantial Completion Criteria*).

Substantial Completion Date: The date on the Substantial Completion Certificate provided by Seller that GPC accepts in accordance with the requirements of Section 12.4.2 (*GPC's Review of Substantial Completion Certificate*).

Substantial Completion Delay Liquidated Damages: As defined in Section 12.8.2 (*Substantial Completion Delay Liquidated Damages*).

Tariff: Any duty, tariff, custom, levy, import fee, royalty, or charge of any kind arising out of the importation of any component or part of the Work, or out of Seller's, EPC Contractor's, or any Subcontractor's performance of the Work, or regarding any Project Equipment, Materials, labor, or service provided by GPC under this BTA, including any increase or decrease thereof that may occur after the Effective Date.

Tax or **Taxes:** Any United States local, state, or federal, or foreign, income, profits, franchise, withholding, ad valorem, gross receipts, windfall profits, value added, production, goods and services, harmonized sales, duty, license, escheat or unclaimed property, personal property (tangible and intangible), employment, payroll, sales and use, social security, disability, occupation, real property, severance, excise or other tax, charge, levy, fee, duty, custom, tariff, impost, obligation, charge, or other assessment imposed by a Taxing Authority, including any interest, penalty, or addition thereto.

Tax Benefit: Any PTC, ITC, accelerated depreciation (including bonus depreciation), amortization, or state level credit, deduction, or incentive.

Tax Benefits Loss: Any denial, disallowance, loss, reduction, or recapture of, or any inability to claim, any Tax Benefit (including any Claim or Liability to the Tax Benefit) resulting from a breach of any representation, warranty, or covenants in this BTA by Seller.

Tax Contest: As defined in Section 18.5 (*Tax Contests*).

Tax Return: Any return, report, or similar statement (whether intangible, electronic or other form) filed or required to be filed with respect to any Taxes (including any attached schedule, amendment, supplement, appendix and exhibit), including any information return, claim for refund, amended return and declaration of estimated Tax.

Taxing Authority: With respect to any Tax, the Governmental Authority that imposes the Tax and the agency (if any) charged with the assessment, determination, or collection of the Tax for such entity or subdivision.

Technical Specifications: The specifications for the Work set forth in Exhibit A-3 (*Technical Specifications*) and any modification of a specification made under this BTA.

Termination Payment: The applicable amount specified in Table 1-A of Exhibit A-1 (*Project Information*).

Third Party Claim: Any legal proceeding instituted, or Claim asserted, by any Person not a Party to, and not affiliated with any Party to, this BTA regarding an Indemnification Claim.

Title Commitment: A preliminary title commitment or report of condition of title to be prepared by the Title Company regarding each parcel of real property comprising the Project Site or that is the subject of a Real Property Agreement.

Title Company: The title company specified in Exhibit A-1 (*Project Information*), or another national title insurance company designated by Seller, and approved by GPC, the approval not to be unreasonably withheld, conditioned, or delayed.

Title Policy: A Georgia form of an American Land Title Association (ALTA) Form B 2006 Owner's Title Insurance Policy issued by the Title Company, at Seller's cost and expense (except as otherwise set forth below), insuring GPC's rights in each parcel of real property comprising the Project Site, including any Improvement, that: (i) is in form and substance as GPC may reasonably approve and contains the requirements, modifications, and endorsements that are available for issuance in the state of Georgia (at GPC's sole cost and expense) as GPC may reasonably require; (ii) contains any additional affirmative coverage and associated endorsement available for issuance in the state of Georgia (at GPC's sole cost and expense, unless necessary to satisfy any Objectionable Title and Survey Matters, in which case the same will be at Seller's cost and expense) as GPC may reasonably request; (iii) is in the amount of the Purchase Price; (iv) names GPC as the insured; (v) is dated effective as of the Closing Date; and (vi) provides for full extended coverage (at GPC's sole cost and expense) over all general title exceptions contained in the policy and shows as exceptions only those exceptions that are Permitted Liens.

Transaction Documents: This BTA (including exhibits), the Bill of Sale, the Assignment Agreement, the Deed/Lease Assignment, Performance Security, and each other document, certificate, agreement, and other instrument executed and delivered by the Parties or their Affiliates.

Transfer Taxes: All transfer, sales, use, goods, and services, value added, documentary, real property transfer, recording, stamp duty, gross receipts, excise, transfer, and conveyance Taxes and other similar Taxes payable because of the consummation of the transactions contemplated by this BTA.

Transferred Warranties: All those warranties offered or transferred by Seller to GPC under Section 14.9 (*Assignment of Warranties*).

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

Unidentified Project Problem: As defined in Section 6.25.3 (*No Relief for Unidentified Project Problems*).

Update: As defined in Section 6.32 (*Update of Seller's Disclosure Schedules*).

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 Facility's full output to GPC's customers, upon which security GPC may draw in accordance with Section 1.8 (*Grid Improvements*).

Warranty: As defined in Section 14.1 (*Warranties*).

Warranty Period: As defined in Section 14.4 (*Warranty Period*).

Work: The Project Facilities and Materials to be supplied, and the entire works and services to be performed, or

caused to be performed, by Seller under this BTA, including all Project Facilities, Materials, and services concerning Project development, design, permitting, engineering, procurement, and construction, together with any modification to them in accordance with the terms of this BTA.

Build Transfer Agreement for 2029–2031 All-Source RFP

at #ProjectName#

between Georgia Power Company and #SellerLegalName#

Georgia Power Company ("**GPC**"), a Georgia corporation and **#SellerLegalName#** ("**Seller**") enter into this **Build Transfer Agreement for All-Source RFP at #ProjectName#** on the Effective Date.

GPC and Seller acknowledge:

- Seller is developing the Project;
- Seller desires to sell to GPC, and GPC desires to purchase from Seller, the Project and the Project Assets, and to engage Seller to complete the development, design, procurement, construction, commissioning, and testing of the Project, in each case, on the terms and subject to the conditions set forth in this BTA, consistent with the Commission's Order in Docket No. 55268; and
- Concurrently with the execution and delivery of this BTA, as a material inducement to GPC's willingness to enter into this BTA, and consummate the transactions contemplated by this BTA, Seller has delivered the Initial Performance Security.

In consideration of the mutual promises described in this BTA, 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 FIRM DATE; PURCHASE AND SALE

1.1 Firm Date.

1.1.1. Firm Date Conditions. After the Effective Date, each Party will use commercially reasonable efforts to ensure the achievement of the "**Firm Date**," which will be the first date that all the following conditions ("**Firm Date Conditions**") have been satisfied (or waived by the Party entitled to do so) and that signifies the completion of Project development and commencement of Project construction activities:

(i) GPC Firm Date Conditions. The following conditions must be satisfied or otherwise waived by GPC in its sole discretion:

(a) Seller has delivered to GPC the agreed upon list of Reports and any additional Report or Design Document required under this BTA, and the Reports or Design Documents have satisfied any other requirement of this BTA with respect to the preparation, sufficiency, and material findings thereof;

(b) The Interconnection Agreement has been finalized and executed in accordance with the requirements of this BTA and is in form and substance acceptable to GPC in its reasonable discretion;

(c) Seller has delivered to GPC a Phase I ESA (and, if indicated in the Phase I ESA, a Phase II ESA) concerning the Project Site, current and valid on the Firm Date under ASTM Standard Practice E1527-13, addressed to GPC, and accompanied by a reliance letter incorporating user-provided information from GPC in form and substance acceptable to GPC in its reasonable discretion;

(d) Seller's representations and warranties are true, correct, and complete as of the Firm Date in all material respects, except for Seller Fundamental Representations, and any representation and warranty qualified by a materiality standard, which will be true, correct, and complete in all respects;

(e) Seller has performed all its obligations in this BTA to be performed before the Firm Date in all material respects; and

(f) There is no Seller Material Adverse Effect.

(ii) Seller Firm Date Conditions. The following conditions must be satisfied or otherwise waived by Seller in its sole discretion:

(a) GPC's representations and warranties are true, correct, and complete as of the Firm Date in all material respects, except for GPC Fundamental Representations, and any representation and warranty that is qualified by a materiality standard, which will be true, correct, and complete in all respects;

(b) There is no GPC Material Adverse Effect; and

(c) GPC has performed its obligations under this BTA in all material respects.

(iii) General Firm Date Conditions. The following conditions must be satisfied or otherwise waived by both Parties in their sole discretion:

(a) GPC has received a Commission Certificate for the Project that is not subject to appeal;

(b) Seller has acquired all real property rights and interests necessary to construct, own, and operate the Project;

(c) An agreed upon list of Permits to be specified in this BTA as being required by the Firm Date: (1) have been obtained and issued for the Project; (2) are in full force and effect; and (3) satisfy any requirement of this BTA with respect to review and approval of Project Permits;

(d) An agreed upon list of Consents to be specified in this BTA as required to be in place by the Firm Date have been duly obtained, made or given, and are in full force and effect;

(e) Seller and GPC have agreed on all Firm Date title objections and required exceptions, and Seller has delivered all non-disturbance agreements and curative documents in accordance with the standards and processes set forth in this BTA;

(f) Seller has achieved closing of its construction financing, and Seller has provided GPC with an acceptable financing certificate confirming the same;

(g) Seller has executed the EPC Contract and Major Supply Agreements;

(h) The form of ALTA title policy to be issued as of the Closing Date has been finalized and agreed; and

(i) Seller has caused the Title Company to issue a pro forma policy of title insurance consistent with the updated Title Commitment, and the agreed upon Firm Date title objections and required exceptions.

1.1.1. Full Notice to Proceed. At or following satisfaction of the Firm Date Conditions, the Seller must issue a Full Notice to Proceed with respect to the construction of the Project.

1.2 Purchase and Sale; Excluded Assets; Excluded Liabilities; Assumed Liabilities.

1.2.1. Purchase and Sale. On the terms and subject to the conditions set forth in this BTA, at the Closing, Seller will sell, transfer, convey, assign, and deliver to GPC, free and clear of all Liens (other than Permitted Liens), and GPC will purchase, acquire, and pay for, all of Seller's right, title, and interest in and to the Project Assets, but not the Excluded Assets.

1.2.2. Assignment and Assumption of Project Contracts and Project Permits. On the terms and subject to the conditions set forth in this BTA, simultaneous with the Closing, Seller must assign to GPC, and GPC will accept and assume the following rights and obligations from Seller: (i) all of Seller's rights under the Project Contracts, except for: (a) the EPC Contract and the Major Supply Agreements, and (b) the Project Permits to the extent Seller has obligations that continue or arise after the Closing; and (ii) all of Seller's obligations arising under the Project Contracts, except for: (a) the EPC Contract and the Major Supply Agreements, and (b) the Project Permits to the extent Seller has obligations that continue or arise after the Closing, in each case, solely to the extent the obligations arise after the Closing and do not constitute: (I) Liabilities arising out of any failure to perform, improper performance, breach, default, or violation by Seller or any of its Affiliates (or any Person acting on behalf of Seller or any of its Affiliates) before or after the Closing; or (II) Construction Costs. Additionally, Seller must ensure that GPC is listed as a third-party beneficiary in the EPC Contract. Despite any other provision of this BTA, the EPC Contract and the Major Supply Agreements are not considered Project Contracts solely for purposes of this Section 1.2.2 (*Assignment and Assumption of Project Contracts and Project Permits*), each Party acknowledging that Seller will assign the EPC Contract, Major Supply Agreements, and any Project Permit that is not

closed out as of the Closing to GPC at Final Completion (unless assigned earlier in accordance with other provisions of this BTA, if applicable).

1.2.3. Excluded Assets. Seller will have no obligation to, and does not, transfer any interest or right in the Excluded Assets, and GPC will have no Liability with respect to the Excluded Assets.

1.2.4. Excluded Liabilities. Except for the Assumed Liabilities, GPC will not assume, and will not be responsible to pay, perform, satisfy, or discharge any of the following Liabilities of Seller or any of Seller's Affiliates (or any Person acting on behalf of Seller or any of its Affiliates), whether the Liabilities arise or are asserted before, at, or after the Closing (collectively, "**Excluded Liabilities**"), and all of the Excluded Liabilities will remain the exclusive responsibility of Seller or its applicable Affiliates:

(i) All Liabilities that have arisen or may arise regarding: (a) any Benefit Plan, employment agreement, or other arrangement of Seller, any Affiliate of Seller or any of their respective ERISA Affiliates providing any type of compensation to any former or current employee of Seller, any Affiliate of Seller, or any of their respective ERISA Affiliates, including any obligation or Liability for providing continuation coverage under and complying with Section 4980B of the Code, Sections 601 through 608 of ERISA, and any applicable state Law of similar intent with respect to any individual who either prior to, on or after the Closing Date was covered under any group health plan contributed to or maintained by Seller, any Affiliate of Seller, or any of their respective ERISA Affiliates, or who will otherwise be an "M&A Qualified Beneficiary" (as defined in Treasury Regulation Section 54.4980B-9, Q&A-4) in connection with the transactions contemplated by this BTA; and (b) any current or former employee, independent contractor, or consultant of Seller, any Affiliate of Seller, or any of their respective ERISA Affiliates;

(ii) All Liabilities of Seller and any of its Affiliates relating to, resulting from, or arising out of the Project Contracts or Real Property Agreements not expressly assumed by GPC under Section 1.2.2. (*Assignment and Assumption of Project Contracts and Project Permits*) or Section 1.2.5 (*Assumed Liabilities*), and all Liabilities relating to, resulting from, or arising out of Contracts relating to the Project, the Project Assets, or the Project Site that are not Project Contracts or Real Property Agreements;

(iii) All Liabilities of Seller and any of its Affiliates under the Project Permits not expressly assumed by GPC under Section 1.2.5 (*Assumed Liabilities*), and all Liabilities under Permits relating to the Project, the Project Assets, or the Project Site that are not Project Permits;

(iv) All Construction Costs;

(v) All Liabilities arising from any Environmental Condition at, on, or under the Project Site to the extent existing or occurring before the Closing (including any Environmental Conditions that emanate from the Project Site after Closing), or from the Release of Hazardous Substances at, on or under the Project Site at or before Closing, in each case including Liabilities related to Remediation, natural resource damages, bodily injury, or property damage;

(vi) All Liabilities arising from any off-site transportation, disposal, recycling or storage, or arrangement for same, of Hazardous Substances, from the Project or the Project Site before the Closing, including Liabilities related to Remediation, natural resource damage, bodily injury, or property damage;

(vii) All Liabilities regarding any Action or Claim concerning the Project or the Project Assets, other than concerning this BTA, arising or accruing on or before the Closing, regardless of when filed;

(viii) All Pre-Closing Taxes, Seller Income Taxes, Transfer Taxes, and any other Taxes regarding the transfer of the Project Assets under this BTA; and

(ix) All Liabilities in any way relating to, resulting from, or arising out of any Excluded Assets.

1.2.5. Assumed Liabilities. On the terms and subject to the conditions set forth in this BTA, and without limiting any right or obligation of a Party under this BTA, simultaneous with the Closing, GPC will assume, and Seller will assign to GPC, only the following Liabilities of Seller ("**Assumed Liabilities**"):

(i) All Liabilities under the Project Contracts and Project Permits expressly assumed by GPC, under, and subject to the conditions set forth in, Section 1.2.2 (*Assignment and Assumption of*

Project Contracts and Project Permits) and this Section 1.2.5 (*Assumed Liabilities*);

(ii) Other than Excluded Liabilities arising or accruing before, at, or after the Closing (including Construction Costs), all Liabilities arising from the ownership, operation, maintenance, or use of the Project, and the Project Assets by GPC following the Closing, including Liabilities for: (a) an Environmental Claim regarding events occurring after Closing; and (b) a Release of Hazardous Substances occurring after Closing, in each case that is not caused by Seller or a Seller Party; and

(iii) Any Liabilities for any Taxes regarding the Project Assets for any Post-Closing Tax Period.

1.3 Purchase Price.

1.3.1. Base Purchase Price. Subject to Section 1.3.2 (*Purchase Price Adjustments*), the aggregate consideration payable by GPC to Seller for: (i) the Project Assets; and (ii) Seller's obligation to cause the Project to achieve Final Completion will be: (a) the assumption of the Assumed Liabilities; and (b) a cash amount equal to the base purchase price cash amount specified in Exhibit A-1 (*Project Information*) ("**Base Purchase Price**").

1.3.2. Purchase Price Adjustments. The Base Purchase Price will be adjusted as follows:

(i) Decreased by the amount of any Delay Liquidated Damages owed under Section 12.8.1 (*Mechanical Completion Delay Liquidated Damages*) as of the Closing Date;

(ii) Decreased by the amount of any Delay Liquidated Damages owed under Section 12.8.2 (*Substantial Completion Delay Liquidated Damages*) as of the Substantial Completion Date;

(iii) Decreased by the amount of any Performance Guarantee Liquidated Damages owed under Exhibit S (*Performance Guarantees; Testing and Commissioning)*.

(iv) Increased or decreased, as applicable, for GPC's or Seller's net pro-rata share of the Pro-Ratable Items, if any; and

(v) Increased or decreased for any: (a) GPC-Initiated Change Order Costs; and (b) Required Change Order Costs

(as so adjusted, "**Purchase Price**").

1.3.3. Pro-Ratable Items. The "**Pro-Ratable Items**" include each of those Project-related Liabilities as set forth on Schedule 1.3.3. GPC's pro-rata share will not exceed the amount set forth on Schedule 1.3.3.

1.3.4. GPC-Initiated Change Order Costs. The "**GPC-Initiated Change Order Costs**" will be equal to the reasonable, documented, actual costs incurred by Seller in accordance with and subject to the provisions of Section 9.2.2 (*Changes Initiated by GPC*).

1.3.5. Required Change Order Costs. The "**Required Change Order Costs**" will equal the reasonable and documented actual costs incurred by Seller as a direct result of liabilities arising under the EPC Contract to the extent caused by a Change Order issued due to a circumstance set forth in and subject to the provisions of Section 9.2.3(ii) (*Required Change Orders*).

1.3.6. Tax Treatment of Purchase Price. Each Party acknowledges and agrees that for purposes of income Tax reporting, the Project Assets do not include any goodwill or going concern value. GPC and Seller agree that neither Seller nor any Seller Affiliate will file an Internal Revenue Service Form 8594 in connection with the sale of the Project Assets, and Seller and any Seller Affiliate will otherwise report the transaction consistently with the intent of this Section 1.3.6 (*Tax Treatment of Purchase Price*) for all income Tax reporting purposes.

1.3.7. Withholding. Despite any other provision in this BTA, GPC will be entitled to deduct and withhold from amounts otherwise payable to any Person under this BTA any amount GPC determines is: (i) required to be deducted and withheld under any provision of applicable law; or (ii) owed by Seller to GPC under this BTA. Any deducted or withheld amount will be treated for all purposes of this BTA as having been paid to the relevant Person in respect of which any deduction and withholding was made. If GPC determines that withholding any payment to a Person is required to be made under this Section 1.3.7 (*Withholding*), GPC will, as soon as reasonably practicable, notify the relevant Person of this determination and, to the extent possible and consistent with applicable law, provide the relevant Person with a reasonable

opportunity to produce any required documentation to reduce or eliminate such withholding requirement.

1.4 The Closing; Purchase Price Payment.

1.4.1. Closing Date. The consummation of the transactions described in Section 1.2.1 (*Purchase and Sale*) ("**Closing**") will take place remotely via the electronic exchange of documents and signatures either: (i) at 10:00 a.m. (Eastern Time) on the date that is three Business Days after the satisfaction or waiver of the last of the conditions set forth in Sections 1.6 (*GPC's Condition Precedent*) and 1.7 (*Seller's Conditions Precedent*) (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or waiver of such conditions); or (ii) at what other time, or on what other date, the Parties may mutually agree in writing. Closing will be deemed to be effective as of 12:01 a.m. (Eastern Time) on the Closing Date.

1.4.2. Closing Payment. At Closing, GPC will pay Seller 80% of the Base Purchase Price ("**Closing Payment**") via wire transfer of immediately available federal funds to an account that is: (i) located in the United States; and (ii) designated by Seller at least 10 Business Days before the Closing Date.

1.4.3. Substantial Completion Payment. Within 10 Business Days after GPC accepts Seller's Substantial Completion Certificate, GPC will pay Seller the *difference* of: (i) the Purchase Price; *minus* (ii) the Closing Payment; *minus* (iii) the Punch List Holdback Amount.

1.4.4. Payment of Punch List Holdback Amount. Within 10 Business Days after GPC accepts Seller's Final Completion Certificate, GPC will pay Seller the remaining Punch List Holdback Amount.

1.5 Regulatory Matters.

1.5.1. Commission Certification.

(i) Filing Application with Commission. GPC will apply for the Commission Certificate as soon as reasonably practicable, but in no event more than 90 Days after BTA execution and will use reasonable efforts to pursue the issuance of and obtain the Commission Certificate. Seller agrees to assist and support GPC, in a timely manner and to the extent reasonably requested by GPC, in obtaining the Commission Certificate.

(ii) Certificate Conditions. If: (a) the Commission issues a Commission Certificate that is subject to material qualifications or conditions that adversely affect GPC; (b) the Commission has not approved this BTA through the issuance of a Commission Certificate; or (c) the Commission fails to issue a Commission Certificate by the date required in Commission Rule 515-3-4-.07(1)(e)(5), then GPC may terminate this BTA upon written notice to Seller. If GPC terminates this BTA under subpart (a) or (b), then GPC must give Seller notice of termination no later than 30 days after the issuance of the Order either approving the Commission Certificate with material qualifications or conditions or denying the Commission Certificate. If GPC terminates this BTA under subpart (c), then GPC must give Seller notice of termination within 30 days after the date required in Commission Rule 515-3-4-.07(1)(e)(5). If, within 30 days after the Order approving or denying the Commission Certificate, GPC appeals the issuance or denial of the Commission Certificate to the Commission or Fulton County Superior Court, then GPC's right to terminate this BTA will be extended until the date that is 80 days after the Order approving or denying the Commission Certificate. Upon a termination pursuant to this Section 1.4.5(ii) (*Certificate Conditions*): (I) neither Party will have any further liability to the other Party under this BTA; and (II) GPC will promptly return to Seller any unused portion of the Performance Security and Upgrade Security, if applicable.

(iii) Revocation, Qualifications, or Conditions. Despite the other provisions of Section 1.5(ii) (*Certificate Conditions*), if at any time during the term of this BTA, the Commission issues an Amended Commission Certificate that imposes a material qualification or condition that adversely affects GPC, unless GPC and Seller agree to an amendment in accordance with Section 1.5(v) (*BTA Amendment*), GPC will have the right to terminate this BTA if such material qualification or condition is not acceptable to GPC. Within 15 days after GPC's receipt of the Amended Commission Certificate, GPC will provide Seller with written notice of whether the Amended Commission Certificate is subject to a material qualification or condition and, if so, whether GPC elects to terminate this BTA. If GPC fails to provide such notice within such 15-day period, the Amended Commission Certificate will be deemed acceptable to GPC. Upon termination under

this Section 1.5(iii) (*Revocation, Qualifications, or Conditions*): (a) neither Party will have any further liability to the other Party under this BTA; and (b) GPC will promptly return to Seller any unused portion of the Performance Security and Upgrade Security, if applicable.

(iv) Change in Economic Circumstances or Market Conditions. Despite any other provision in this BTA, and provided it is not otherwise required by Commission Rule 515-3-4.08, neither Party will seek to have the Commission revoke or amend the Commission Certificate on the Party's own initiative for reasons solely related to changed economic circumstances or market conditions affecting this BTA.

(v) BTA Amendment. If the Commission issues an Order approving this BTA with any modification or condition, or issues an Amended Commission Certificate, as applicable, this BTA will not be amended to include the modification or condition unless the Parties execute a written amendment agreeing to any such modification or condition. If, within 30 days after the Order or Amended Commission Certificate, GPC requests that Seller execute a written amendment agreeing to such modification or condition, and Seller does not execute such written amendment within 30 days after GPC's request, GPC may terminate this BTA. Upon termination of this BTA under this Section 1.5(v) (*BTA Amendment*), GPC will promptly return to Seller any unused portion of the Performance Security and Upgrade Security, if applicable, and thereafter, neither Party will have any further obligation under this BTA.

1.5.2. Required Regulatory Approval. In accordance with Section 5.1.1, Seller must work with GPC in good faith to ensure the Parties obtain, if applicable, FERC Approval and HSR Approval without modification or condition, or with modification or condition acceptable to GPC in GPC's sole discretion, before the Outside Closing Date.

1.5.3. FERC Filings Waiver; Standard of Review. The Parties waive all rights to submit filings to FERC seeking modification or rescission of this BTA under Section 205 or 206 of the Federal Power Act. In any proceeding before FERC involving this BTA, the Parties will request 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), and clarified by NRG Power Marketing LLC v. Maine Public Utility Commission, 130 S. Ct. 693 (2010).

1.6 GPC's Conditions Precedent. GPC's obligation under this BTA to complete the Closing is subject to the fulfillment, at or before the Closing Date, of each of the following conditions (any of which may be waived (if legally permissible) in whole or in part by GPC in its sole discretion):

1.6.1. Representations and Warranties. Subject to Seller's right to supplement or amend Seller's Disclosure Schedule from time to time before the Closing Date pursuant to Section 6.32 (*Update of Seller's Disclosure Schedules*), the representations and warranties of Seller set forth in Part 2 (*Representations and Warranties of Seller*), disregarding any "materiality," "Seller Material Adverse Effect," or other similar qualifications, are true and correct in all material respects, in each case, on and as of the Closing Date, with the same force and effect as though the representations and warranties were made on and as of the Closing Date (except to the extent that the representations and warranties expressly are made as of an earlier date, in which case, as of the earlier date).

1.6.2. Performance. Seller has performed and complied in all material respects with all covenants and obligations required by this BTA to be performed or complied with, or Seller has cured any nonperformance prior to the Closing in accordance with the terms of this BTA, at or before the Closing.

1.6.3. Seller's Consents. All Seller Consents necessary for the completion of the transactions contemplated by this BTA to occur have been duly obtained, made, or given, and are in full force and effect in form and substance reasonably acceptable to GPC.

1.6.4. No Injunction. There is no law, Order or Permit that restrains, enjoins, or otherwise prohibits or makes illegal the consummation of the transactions contemplated by this BTA, and no action or proceeding initiated by any Governmental Authority seeking an Order prohibiting the consummation of the transactions contemplated by this BTA is pending.

1.6.5. Required Regulatory Approvals. The Parties have received all required Consents, including FERC Approval and HSR Approval to the extent applicable.

1.6.6. Closing Deliveries. Seller has delivered (or caused to be delivered) to GPC the following:

(i) a counterpart of the Bill of Sale, duly executed by Seller;

(ii) a counterpart to the Assignment Agreement, duly executed by Seller;

(iii) a counterpart to the Deed/Lease Assignment, duly executed by Seller;

(iv) a certificate, dated as of the Closing Date, duly executed by an officer of Seller certifying: (a) that the conditions described in Sections 1.5.1 (*Representations and Warranties*) and 1.5.2 (*Performance*) have been satisfied; (b) that true and complete copies of resolutions of Seller authorizing the consummation of the transactions contemplated by this BTA are attached, and that the resolutions were duly adopted, have not been rescinded or amended, and remain in full force and effect; and (c) as to the incumbency and signature of each Person executing documents on behalf of Seller or its Affiliates ("**Seller Closing Certificate**");

(v) [a counterpart of [●], duly executed by [●];]

(vi) all guarantees required under the other Transaction Documents, duly executed by the guarantor;

(vii) estoppel certificates, in form and substance reasonably acceptable to GPC, from each applicable counterparty to the Real Property Agreements and Easements, dated no more than 60 days prior to the Closing Date, each of which will include a statement that the respective Real Property Agreement is in full force and effect ("**Real Property Estoppels**");

(viii) estoppels, in form and substance reasonably acceptable to GPC, from each applicable counterparty to all Project Contracts that are not executed with a Governmental Authority (except the Real Property Agreements to be delivered in accordance with subsection (vii) above), including the EPC Contract and the Major Supply Agreements, dated no more than 15 days prior to the Closing, each of which will include a statement that the respective Contract is in full force and effect;

(ix) the Title Policy;

(x) the Real Property Surveys;

(xi) a Form W-9 properly completed and duly executed by Seller;

(xii) a certificate in accordance with Treasury Regulations Section 1.1445-2(b);

(xiii) (a) a current and valid Phase I environmental site assessment conducted in accordance with ASTM E1527-13 with respect to the Project Site and, if required under ASTM E1527-13, a current and valid Phase II environmental site assessment, in each case, dated no more than the number of days before the Closing Date as specified in Exhibit A-1 (*Project Information*); and (b) a reliance letter in favor of GPC with respect to each applicable assessment, in each case of subparts (a) and (b), in form and substance reasonably acceptable to GPC;

(xiv) any releases of Liens and Liabilities and certificates as GPC deems necessary, or GPC may reasonably request, to effect the Closing contemplated by this BTA, all of which will be in form and substance reasonably satisfactory to GPC; and

(xv) any other document required by applicable law or expressly required under this BTA, in each case, to consummate the transactions contemplated by this BTA.

1.6.7. Reports. Seller has executed and delivered to GPC, or caused to be executed and delivered to GPC, any final Report and Design Document required to be delivered on or before the Closing Date, and such Reports and Design Documents are in form and substance reasonably satisfactory to GPC.

1.6.8. Transaction Documents. All of the Transaction Documents (together with all amendments, supplements, schedules, and exhibits to the Transaction Documents) required to be provided by Seller are in full force and effect and are in form and substance reasonably satisfactory to GPC.

1.6.9. Mechanical Completion. The Project has achieved Mechanical Completion and Seller has delivered to GPC the unabridged and unredacted final report concerning the electric energy producing potential of the Facility, prepared by an engineer acceptable to GPC, that assesses the capacity resource potential at the Project Site, and that will include all inputs reasonably necessary for a full energy yield assessment with respect to the Project.

1.6.10. Not Placed in Service. The Project has not, in whole or in part, been placed in service or experienced Energization and Synchronization. Critical pre-operational testing with respect to the Project has not been completed. Daily operations with respect to the Project have not commenced. No revenue has been generated from the sale of electricity output with respect to the Project.

1.6.11. Project Contracts. The Project Contracts, including the EPC Contract and the Major Supply Agreements, are in full force and effect, in form and substance reasonably acceptable to GPC, without any modification, amendment, or change order, other than any modification, amendment, or change order that has been approved by GPC in writing, or is otherwise immaterial in nature and does not modify or waive any right, or impose any additional obligation on GPC, under this BTA. No party is in breach under a Project Contract, and such Project Contracts, other than the EPC Contract and the Major Supply Agreements, have been transferred to GPC as of Closing.

1.6.12. Conformity with Standards. Seller has certified to GPC that to Seller's Knowledge, the Project conforms to applicable engineering and installation standards set forth in this BTA, including the Technical Specifications and applicable law, and to Seller's Knowledge, there are no defects in workmanship or equipment caused by the EPC Contractor or any Subcontractor with respect to the Project.

1.6.13. Project Permits. The Project Permits required to be transferred to GPC as of Closing, or other Permits (other than GPC's Consents) required to be issued to GPC as of the Closing, in each case, under applicable law, have been transferred or issued in accordance with applicable law, and will be valid and binding and in full force and effect.

1.6.14. Tax Benefit. Seller has provided documentation satisfactory to GPC with respect to qualification for any applicable tax credit or other benefit (or, in each case, any payment or deemed refund in lieu thereof), for the Project.

1.6.15. Commission Certificate. The Commission Certificate has been duly obtained on terms that do not constitute a Burdensome Condition and is in full force and effect.

1.6.16. Performance Security. The Construction Period Performance Security has been provided and is in full force and effect.

1.6.17. No Seller Material Adverse Effect. No Seller Material Adverse Effect has occurred and is continuing.

1.7 Seller's Conditions Precedent. The obligations of Seller under this BTA to complete the Closing are subject to the fulfillment, at or before the Closing Date, of each of the following conditions (any of which may be waived (if legally permissible) in whole or in part by Seller in its sole discretion):

1.7.1. Representations and Warranties. The representations and warranties of GPC set forth in Part 3 (*Representations and Warranties of GPC*), disregarding any "materiality," "GPC Material Adverse Effect," or similar qualification, are true and correct in all respects, in each case, on and as of the Closing Date with the same force and effect as though such representations and warranties were made on and as of the Closing Date (except to the extent that such representations and warranties expressly are made as of an earlier date, in which case, as of such earlier date) except as would not, individually or in the aggregate, have a GPC Material Adverse Effect.

1.7.2. Performance. GPC has performed and complied in all material respects with the covenants and obligations required by this BTA to be so performed or complied with by GPC at or before the Closing.

1.7.3. GPC's Consents. All GPC Consents necessary for the completion of the transactions contemplated by this BTA to occur have been duly obtained, made, or given, and are in full force and effect in form and substance reasonably acceptable to Seller.

1.7.4. No Injunction. There is no law, Order, or Permit that restrains, enjoins, or otherwise prohibits or makes illegal the consummation of the transactions contemplated by this BTA, and no action or proceeding initiated by any Governmental Authority seeking an Order prohibiting the consummation of the transactions contemplated by this BTA is pending.

1.7.5. Required Regulatory Approvals. The Parties have received all required Consents, including FERC Approval and HSR Approval, each to the extent applicable.

1.7.6. Closing Deliveries. GPC has delivered (or caused to be delivered) to or at the direction of Seller

the following:

(i) the Closing Payment in accordance with Section 1.4.2 (*Closing Payment*);

(ii) a counterpart of the Bill of Sale, duly executed by GPC;

(iii) a counterpart of the Assignment Agreement, duly executed by GPC;

(iv) a counterpart of the Deed/Lease Assignment, duly executed and acknowledged by GPC;

(v) a certificate, dated as of the Closing Date, duly executed by an officer of GPC certifying: (a) the conditions described in Sections 1.6.1 (*Representations and Warranties*) and 1.6.2 (*Performance*) have been satisfied; (b) true and complete copies of resolutions of GPC authorizing the consummation of the transactions contemplated by this BTA are attached to the certificate; (c) the resolutions were duly adopted, have not been rescinded or amended, and remain in full force and effect; and (d) as to the incumbency and signature of each Person executing documents on behalf of GPC or its Affiliates (the "**GPC Closing Certificate**");

(vi) [a counterpart of the [●] duly executed by GPC;] and

(vii) any other document required by applicable law or expressly required under this BTA, in each case, to consummate the transactions contemplated by this BTA.

1.7.7. Transaction Documents. All Transaction Documents (together with each applicable amendment, supplement, schedule, and exhibit) required to be provided by GPC are in full force and effect and are in form and substance satisfactory to Seller in its reasonable discretion.

1.7.8. No GPC Material Adverse Effect. No GPC Material Adverse Effect will have occurred and be continuing.

1.8 Early Termination.

1.8.1. Termination Before Closing Date. Despite any other provision in this BTA, in addition to the termination rights of the Parties set forth in Part 16 (*Termination for Default*), this BTA may be terminated at any time before the Closing Date as follows:

(i) by the Parties' mutual written agreement;

(ii) by either Party, if any law becomes effective after the Effective Date, or a Governmental Authority has issued a final and non-appealable Order, that restrains, enjoins, withholds certification, or otherwise prohibits or makes illegal the Closing or the transactions contemplated by this BTA;

(iii) by either Party, as applicable, if the other Party breaches any representation, warranty, or covenant in this BTA and: (a) such breach would result in the non-defaulting Party's failure or inability to satisfy the applicable Closing conditions; and (b) such breach has not been cured to GPC's or Seller's, as applicable, reasonable satisfaction within 30 days after receipt of written notice of the breach, or an extended cure period not to exceed the Outside Closing Date;

(iv) (a) by GPC, if a Seller Material Adverse Effect occurs (including as a result of a Disclosure Schedule Update delivered by Seller in accordance with Section 6.32 (*Update of Seller's Disclosure Schedules*) that discloses a matter or matters resulting in a Seller Material Adverse Effect, and that has not been cured within 30 days after receipt of written notice from GPC, or an extended cure period not to exceed the Outside Closing Date); and (b) by Seller, if a GPC Material Adverse Effect occurs;

(v) by either Party, upon the Insolvency of the other Party;

(vi) by GPC, if the Closing has not occurred by the Outside Closing Date, subject to any extension granted pursuant to Part 9 (*Change Orders*). However, the right to terminate this BTA under this subpart will not be available to GPC if GPC is in breach of this BTA, and such breach is the cause of, or results in, the failure of the Closing to occur on or before the Outside Closing Date;

(vii) by GPC, if an FME causes a delay in development or construction of the Project that will last longer than the Outside Closing Date;

(viii) by GPC, if the Commission Certificate is not obtained in form and substance acceptable to GPC in its discretion by 12 months after GPC's submission of this BTA to the Commission for Commission approval;

(ix) by GPC, if the Firm Date has not occurred by the Firm Date Deadline. However, the right to terminate this BTA pursuant to this Section 1.8.1(ix) will not be available to GPC if GPC is in breach of this BTA and GPC's breach is the cause of, or results in, the failure to achieve the Firm Date on or before the Firm Date Deadline;

(x) by GPC, if the EPC Contract and the Major Supply Agreements have not been agreed to by the Seller and applicable Subcontractors in form and substance on terms equal to or better than those attached to this BTA as Exhibit I (*EPC Contract*) and Exhibit K (*Major Supply Agreements*), within 30 days after the Effective Date (or such longer period as GPC may agree in its sole discretion);

(xi) by GPC, if the EPC Contract and the Major Supply Agreements have not been executed by the Seller and applicable Subcontractors on terms equal to or better than those attached to this BTA as Exhibit I (EPC Contract) and Exhibit K (Major Supply Agreements), within 90 days after the Effective Date (or such longer period as GPC may agree in its sole discretion);

(xii) by GPC, if the Closing has not occurred by the Outside Closing Date (which date, for the avoidance of doubt, is not subject to extensions). However, the right to terminate this BTA under this subpart will not be available if GPC's material breach of this BTA is the cause of, or results in, the failure of the Closing to occur on or before such date; and

(xiii) by GPC for GPC's convenience.

1.8.2. Notice of Termination. Either Party desiring to terminate this BTA in accordance with Section 1.8.1 (*Termination Before Closing Date*) must give written notice to the other Party.

1.8.3. Post-Termination Obligations. If validly terminated, then all further obligations of the Parties will end (other than those specified in this BTA as intended to survive termination). However, with respect to a termination due to a breach as set forth in Section 1.8.1(iii), (iv) or (v) (*Termination Before Closing Date*), the terminating Party will be entitled to pursue any right or remedy available at law or in equity. If validly terminated by either Party under Section 1.8.1(i) or (ii), then neither Party will have any Liability to the other with respect to termination.

1.8.4. Early Termination Fee.

(i) Early Termination. If GPC terminates this BTA under Section 1.8.1(vi), (vii), (ix), (x), (xi) or (xii) (*Termination Before Closing Date*) then: (a) Seller will be liable to GPC, as a liquidated damage and not as a penalty, for an early termination fee in an amount equal to the Termination Payment; (b) GPC may retain any Upgrade Security pursuant to Section 1.9 (*Grid Improvements*); and (c) all further obligations of the Parties under this BTA (other than the provisions that by their terms are intended to survive the expiration or termination of this BTA) will be terminated (with no fees or damages payable by GPC).

(ii) GPC Early Termination. If GPC terminates this BTA for GPC's convenience under Section 1.7.1 (xiii) (*Termination Before Closing Date*) then: (a) GPC will pay to Seller, as full and final relief to Seller for GPC's termination, liquidated damages equal to the applicable amount stated in Exhibit A-1 (*Project Information*) ("**Cancelation Payment**") **[Note to Bidders: Please submit a proposed cancelation payment schedule and curve as part of each Bid]**; and (b) all further obligations of the Parties under this BTA (other than the provisions that by their terms are intended to survive BTA expiration or termination) will be terminated (with no other fees or damages payable by GPC).

1.8.5. Termination Payment Not a Penalty. The Parties agree that the Termination Payment and Cancellation Payment, as applicable, are provided for in Section 1.8.4 (*Early Termination Fee*), Section 16.1 (*Termination by GPC*), and Section 16.2 (*Termination by Seller*) because actual damages for the early termination of this BTA under the applicable Sections would be extremely difficult or impracticable to determine. After negotiation, the Parties have agreed that each of the Termination Payment and Cancellation Payment is a liquidated damage that is a reasonable and appropriate measure of the damages that GPC or Seller, as applicable, would incur because of such termination and does not

represent a penalty.

1.9 Grid Improvements. If GPC determined that costs will be incurred to improve the Electric System beyond the Point of Interconnection to deliver the Facility's generating capacity to GPC's customers, Seller must, simultaneously with the execution of this BTA, deliver to GPC Upgrade Security in the amount of the costs so determined by GPC. GPC may draw upon the Upgrade Security to recover the costs in the event of early termination of this BTA prior to the Closing Date that arises from a Seller Default or an Extended FME. In that instance, GPC will, within eight months after the effective date of the termination, perform a final reconciliation that will calculate: (i) all costs to improve the Electric System as of the effective date of the early termination; *minus* (ii) cost of equipment that GPC, using commercially reasonable efforts, is able to repurpose. Within 10 Business Days after GPC completes the final reconciliation, GPC will return the balance of Upgrade Security (i.e., after having been drawn down to pay GPC for the finally reconciled amount) to Seller. If the Project achieves Substantial Completion under this BTA, then GPC will return the Upgrade Security to Seller within 10 Business Days after the Substantial Completion Date.

PART 2 SELLER REPRESENTATIONS, WARRANTIES, AND COVENANTS

Seller represents, warrants, and covenants to GPC: (i) as of the Effective Date; (ii) as of the Firm Date; and (iii) as of the Closing Date (except, in each case, for those representations and warranties made as of a specified date, which will be true and correct as of that date), as follows:

2.1 Existence. As described in Exhibit A-1 (*Project Information*), Seller is duly formed, validly existing, and in good standing under the laws of the state specified in Exhibit A-1. Seller has the requisite business entity power and authority to own, operate, and lease its properties and assets and to carry on its business as now being conducted. Seller is duly qualified or licensed to do business, and is in good standing in all jurisdictions in which the character of the properties owned or held under lease by it or the nature of the business transacted by it makes qualification necessary, except where the failure to be so qualified, licensed, or in good standing would not reasonably be expected to have a Seller Material Adverse Effect.

2.2 Authority. Seller has all requisite power and authority to: (i) execute and deliver this BTA, the EPC Contract, the Major Supply Agreements, and the other Transaction Documents to which it is (or will be) a party in connection with the transactions contemplated by this BTA; (ii) to perform its obligations under this BTA; and (iii) to complete the transactions contemplated by this BTA. The execution and delivery by Seller of this BTA, the EPC Contract, and the other Transaction Documents to which it is (or will be) a party in connection with the transactions contemplated by this BTA, and the performance by Seller of its obligations under this BTA have been duly and validly authorized by all necessary action.

2.3 Binding Agreement. This BTA, the EPC Contract, the Major Supply Agreements, and the other Transaction Documents to which Seller is (or will be) a party have been (or will be when delivered) duly and validly executed and delivered by Seller and, assuming due and valid authorization, execution and delivery by GPC and each other party to any Transaction Document, the EPC Contract, the Major Supply Agreements, and the other Transaction Documents to which it is (or will be) a party are (or will be when delivered) valid and binding obligations of Seller, enforceable against Seller in accordance with their terms, subject to the Remedies Exception. No other business entity action is required on the part of Seller to authorize or approve this BTA or the other Transaction Documents to which it is (or will be) a party, the performance of its obligations under this BTA or the consummation by Seller of the transactions contemplated by this BTA.

2.4 No Conflicts. Seller's execution and delivery of this BTA, the EPC Contract, and the other Transaction Documents to which it is (or will be) a party does not, and Seller's performance of its obligations under this BTA, the EPC Contract, the Major Supply Agreements, and the other Transaction Documents to which it is (or will be) a party, and Seller's consummation of the transactions contemplated by this BTA do not: (i) conflict with or result in a violation or breach of any term, condition, or provision of Seller's Organizational Documents; (ii) assuming all the Consents set forth in Schedule 2.4(ii) ("**Seller's Consents**") have been obtained or given, result in a default (or give rise to any right of termination, cancellation, or acceleration) under any term, condition, or provision of any Project Contract, Project Permit, or Real Property Agreement (with or without notice or lapse of time or both), except for the defaults (or rights of termination, cancellation, or acceleration) as to which requisite waivers or consents have been obtained in writing (true, correct, and complete copies of which have been furnished to GPC); (iii) assuming all of the Seller's Consents have been obtained or given, conflict with or result in a violation or breach of any term or provision of any law applicable to Seller, the Project, the Project Site, or the Project Assets; or (iv) assuming all of the Seller's Consents have been obtained or given, result in the imposition or creation of any Lien (other than a Permitted Lien) upon any of the Project Assets, other than in favor of GPC.

2.5 Governmental Approvals. Except as set forth in Schedule 2.5, no Consent of or with any Governmental Authority is required in connection with Seller's execution, delivery, and performance of this BTA, the EPC Contract, the Major Supply Agreements, or any other Transaction Document to which Seller is (or will be) a party, or Seller's consummation of the transactions contemplated by this BTA.

2.5.1. New Facility Held for Sale to GPC. Seller is developing and will hold the Facility solely for the purpose of selling the Facility to GPC as contemplated by this BTA. Seller has not operated, and will not operate, the Facility in any income-generating manner before Closing.

2.5.2. No FERC Jurisdictional Contracts. Seller has not applied for or obtained any market-based rate authorization or other contract concerning the Facility that is subject to FERC jurisdiction.

2.6 Legal Proceedings. There is no Action or Claim: (i) outstanding or pending to which Seller or any of its Affiliates is a party pertaining to the Project; or (ii) to Seller's Knowledge, threatened in writing against Seller or any Seller Affiliate or any of its or their assets or properties, including the Project Assets, or the Project, in each case, that seeks or would reasonably be expected to result in: (a) the issuance of an Order restraining, enjoining, or otherwise prohibiting or making illegal the completion of the transactions contemplated by this BTA or any of the Transaction Documents; or (b) individually or in the aggregate, a Seller Material Adverse Effect.

2.7 Compliance with Law.

2.7.1. Seller in Compliance with Law. Seller is, and at all times has been, and to Seller's Knowledge, EPC Contractor and each Subcontractor is, and at all times has been in compliance with all applicable law (excluding any Environmental Law, which is exclusively addressed in Section 2.17 (*Environmental Matters*), and any Tax Law, which is exclusively addressed in Section 2.26 (*Taxes*)) applicable to the Project, the Project Site, or the Project Assets, including those relating to occupational health and safety, data privacy, and anti-corruption and anti-bribery, and the Project Permits, in each case, with respect to the Project, including the design, engineering, supply, construction, installation, testing, commissioning, operation, and ownership of the Project.

2.7.2. No Notice of Violation. Seller has not, and to Seller's Knowledge, EPC Contractor and each Subcontractor has not, received written notification from any Governmental Authority alleging that it is in violation of any law (excluding any Environmental Law, which is exclusively addressed in Section 2.17 (*Environmental Matters*), and any Tax Law, which is exclusively addressed in Section 2.26 (*Taxes*)) applicable to the Project, the Project Site, or the Project Assets. To Seller's Knowledge, there are no facts, conditions or circumstances that, with or without notice or the lapse of time or both, would reasonably be expected to constitute or result in a material violation, or a material failure to comply with, any Laws.

2.7.3. Project in Compliance with Law. The Project is being, and at all times has been, developed, constructed, and permitted in compliance with all applicable laws, Project Permits, and Prudent Utility Practices. As constructed, the Project will conform to and comply with all zoning, environmental, wildlife, land use, and other applicable laws, and the requirements of all Project Permits.

2.8 Title to Project Assets. As of the Effective Date and the Firm Date, Schedule 2.8 contains a true, correct, and complete list of all Project Assets. As of the Closing Date, Schedule 2.8 contains a true, correct, and complete list of all Project Assets that are not the Project or the subcomponents of the Project. Other than as set forth on Schedule 2.8, Seller has good and valid title (or leasehold title, as applicable) to each of its Project Assets, free and clear of Liens (other than Permitted Liens).

2.9 Financial Resources. Seller has the financial resources, assets, operating capital, credit, and other resources and means necessary to fulfill, on a timely basis, all of: (i) Seller's obligations under this BTA, and the other Transaction Documents to which Seller is (or will be) a party; and (ii) Seller's obligations under the EPC Contract and Major Supply Agreements.

2.10 Real Property.

2.10.1. Real Property Agreements. Schedule 2.10(i) includes all "**Real Property Agreements**" that grant Seller real property rights required for the Project, including for the design, engineering, supply, construction, installation, testing, commissioning, operation, and ownership of the Project. The Real Property Agreements are in full effect, and any applicable landlords have not given Seller or any of its Affiliates any notice of breach, default, or termination of any of the Real Property Agreements. No breach, default, or event or condition exists that, with the giving of notice or the passage of time or both, would constitute a breach or default under any Real Property Agreement by the Seller or, to Seller's Knowledge,

the applicable landlord. The rent, fees, and other sums due and payable under the Real Property Agreements have been paid through the Closing Date. There exists no lease superior to the Real Property Agreements, and there is no mortgage, deed of trust, or security interest that may disturb or encumber the Real Property Agreements, as long as there is no tenant default under the Real Property Agreements. To Seller's Knowledge, other than uses reserved to landlord in the Real Property Agreements, and rights holders identified in the Title Policy, no other Person has the right to occupy the Project Site. As of the Closing Date, the Seller will have good and marketable title to the Real Property Agreements and the Real Property Agreements are free and clear of all Liens, other than Permitted Liens. Without limiting the generality of the foregoing, as of the Closing Date, any oral farming leases pertaining to any part of the Project Site have been properly and legally terminated in accordance with applicable law.

2.10.2. Easements. Schedule 2.10(ii) includes all Easements. The Easements are in full effect, and the applicable landowner under each Easement has not given Seller or any of its Affiliates any notice of breach, default, or termination of any Easement. There exists no breach, default, or event or condition that, with the giving of notice or the passage of time or both, would constitute a breach or default under any Easement by the Seller, or the applicable landowner. Any amounts due and payable under each Easement have been paid through the Closing Date. There is no mortgage, deed of trust, or security interest which may disturb or encumber any Easement, as long as there is not default by grantee under the Easement. As of the Closing Date, the Seller will have good and marketable title to all Easements, and all such Easements are free and clear of all Liens, other than Permitted Liens.

2.10.3. Complete Copies. Seller has delivered to GPC true, correct, and complete copies of: (i) the Real Property Agreements; (ii) the Easements; and (iii) the most recent leasehold title insurance commitments or proforma title policy (together with exceptions thereto), as applicable, and survey with respect to the Project Site, in each case, that are in the possession of Seller. Seller has delivered to GPC true, correct, and complete copies of all Contracts providing for the sale, lease, transfer, or other disposition, including any option Contracts, on, for, or with respect to the Project Site.

2.10.4. Zoning and Land Use Approvals. The zoning and land use approvals from the applicable Governmental Authority for the Project Site permit the ownership, operation, maintenance, and use of the Project as contemplated by this BTA.

2.10.5. Actions or Claims; Compliance with Law by Project Site. (i) There is no Action or Claim pending or, to Seller's Knowledge, threatened, against, or affecting the Project, the Project Site, any Project Improvement, or any portion of or interest in the Project, the Project Site, or any Project Improvement, in the nature of, or in lieu of, condemnation, land use, zoning or eminent domain proceeding, or otherwise; (ii) there is no outstanding unpaid assessment notice against any of the Project Site, or any pending or contemplated reassessment of any parcel included in the Project Site that is reasonably expected to increase the real estate Tax assessment for such parcel; and (iii) the Project Site is in compliance in all material respects with all applicable law, Permits, zoning, regulations, and restrictive covenants applicable to the Project Site. Neither Seller nor, to Seller's Knowledge, any other party to any Real Property Agreement has declared an event of force majeure that is continuing under any Real Property Agreement.

2.11 No Seller Material Adverse Effect. No Seller Material Adverse Effect has occurred and is continuing and, to Seller's Knowledge, no event, result, occurrent, development, fact, change, or effect of whatever natures or kind exists that would reasonably be expected to result in a Seller Material Adverse Effect.

2.12 Project Contracts.

2.12.1. List of Project Contracts. Schedule 2.12(i) contains a true, correct, and complete list of all Project Contracts (other than any Real Property Agreements, which are listed on Schedule 2.10(i)), including each amendment, waiver, supplement, schedule, and exhibits to the Project Contracts, and neither the Project nor the Project Assets are bound by, or will be bound after Closing by, any Contract other than the Project Contracts, including any Contracts of the following types:

(i) Contracts for the purchase, exchange or sale of electric energy, capacity, or ancillary services, or related attributes, including Environmental Attributes;

(ii) Contracts for the transmission or distribution of electric power;

(iii) Contracts for the supply electricity and any utility services;

(iv) Contracts involving resolution or settlement of any actual or threatened Action against Seller, the Project, the Project Site, or the other Project Assets that have not been fully performed, or that otherwise impose continuing Liabilities;

(v) Contracts with respect to the sharing, indemnification, or allocation of Taxes or Tax costs, which Contracts are primarily related to Taxes;

(vi) Contracts under which Seller has: (a) created, incurred, assumed, or guaranteed (or may create, incur, assume or guarantee) Indebtedness; (b) granted a Lien on its assets or properties, whether tangible or intangible, to secure any Indebtedness; or (c) extended credit to any Person in an amount in excess of the extended credit threshold amount specified in Exhibit A-1 (*Project Information*);

(vii) Contracts providing for payments by or to Seller in excess of the payments threshold amount specified in Exhibit A-1 (*Project Information*) in any consecutive 12-month period;

(viii) Contracts: (a) for the construction or purchase of real estate, Project Improvements, equipment, machinery, and other items that constitute capital expenditures in excess of the threshold amount specified in Exhibit A-1 (*Project Information*) for items that constitute capital expenditures; or (b) that involve or are reasonably expected to involve capital expenditures in excess of the threshold amount specified in Exhibit A-1 (*Project Information*) for items that involve or are reasonably expected to capital expenditures, in each case, that have not been fully performed by Seller or otherwise impose continuing Liabilities on Seller;

(ix) Contracts, letters of intent or other understandings for acquisitions or dispositions (by merger, purchase or sale of assets or stock or otherwise, and including rights and options to acquire or dispose) of any Project Assets, in each case, that have not been fully performed by Seller or otherwise impose continuing Liabilities on Seller;

(x) Contracts (excluding Permits) containing a restriction on the ability of Seller or the Project to compete with any Person, to conduct any business or line of business, or to operate in any geographic area;

(xi) Contracts evidencing swaps, hedges, futures or other derivatives, or requiring Seller to post collateral;

(xii) Contracts relating to any joint venture, partnership or similar arrangement, including any agreement or commitment to make any loan or capital contribution to any Person;

(xiii) Powers of attorney executed by Seller, or with respect to the Project or the Project Assets; and

(xiv) Contracts not terminable or cancelable by Seller upon notice of no longer than six months, and without Liability, penalty or premium to Seller.

2.12.2. Complete Copies; No Waiver, Assignment, or Liens. Seller has provided GPC with true, correct, and complete copies of all Project Contracts set forth on Schedule 2.12(i), including all amendments, waivers, supplements, schedules, and exhibits to each Project Contract: (i) to the extent the Project Contract was entered into on or before the Effective Date, as of the Effective Date; (ii) to the extent the Project Contract was entered into after the Effective Date, as of the Firm Date; and (iii) to the extent the Project Contract was entered into after the Firm Date, as of Closing Date.

2.12.3. No Default or Breach; No Assignment; Enforceability. Neither Seller, nor to Seller's Knowledge, any other party to any Project Contract, is in default in any material respect under, and, to Seller's Knowledge, no event has occurred which, with the giving of notice or the lapse of time or both, would result in a default of Seller under, any Project Contract. No written waiver or, to Seller's Knowledge, oral waiver of any term or condition of any Project Contract is currently in full force and effect. Seller has not assigned any of its interests in any Project Contract, and none of Seller's interests in any Project Contract is subject to any Lien (other than a Permitted Lien). Each Project Contract constitutes a legal, valid and binding agreement of Seller, and is in full force and effect and, to Seller's Knowledge, of each other party to the Project Contract, enforceable in accordance with its terms, subject to the Remedies Exception and, subject to Section 6.34 (*Transfer of Project Contracts and Project Permits*), is transferrable to GPC under the Transaction Documents.

2.12.4. Project Contract Representations and Warranties. All representations and warranties made under each Project Contract by Seller or any Seller Affiliate that is a party to any Project Contract were true and correct when made. Neither Seller nor any Seller Affiliate has received any written notice from any counterparty to any Project Contract that such Person is considering the amendment, termination, revocation, or cancellation of any of such Project Contract. Neither is the Seller a party to, nor is the Project or the Project Assets bound by or subject to, any Contract other than a Project Contract.

2.12.5. Material Supply Agreements. Except as set forth on Schedule 2.12(v), as of the Closing Date, no fact or circumstance exists, and no event has occurred that with the giving of notice or lapse of time would entitle the EPC Contractor or any Subcontractor under a Material Supply Agreement to any change order, or justify any claim for equitable relief under the EPC Contract or Major Supply Agreement, as applicable, or otherwise that would include any adjustment in the Purchase Price or the date of Substantial Completion.

2.12.6. No Sale or Transfer. Neither Seller nor any of its Affiliates has sold or transferred, agreed or committed to sell or transfer, or granted any options or rights to purchase the Facility's electric power or electric capacity.

2.13 Project Permits.

2.13.1. List of Permits. Schedule 2.13(i) includes all Permits (other than Deferred Permits) that are required by applicable law in connection with the development, engineering, procurement, construction, commissioning, ownership, and commencement of operation of the Project ("**Project Permits**").

2.13.2. Copies of Project Permits. Seller has made available to GPC a true, correct and complete copy of each Project Permit (or application therefor), all material documents, Reports and correspondence provided by Seller or any of its Affiliates to any Governmental Authority regarding the Project Permit (or application therefor), and all material documents, Reports and correspondence received by Seller or any of its Affiliates from any Governmental Authority with respect to a Project Permit (or application therefor).

2.13.3. Deferred Permits. Schedule 2.13(iii) includes all Deferred Permits required by applicable law in connection with the development, engineering, procurement, construction, commissioning, ownership, operation, and maintenance of the Project in accordance with this BTA, and the other Transaction Documents as of the date that the Project achieves Final Completion. Seller has made available to GPC copies of all Deferred Permits that it has obtained as of the Closing Date, and as of the date the Project achieves Final Completion. For the avoidance of doubt, once the Seller obtains a Deferred Permit, Seller will revise Schedule 2.13(i) and Schedule 2.13(ii) accordingly.

2.13.4. Representations and Warranties Regarding Permits. As of the Effective Date and Closing Date, regarding each Project Permit that has been obtained and issued in the name of Seller or the Project as of the Effective Date or Closing Date, respectively:

(i) each Project Permit is legal, valid, and binding, and in full force and effect (and all public comment and appeal periods under applicable law have expired or terminated), and, subject to Section 6.34 (*Transfer of Project Contracts and Project Permits*), is transferrable to GPC under the Transaction Documents;

(ii) the completion of the transactions contemplated by this BTA, and the other Transaction Documents will not affect the legality, validity, binding nature or force and effect of any Project Permit being transferred to GPC under the Bill of Sale;

(iii) Seller and the Project are in compliance with the terms and conditions of each Project Permit, and, to Seller's Knowledge, no event has occurred that, with the giving of notice or lapse of time, or both, would constitute noncompliance with the terms and conditions of each Project Permit;

(iv) no Action or Claim is pending or, to Seller's Knowledge, threatened, in each case, that challenges the legality, validity, or enforceability of, or threatens to revoke, suspend, or materially modify, any Project Permit;

(v) no written notice of noncompliance or default has been received by Seller or any Affiliate of Seller with respect to any Project Permit; and

(vi) no information has been received by Seller or any Seller Affiliate and, to Seller's Knowledge,

no condition, fact, or circumstance exists that would reasonably be expected to restrict or prevent Seller from transferring any Project Permit to GPC on the Closing Date, or from obtaining any Project Permit for which Seller or an Affiliate of Seller has applied, or that has not been obtained as of the Effective Date or Closing Date, in each case, when needed in accordance with Prudent Utility Practices and applicable law.

2.14 Insurance.

2.14.1. Project Insurance Policies. Schedule 2.14(i) contains: (i) copies of certificates of insurance for all current insurance policies of Seller that insure the Project Assets and the Project until the date of the Closing; and (ii) a true, complete, and correct list of all Claims made under such insurance policies. All insurance policies are in full force and effect, and Seller has not defaulted in any material respect (or is in material breach of the insurance policies, including any breach or default regarding the payment of premiums or the giving of notice of Claims), regarding Seller's obligations under any such insurance policies, or has been denied insurance coverage, and no written notice of cancellation or termination has been received by Seller with respect to any such policy that was not replaced on substantially similar terms prior to the date of cancellation.

2.14.2. Claims. As of the Effective Date, no Claims have been made under any insurance policies that insure the Project or Project Assets. As of the Closing Date, no pending Claims have been made under the insurance policies (or any replacement or renewal coverage obtained under Section 2.14(i) (*Project Insurance Policies*), and Seller has no Knowledge of any fact or circumstance that could reasonably lead to a Claim.

2.15 Sufficiency of Assets.

2.15.1. Right to Transfer Project Assets. Seller has, or will have at Closing, the power and right to sell, convey, deliver, transfer, and assign to GPC, all right, title, and interest to the Project Assets and the Assumed Liabilities, free and clear of all Liens, other than Permitted Liens on the Project Assets.

2.15.2. No Other Project Assets. Other than the Transaction Documents, the Project Assets, the Project Permits, the Project Contracts, the Real Property Agreements, the Easements, the EPC Contract, the Major Supply Agreements, the Reports, the Transferred Warranties, the Project Equipment, and the Materials, there are no other material assets or rights of any kind, whether tangible or intangible, real or personal, owned or held by Seller or any of its Affiliates relating to, associated with, or concerning the Project.

2.15.3. Sufficiency of Project Assets as of Firm Date. As of the Firm Date, the Transaction Documents, the Project Assets, the Project Permits, the Project Contracts, the Real Property Agreements, the Easements, the EPC Contract, the Major Supply Agreements, and the Reports constitute all of the material Contracts, Permits, assets, and properties necessary to develop, permit, design, engineer, supply, procure, construct, install, test, commission, own, and operate the Project in accordance with applicable law, Prudent Utility Practices, the Project Permits, the BTA and the other Transaction Documents.

2.15.4. Sufficiency of Project Assets as of Closing Date. As of the Closing Date, the Transaction Documents, the Project Assets, the Project Permits, the Project Contracts, the Real Property Agreements, the Easements, the EPC Contract, the Major Supply Agreements, the Reports, the Transferred Warranties, the Project Equipment, and the Materials, constitute all of the material Contracts, Permits, assets, and properties necessary to develop, permit, design, engineer, supply, procure, construct, install, test, commission, use, own, and operate the Project in accordance with applicable law, Prudent Utility Practices, the Project Permits, the BTA and the other Transaction Documents.

2.16 Books and Records. The Books and Records are accurate and complete and have been maintained in accordance with applicable law and GAAP. True and complete copies of the Books and Records have been provided to GPC.

2.17 Environmental Matters.

2.17.1. Environmental Reports. Schedule 2.17(i) includes all environmental reports, assessments, and audits, including reports, assessments, and audits relating to wetlands, water withdrawal, wastewater discharge, industrial stormwater, construction stormwater, waste management, air quality, and air pollutant emissions or discharges, and studies relating to threatened or endangered species and avian species, including those species protected by Environmental Laws, and studies relating to archaeological, cultural,

and historical resources prepared by or on behalf of Seller in connection with the Project, or otherwise in Seller's possession or control with respect to the Project. Seller has provided GPC with copies of the materials set forth in Schedule 2.17(i).

2.17.2. Compliance with Project Permits and Environmental Laws. (i) As of the Closing Date, Seller holds, and is in compliance with, all Project Permits, including all applicable environmental Permits; (ii) the Project has been constructed, and the Work has been performed, in compliance with all Environmental Laws; (iii) Seller has not received any written notice of a pending or threatened Claim, or inquiry by any Governmental Authority or other Person relating to any actual or alleged violations of any Environmental Law, or any actual or potential obligation on the part of Seller to investigate or take any corrective action relative to any Hazardous Substance or threatened Release of any Hazardous Substance, in each case, related to the Project; (iv) Seller has not entered into or agreed in writing to any final decree or Order with any Governmental Authority, and Seller is not subject to any Order relating to compliance of the Project with any Environmental Law or to the investigation or cleanup of Hazardous Substances at the Project; (v) to Seller's Knowledge, and except as set forth in an environmental report set forth on Schedule 2.17(i), no Person has generated, transported, treated, stored, disposed of, arranged to be disposed of, Released, or threatened to Release, any Hazardous Substances at, on, from, or under the Project Site in violation of, or as would reasonably be expected to result in liability under, any Environmental Law; (vi) except as set forth in the Project Permits and Project Contracts, Seller has not assumed any contractual Liabilities or obligations arising under any Environmental Law in connection with the Project; and (vii) Seller has not utilized any underground storage tanks or equipment using polychlorinated biphenyls, Emerging Contaminants, or asbestos in violation of Environmental Law at the Project Site. For the avoidance of doubt, compliance with Environmental Laws includes performance of all studies required or recommended under Environmental Law to assess the impacts of the Project on the environment, wildlife, or cultural resources, and mitigation measures to reduce or avoid impacts to environmental, wildlife, or cultural resources, including, as applicable, any species conservation strategy, or conservation agreement and any cultural resources treatment plan.

2.17.3. Additional Environmental Matters. To Seller's Knowledge: (i) there have been no unpermitted impacts to wetlands or water bodies, regulated under any Environmental Law, located on the Project Site; (ii) no condition, fact, or circumstance exist that, with or without notice or the lapse of time or both, would reasonably be expected to form the basis of or give rise to any environmental Liability, or material noncompliance by Seller or its Affiliates or the Project with, any Environmental Law with respect to the Project or the Project Site; (iii) neither Seller nor any Affiliate of Seller has agreed to or is subject to any Order or Claim relating to non-compliance with any Environmental Law, or to any investigation or cleanup of Hazardous Substances, or any Environmental Condition with respect to the Project or the Project Site; and (iv) there are no Claims or Actions pending or, to Seller's Knowledge, threatened under any Environmental Law relating to the Project or the Project Site.

2.17.4. Wildlife and Cultural Concerns. To Seller's Knowledge: (i) no species protected under any Environmental Law has been impacted (defined as "take" under the Endangered Species Act") at the Project Site without appropriate Consents from Governmental Authorities under applicable Environmental Law; and (ii) no human remains or historical, archaeological, or paleontological resources regulated under any Environmental Law has been impacted on the Project Site without appropriate Consents from Governmental Authorities under applicable law.

2.17.5. Environmental Attributes or Renewable Energy Incentives. Neither Seller nor any of its Affiliates have sold or transferred, or agreed to sell or transfer, or taken any actions or granted any options or rights to purchase Environmental Attributes or Renewable Energy Incentives related to the electric power to be generated by the Project.

2.18 Employee and Employee Benefits Matters. Seller does not employ and has never employed any employees. Seller does not sponsor, maintain, contribute to, or have any obligation to contribute to, and has never sponsored, maintained, contributed to, or had any obligation to contribute to, any Benefit Plan. [***Note to Bidder: To be discussed pending status of the Seller entity.***]

2.19 Brokers. Neither Seller nor any Seller Affiliate has any Liability or obligation to pay fees or commissions to any broker, finder, or agent regarding the transactions contemplated by this BTA for which GPC or its Affiliates could become liable or obliged.

2.20 Intellectual Property. As of Substantial Completion, the Project Contracts and the Project Equipment

contain and include all Intellectual Property necessary for GPC's full ownership, use, operation, and maintenance of the Project ("**Project Intellectual Property**"). As of the Closing Date, Seller must convey, and GPC will acquire from Seller, ownership of or the right to use all Project Intellectual Property in accordance with applicable law, the Project Permits, and Prudent Utility Practices, free and clear of all Liens, other than Permitted Liens. Seller has not received, and is not aware of, any Claim that any Project Intellectual Property infringes or misappropriates, in any material respect, the Intellectual Property of any other Person.

2.21 Reports. Seller has delivered to GPC a true, accurate, and complete copy of each Firm Date Report on or before the Firm Date. Prior to the Closing Date, Seller has delivered to GPC: (i) all updates and supplements to the Firm Date Reports; and (ii) true, accurate, and complete copies of all additional Reports received by Seller prior to the Closing Date. To Seller's Knowledge, there has been no material change in any findings or conclusions of any Report delivered or made available by Seller to GPC other than for which Seller has redelivered such Report to GPC in final form as revised to address any such change.

2.22 Resource Data. Schedule 2.22 includes a true, correct, and complete list or copy of the Resource Data. Regarding each item of Resource Data: (i) Seller has made available to GPC true, correct, and complete copies of all Reports, studies, analyses, tests, monitoring results, and assessments with respect to Resource Data measured or recorded at or concerning the Project, or related to the Project Site; (ii) the Resource Data is accurate in all material respects; (iii) Seller owns and possesses all right, title and interest in and to the Resource Data, free and clear of any Liens, other than Permitted Liens; (iv) Seller has not received any notification of any dispute with respect to any Resource Data; (v) the Resource Data is not subject to any outstanding Order of any Governmental Authority; and (vi) no Person has assigned, transferred, or conveyed any interest in the Resource Data or the information contained therein in any manner that would reasonably be expected to impair GPC's right to use the Resource Data after the Closing.

2.23 No Data Breaches. There has been no security breach, cyberattack, other data security or cyber incident, or unauthorized access to any Project IT Asset that resulted in the unauthorized use, misappropriation, modification, encryption, corruption, disclosure, or transfer of any material information or data contained in the Project IT Asset relating to the Project Assets that would reasonably be expected to result in a Seller Material Adverse Effect.

2.24 Solvency. Seller is not Insolvent. Seller has no plan or intention of, nor has received any written notice that any other Person has any plan or intention of, filing, making, or obtaining any petition, notice, Order, or resolution or of seeking to make Seller Insolvent.

2.25 Anti-Forced Labor Compliance. Concerning the construction, operation, and procurement of the Project Assets, Seller must not procure, incorporate into the Project, or utilize Forced Labor, or utilize in its supply chain any Person using or known to use, Forced Labor ("**Restricted Equipment**") in the manufacturing and production of Project Assets. Seller must comply with all Anti-Forced Labor Laws. If Seller discovers that any Restricted Equipment has been obtained for the Project, Seller must provide written notice to GPC not later than five Business Days after Seller's discovery. Promptly following GPC's receipt of this notice, the Parties will meet and confer to discuss corrective measures to be taken, at Seller's cost (without the right to a Change Order), in full compliance with applicable law. Seller must cause its Subcontractors to comply with all Anti-Forced Labor Laws, and otherwise to refrain from procuring or utilizing Restricted Equipment in connection with the Project. Seller must ensure that all equipment procured by Seller and used in the Project will be able to clear U.S. Customs. If requested by GPC, Seller must promptly and in any event (if requested) before shipment provide GPC with a supply-chain map for all equipment, components, and materials: (i) procured by Seller or any Subcontractor for the Project; (ii) incorporated into the Project; and (iii) otherwise utilized for the Project. GPC or its designee (including any independent auditor, Governmental Authority or third party selected by a Governmental Authority) will be entitled to review Seller's and any Subcontractor's books and records to confirm compliance with this Section 2.27 (*Anti-Forced Labor Compliance*).

2.26 Bankruptcy; Insolvency. There is no bankruptcy, reorganization, or insolvency proceeding pending, being contemplated by or, to Seller's Knowledge, threatened against Seller or Seller Guarantor, and, to Seller's Knowledge, no facts, conditions, or circumstances exist that would permit one or more Persons to bring an involuntary bankruptcy proceeding against Seller or Seller Guarantor. Each of Seller and Seller Guarantor is, and immediately after giving effect to the transactions contemplated by this BTA will be, Solvent.

2.27 Disclosure. Seller has made available for GPC's review all material information in the possession or control of or reasonably available to Seller, or any Affiliate of Seller, relating to the Project, including the Project Assets, concerning GPC's due diligence examination conducted regarding the transactions contemplated by this

BTA. None of the information provided by Seller to GPC contains any untrue statement of a material fact, or omits to state a material fact necessary to make the statements contained therein, in light of the circumstances in which they are made, not misleading. No representation or warranty made by Seller in this BTA, or any Transaction Documents to which Seller is or will be a party concerning the transactions contemplated by this BTA, and no statement contained in a Schedule or any certificate or other document furnished or to be furnished to GPC under this BTA, contains any untrue statement of a material fact, or omits to state a material fact necessary to make the statements contained therein, in light of the circumstances in which they are made, not misleading.

2.28 Taxes.

2.28.1. All income Tax Returns and other material Tax Returns that were required to be filed regarding the Project Assets have been timely filed, and the Tax Returns were prepared in compliance with applicable law, and were true, correct, and complete in all material respects. All Taxes required to be paid with respect to the Project Assets (whether or not shown due on any Tax Returns) have been timely paid, except as would not reasonable be expected to result in a Seller Material Adverse Effect.

2.28.2. There is no audit, Claim, Action, assessment, levy, or administrative or judicial proceeding pending, or to Seller's Knowledge, threatened, proposed, or contemplated regarding the Project Assets by any Taxing Authority.

2.28.3. There is no extension or waiver of the application of any statute of limitations of any jurisdiction regarding the assessment or collection of any Tax with respect to the Project Assets.

2.28.4. Seller has withheld and paid or collected all Taxes required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, member, or other third party with respect to the Project Assets.

2.28.5. No written Claim has ever been made by a Taxing Authority in a jurisdiction where a Tax Return is not filed by, or regarding Seller or the Project Assets, that Seller (regarding the Project Assets) or any of the Project Assets is, or may be, subject to Tax in that jurisdiction.

2.28.6. No power of attorney is currently in effect, and no Tax ruling has been requested of any Governmental Authority with respect to any Tax matter, relating to the Project Assets.

2.28.7. Seller (or if Seller is a disregarded entity, the Person treated as owning Seller's assets for income Tax purposes) is not a foreign person as defined in Section 1445(f)(3) of the Code.

2.28.8. Neither Seller nor any Affiliate of Seller has taken, nor does Seller or any Affiliate of Seller intend to take, a position on any Tax Return that is inconsistent with the Project, including the Project Assets, being Placed in Service by GPC. Except a de minimis amount (for things such as engineered fill, asphalt, raw materials, etc.), each part of the Project, including the Project Assets, is new equipment.

2.28.9. No portion of the Project, including the Project Assets, has benefited from the proceeds of any federal or state grant or rebate program, and no application with respect to any grant or rebate has been filed or submitted.

2.28.10. No portion of the Project, including the Project Assets, is or has been financed with, and neither Seller nor any Affiliate of Seller has benefited from: (i) a grant provided by the United States of America, a state, a political subdivision of a state or any other Governmental Authority; (ii) proceeds of an issue of state or local government obligations, the interest on which is exempt from tax under Section 103 of the Code; or (iii) any subsidized energy financing provided (directly or indirectly) under a federal, state, or local program provided in connection with the Project (in each case, within the meaning of Section 45(b)(3) of the Code).

2.29 Tax Benefits.

2.29.1. To Seller's Knowledge, no fact or circumstance concerning the Project or the Project Assets exists that would reasonably be expected to hinder, impair, restrict, limit, preclude, or disqualify the Project or the Project Assets from qualifying for, and producing and giving rise to, the Tax Benefits.

2.29.2. Seller is the owner of the Project Assets and the Project for Tax purposes, and neither the Project Assets, the Project, nor any property that is part of the Project has been "placed in service" for federal income tax purposes (including Sections 45, 48, and 168 of the Code). Neither the Project nor any property that is part of the Project has been energized or synchronized to the electric transmission system. Critical

preoperational testing with respect to the Project has not been completed. Daily operations at the Project have not commenced.

2.29.3. There has been no "original use" (within the meaning of Section 45, 48, or Section 168(k) of the Code) of the Project Assets, the Project, or any property that is part of the Project. No property that is a part of the Project Assets or the Project has been used by any Person other than in the development, construction, or startup of the Project.

2.29.4. Neither Seller nor any Seller Affiliate has claimed or intends to claim any depreciation deduction, amortization deduction, tax credit, or other credit, deduction, or allowance regarding the Project or any property that is part of the Project or the Project Assets. No property in the Project or the Project Assets is "dual use equipment" within the meaning of Treasury Regulations Section 1.48-9(d)(6).

2.29.5. No portion of the basis of the property in the Project is attributable to "qualified rehabilitation expenditures" within the meaning of Section 47(c)(2)(A) of the Code.

2.29.6. No portion of any property that is part of the Project or the Project Assets has benefited from the proceeds of any grant or rebate program that would cause a reduction in the amount of any Tax credit with respect to the Project or the Project Assets, and no application with respect to any grant or rebate has been filed or submitted. No portion of the Project Site is currently enrolled in the U.S. Department of Agriculture's Conservation Reserve Program.

2.29.7. None of the property in the Project, including the Project Assets, is or has been: (i) "tax- exempt bond financed property" or "tax-exempt use property" within the meaning of Section 168 of the Code; (ii) imported property of the kind described in Section 168(g)(6) of the Code; (iii) property used by a Person described in Section 50(b)(3) of the Code; or (iv) financed by tax-exempt bonds as described in Code Section 48(a)(4). No election under Section 168(g)(7) of the Code has been made with respect to any part of the Project, including the Project Assets.

2.29.8. The Project is located entirely within the state of Georgia.

2.29.9. The transactions contemplated by this BTA will not have an adverse effect on the continuing validity and effectiveness of any Tax exemption, Tax holiday, other Tax abatement, or incentives for which the Project is currently eligible.

2.29.10. The Project Site has not been subject to a preferential or special property Tax assessment, value limitation, or other favored Tax treatment. The Project Site is not, has not been, and will not be (because of the Closing and the transactions contemplated by this BTA) subject to rollback Taxes.

2.29.11. All Tax Benefits attributable to, resulting from, or arising in connection with the Project will belong to GPC. Seller has no legal obligation, absolute or contingent, to any Person other than GPC to transfer or effect a transfer of all or any portion of the Project, including any electric power or Tax Benefits attributable to, resulting from, or arising in connection with the Project.

2.29.12. If the Project is eligible for any ITC or PTC, Seller and EPC Contractor, and any Subcontractors providing services or goods directly or indirectly to Seller for the Project: (i) have either: (a) complied with PWA Requirements concerning the Construction of the Project, as outlined in Exhibit Y (*Prevailing Wage & Apprenticeship*); or (b) made the payments described in Exhibit Y ("**Deemed PWA Compliance**"); and (ii) have provided documentation demonstrating to GPC's reasonable satisfaction the payment of the amounts described in Sections 18.10.1(i) and 18.10.1(ii). If Seller, EPC Contractor, or its Subtractors intend to rely on the provisions of Section 48(a)(8)(D)(ii) of the Code ("**Good Faith Effort**") for satisfying the Apprenticeship Requirements, a Person will be considered to have satisfied the requirements of this Section 2.25.12 if such Person provides written documentation demonstrating to GPC's reasonable satisfaction: (I) that Person requested Qualified Apprentices from a Registered Apprenticeship Program; and (II) either: (1) the request was denied for reasons other than the failure of such Person to comply with the established standards and requirements of the Registered Apprenticeship Program; or (2) the Registered Apprenticeship Program failed to respond to the request within five Business Days.

PART 3 REPRESENTATIONS AND WARRANTIES OF GPC

GPC represents and warrants to Seller: (i) as of the Effective Date; (ii) as of the Firm Date; and (iii) as of the Closing Date (except, in each case, for those representations and warranties made as of a specified date, which will be true and correct as of that date), as follows:

3.1 Existence. GPC is a corporation duly formed, validly existing and in good standing under the laws of the state of Georgia. GPC has the requisite corporate power and authority to own, operate, and lease its properties and assets. GPC is duly qualified or licensed to do business, and is in good standing in all jurisdictions in which the character of the properties owned or held under lease by it, or the nature of the business transacted by it, makes qualification necessary, except where the failure to be so qualified, licensed, or in good standing would not be reasonably expected to have a GPC Material Adverse Effect;

3.2 Authority. GPC has all requisite corporate power and authority to: (i) execute and deliver this BTA and the other Transaction Documents to which it is (or will be) a party concerning the transactions contemplated by this BTA; (ii) to perform its obligations under this BTA; and (iii) to complete the transactions contemplated by this BTA. The execution and delivery by GPC of this BTA, and the other Transaction Documents to which GPC is (or will be) a party in connection with the transactions contemplated by this BTA, and the performance by GPC of its obligations under this BTA, have been duly and validly authorized by all necessary corporate action;

3.3 Binding Agreement. This BTA and the other Transaction Documents to which GPC is (or will be) a party have been (or will be when delivered) duly and validly executed and delivered by GPC and, assuming due and valid authorization, execution, and delivery by Seller and each other party to any Transaction Document, this BTA and the other Transaction Documents to which GPC is (or will be) a party are (or will be when delivered) valid and binding obligations of GPC, enforceable against GPC in accordance with their terms, subject to the Remedies Exception. No other corporate action is required on the part of GPC to authorize or approve this BTA or the other Transaction Documents to which it is (or will be) a party, the performance of its obligations under this BTA, or the consummation by GPC of the transactions contemplated by this BTA;

3.4 No Conflicts. GPC's execution and delivery of this BTA and the other Transaction Documents to which it is (or will be) a party do not, and GPC's performance of its obligations under this BTA and the other Transaction Documents to which it is (or will be) a party, and the consummation of the transactions contemplated by this BTA do not: (i) conflict with or result in a violation or breach of any of the terms, conditions, or provisions of GPC's Organizational Documents; (ii) assuming all of the Consents set forth in Schedule 3.4(ii) ("**GPC Consents**") have been obtained or given, result in a default (or give rise to any right of termination, cancellation, or acceleration) under any of the terms, conditions, or provisions of any Contract or other obligation (with or without notice or lapse of time, or both) to which GPC is a party, or by which any of its assets and properties may be bound, except for defaults (or rights of termination, cancellation, or acceleration) as to which requisite waivers or consents have been obtained in writing (true, correct, and complete copies of which have been furnished to Seller); or (iii) assuming all GPC Consents have been obtained or given, conflict with or result in a violation or breach of any term or provision of any law applicable to GPC or any of its assets and properties;

3.5 Governmental Approvals. Subject to accuracy of Seller's representations in Section 2.5 (*Governmental Approvals*), and except: (i) as set forth in Schedule 3.5; and (ii) for receipt of the Commission Certificate, no Consent of or with any Governmental Authority is required in connection with the execution, delivery, and performance by GPC of this BTA or any of the Transaction Documents to which GPC is (or will be) a party or the consummation by GPC of the transactions contemplated by this BTA;

3.6 Legal Proceedings. There is no Action or Claim: (i) outstanding or pending to which GPC is a party; or (ii) to GPC's Knowledge, threatened in writing against GPC or any of its assets or properties, that seek or would be reasonably expected to result in: (a) the issuance of an Order restraining, enjoining, or otherwise prohibiting or making illegal the consummation of the transactions contemplated by this BTA or any of the Transaction Documents; or (b) individually or in the aggregate, a GPC Material Adverse Effect;

3.7 Brokers. Neither GPC nor any of its Affiliates has any Liability or obligation to pay fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this BTA for which Seller or its Affiliates could become liable or obliged;

3.8 Sufficiency of Funds. GPC has and, as and when required under the terms of this BTA will have, access to cash sufficient to satisfy its obligations to pay the Purchase Price; and

3.9 Solvency. GPC is not Insolvent. GPC has no plan or intention of, nor has it received any written notice that any other Person has any plan or intention of, filing, making, or obtaining any petition, notice, Order, or resolution or of seeking to make GPC Insolvent.

PART 4 PERFORMANCE SECURITY

4.1 Performance Security.

4.1.1. Initial Performance Security. Effective as of the Effective Date, and continuing until the Firm Date, Seller must furnish GPC Performance Security in the applicable amount stated in Exhibit A-1 (*Project Information*) ("**Initial Performance Security**").

4.1.2. Construction Period Performance Security. At least five Business Days before the Firm Date, and continuing until Final Completion, Seller must furnish GPC Performance Security in the applicable amount stated in Exhibit A-1 (*Project Information*) ("**Construction Period Performance Security**").

4.1.3. Post-Construction Period Performance Security. At least five Business Days before Final Completion, and continuing until the fifth anniversary of Final Completion, Seller must furnish to GPC Performance Security in the aggregate amount of 5% of the Purchase Price ("**Post-Construction Period Performance Security**").

4.2 Utilization of Performance Security. GPC will be entitled to draw upon and be paid from any Performance Security provided by Seller for any obligation of Seller arising under this BTA and the Transaction Documents that is not paid when due (subject to any applicable cure periods).

4.3 Release of Performance Security. GPC will return the Initial Performance Security to Seller within 10 Business Days after Seller furnishes the Construction Period Performance Security. GPC will return the Construction Period Performance Security to Seller within 10 Business Days after Seller furnishes the Post-Construction Period Performance Security. GPC will return the Operating Period Performance Security to Seller within 10 Business Days after the fifth anniversary of Final Completion. Despite any other provision in this BTA, upon the expiration or earlier termination of this BTA, the Performance Security required under Section 4.1 (*Performance Security*) will remain in place in an amount equal to the aggregate value of the Claims by or against GPC under or related to this BTA made in good faith and then pending, if any, but no more than the aggregate amount required under Section 4.1, which Performance Security provided under Section 4.1 will only then be released once any pending Claims are resolved and any monies due have been paid to GPC.

4.4 EPC Contractor Performance Security. Seller will cause the EPC Contract to require the EPC Contractor to provide and maintain through the end of the EPC Contract warranty period Performance Security in the aggregate amount of the EPC Contract Price. The amount of this Performance Security may be reduced Dollar-for-Dollar with any EPC Contract Price sums paid to EPC Contractor, except that (i) Performance Security provided by the EPC Contractor must not decrease to an amount less than 5% of the EPC Contact price; and (ii) EPC Contract Performance Security cannot be reduced more than once monthly. This Performance Security will name GPC as an additional beneficiary.

4.5 Material Credit Change. If at any time that GPC is holding Performance Security in the form of a Seller Guaranty, a Material Credit Change occurs concerning Seller Guarantor, then within five Business Days after the occurrence of the Material Credit Change, Seller must deliver to GPC replacement Performance Security: (i) in a form other than a Seller Guaranty; or (ii) in the form of a Seller Guaranty from a Person that is Creditworthy.

4.6 Pre-Approval of Performance Security. For any Performance Security required by this BTA, including any amendment of Eligible Collateral posted as EPC Contract Performance Security, Seller must deliver draft Eligible Collateral to GPC at least 10 Business Days before the applicable Performance Security due date.

4.7 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 BTA 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 A-2 (*Notices*).

PART 5 COVENANTS OF THE PARTIES

Pre-Closing Covenants of the Parties. After the Effective Date, and before the Closing:

5.1.1. Coordination and Cooperation. Each Party will: (i) as promptly as is reasonably practicable, diligently and in good faith use commercially reasonable efforts to cause each Firm Date Condition and Closing condition in this BTA to be satisfied; and (ii) coordinate and cooperate with the other Party in gathering and providing information, and supplying assistance, as is reasonably requested by the other Party. Without limiting any other provision of this BTA regarding approvals, Seller and GPC will each individually use commercially reasonable efforts to obtain, without modification or condition unacceptable to GPC in its sole discretion, all authorizations, Consents, Orders, and approvals of, and to give all notices to, and make all filings with, all Governmental Authorities (including those pertaining to the Permits and the Commission Certificate) and third parties that may be or become necessary for the performance of its

obligations under this BTA. Each Party will cooperate fully with the other Party in promptly seeking to obtain each authorization, Consent, Order, and approval, and to give any notice, and make any filing as may be necessary to carry out the intent of this BTA. Before and during the pendency of any notice and approval or waiting period with respect to any request for a Governmental Authority Consent, each Party will (i) consult with the other Party before providing any supplemental information to the applicable Governmental Authority; (ii) provide prompt written notice to the other Party of all Orders and material actions concerning the BTA issued by a Governmental Authority; and (iii) except with respect to the Commission and except as otherwise directed by the applicable Governmental Authority, permit the other Party, at its election, to participate in any substantive discussion or meeting with the applicable Governmental Authority that reasonably relates to or bear upon such filings.

5.1.2. Access to the Project Site. From and after Effective Date until the Closing, Seller must provide GPC and its Representatives non-exclusive, reasonable rights of access, ingress, and egress to and from the Project Site at such times as may be reasonably required in connection with any inspection of the Project Site, and areas adjacent to the Project Site. GPC and its Representatives will comply with Seller's and EPC Contractor's, as applicable, policies and procedures regarding safety and security while on the Project Site.

5.1.3. Further Requirements. Each Party will use commercially reasonable efforts to do and perform, or cause to be done and performed, all further acts, and will execute and deliver all further agreements, certificates, instruments, and documents, as the other Party may reasonably request in order to effect the agreements set forth in the Transaction Documents, and the consummation of the transactions contemplated in this BTA. Seller will promptly provide GPC with all materials and documentation reasonably requested by GPC for its due diligence review of the Project Assets and Assumed Liabilities and will promptly and diligently cooperate with GPC in its due diligence process, including responding within a commercially reasonable period to all inquiries.

5.1.4. Failure to Act. Subject to Section 5.1.5 (*No Obligation to Provide Proprietary Information*), neither Party will take any action, and will not permit any action controlled by it to be taken, that would reasonably be expected to delay the completion of the transactions contemplated by this BTA.

5.1.5. No Obligation to Provide Proprietary Information. Despite any other provision in this BTA: (i) neither Party will be obligated to provide the other Party with proprietary information relating to its businesses or any information that could reasonably be expected to result in a violation of any applicable law or Contract, or constitute a waiver of any attorney-client privilege or attorney work product protection; and (ii) GPC will not be required to agree to, accept, or become subject to any Burdensome Condition.

5.2 Post-Closing Covenants.

5.2.1. General Cooperation. Following the Closing, Seller must accomplish all tasks that are incidental and necessary to Seller's general obligation under this BTA to complete the Project in accordance with this BTA, including to achieve Substantial Completion and Final Completion. Until Seller achieves Final Completion, Seller will be fully liable to GPC under this BTA for all acts and omissions of EPC Contractor and any Subcontractor, the same as if any such act or omission had been performed or omitted to be performed by Seller directly.

5.2.2. Access to the Project Site. From and after Closing, GPC will provide Seller and the Seller Parties non-exclusive, reasonable rights of access, ingress, and egress to and from the Project Site as reasonably required to perform Seller's obligations under this BTA, the EPC Contract, and the other Project Contracts. To the extent needed for the purpose of achieving Final Completion, and until Final Completion has occurred, Seller will continue to have control over the completion of the Project and access to the Project Site in all day-to-day construction, commissioning, and operational activities.

5.2.3. Disputes under Project Contracts. Regarding any dispute under a Project Contract that rises to a formal proceeding, Seller must: (i) promptly notify GPC of the dispute; and (ii) provide GPC with any information that Seller obtains with respect to the dispute. Seller must not resolve or settle the dispute without the prior written consent of GPC, not to be unreasonably withheld.

5.2.4. No Amendment to Project Contracts. Until Final Completion, GPC will not amend or modify the Project Contracts, including by entering into any change orders, without Seller's prior written consent, not to be unreasonably withheld. The rights provided to Seller under this Section 5.2 (*Post-Closing Covenants*) are irrevocable and non-terminable until Final Completion (except a termination of this BTA

in accordance with it terms), and if, as of Final Completion, Seller has any Claims it is prosecuting under the EPC Contract or a Project Contract, such rights will survive with respect to such Claims until resolution.

5.3 General Covenants of Seller

5.3.1. Affirmative Covenants of Seller. Before the Closing Date, Seller must take the following actions:

(i) design the Project so as to achieve the Performance Guarantees, each as confirmed by the Performance Tests;

(ii) obtain and maintain, or cause to be obtained or maintained, insurance on the Project and Project Site, effective as of the start of construction in accordance with Exhibit T (*Insurance Requirements*);

(iii) deliver true, correct, and complete copies of draft and final Reports, studies, and Design Documents required to be delivered under this BTA;

(iv) ensure all Project Assets are legally and beneficially owned and titled in the name of the Seller prior to Closing;

(v) ensure GPC and its Representatives have a right to a full-time presence at the Project Site and a right to reasonably access and inspect the Project Site, the Project Assets, and the Books and Records, including to ensure compliance with the requirements of this BTA;

(vi) deliver to GPC: (i) one or more commitments for title insurance for the Project Site; and (ii) a current preliminary ALTA survey. GPC may provide Seller a title objection letter that identifies Firm Date title objections and required exceptions; and

(vii) conduct its business in the ordinary course (subject to certain approval rights of GPC under the terms of this BTA), protecting its interests against material changes, but affording Seller the flexibility to continue necessary development of the Project.

5.3.2. Negative Covenants of Seller. Before the Closing Date, Seller must not take, and must cause its Affiliates not to take, any of the following actions without GPC's prior written consent:

(i) except as required by this BTA, modify in any material respect, amend, or terminate any Project Contract (including the EPC Contract, the Major Supply Agreements, and the Interconnection Agreement), or Real Property Agreement. Any such actions will only be deemed "material" if the adverse impact to GPC (or, after the Closing, the Project), individually or in the aggregate, is greater than the threshold amount specified in Exhibit A-1 (*Project Information*) concerning modifications, amendments, or termination of Project Contracts or Real Property Agreements;

(ii) enter into an engineering, procurement, and construction agreement or major supply agreement that does not conform (in all material respects) to the requirements of this BTA, including compliance with the Technical Specifications;

(iii) other than the EPC Contract, the Major Supply Agreements, and the Interconnection Agreement, enter into any material Project Contract or Real Property Agreement. Any such actions will only be deemed "material" if the adverse impact to GPC (or after the Closing, the Project), individually or in the aggregate, is greater than the threshold amount specified in Exhibit A-1 (*Project Information*) concerning new Project Contracts or Real Property Agreements;

(iv) send any notices declaring an event of force majeure or the default of any counterparty to a Project Contract, or any notice that could reasonably be expected to have a Seller Material Adverse Effect under any Project Contract without first notifying GPC;

(v) initiate, or threaten to initiate, any litigation or adversarial proceeding that would reasonably be expected to impact GPC, the Project Site, the Project Assets, the Assumed Liabilities, or the Project;

(vi) release, waive, settle, or compromise any dispute, or pay damages under any settlement or compromise of any proceeding, relating to the Project, or the Project Assets;

(vii) sell, lease, license, assign, transfer, or encumber (including any transfer to Seller or any of its Affiliates) any Project Assets to any Person;

(viii) make any material change in the book or accounting methods used by or applicable to the Books and Records, except as required by GAAP;

(ix) loan, gift, sell, lease, license, assign, convey, transfer, or encumber in any manner any Project Assets to any Person, other than as contemplated under this BTA;

(x) incur or assume Indebtedness (excluding any Indebtedness outstanding as of the Effective Date), other than the Permitted Indebtedness;

(xi) make, revoke, or change any Tax election, change any Tax accounting method, policy, or practice, file any amended Tax Return, or claim for refund, enter into any closing agreement, settle, or otherwise compromise any Tax claim or assessment relating to the Project Assets or the Project, file any request for a ruling or special Tax incentive with any Governmental Authority, surrender any right to claim a refund of Taxes, or consent to any extension or waiver of the limitation period applicable to any Tax claim or assessment relating to the Project Assets or the Project, enter into any Tax allocation, sharing, reimbursement, or indemnity agreement, or take any other similar action relating to the Project Assets or the Project;

(xii) incur, create, or assume any Lien on the Project or the Project Assets, other than Permitted Liens created in the ordinary course of business;

(xiii) take any action that would result in any additional Governmental Authority having jurisdiction over the Project, except as contemplated Sections 2.13 (*Project Permits*) and 3.5 (*Governmental Approvals*);

(xiv) amend, modify, terminate, or fail to renew any insurance policy listed on Schedule 2.14(i), or cause any such policy to no longer be in full force and effect, fail to pay any premium owed with respect to any such policy, or provide a notice of cancellation or termination of any such policy;

(xv) amend or modify, fail to maintain or obtain, or terminate any Project Permit;

(xvi) solicit any Person, or allow any Seller Affiliate to solicit any Person, to acquire the Project Assets;

(xvii) take any action or fail to take any action that would reasonably be expected to materially adversely affect the Project Assets; or

(xviii) commit or agree to do any of the preceding.

5.3.3. Seller Responsible for Construction Costs. Despite any other provision in this BTA, Seller is responsible for all Construction Costs, including all payment and other obligations arising under the EPC Contract, the Major Supply Agreements, and other Project Contracts, whether incurred or payable before, on, or after the Closing Date. Other than with respect to Post-Closing GPC EPC Change Order Costs, Seller is responsible for all costs associated with EPC Change Orders, whether submitted or approved prior to or after Closing. However, certain Required Change Orders may allow for an adjustment to the Purchase Price in accordance with Section 9.2.3 (*Required Change Orders*) and Section 1.3.2 (*Purchase Price Adjustments*). For the avoidance of doubt, other than with respect to Post-Closing GPC EPC Change Order Costs, GPC will not be responsible for any Construction Costs or any costs associated with EPC Change Orders (other than to the extent GPC has liability for Required Change Orders), whether they arise or are payable before, on, or after the Closing Date.

5.4 General Covenants of GPC. GPC will submit the executed BTA for Commission approval in accordance with Section 1.5 (*Regulatory Matters*).

5.5 Standard of Conduct. Unless explicitly stated otherwise in this BTA, whenever the Parties or their Representatives are required to exercise their discretion: (i) to make a decision; (ii) to give Consent; (iii) to express satisfaction or approval; (iv) to determine value; or (v) otherwise to take action which may affect their respective rights and obligations under this BTA, the exercise of discretion will be made in a reasonable manner and in good faith, consistent with this BTA so as to reasonably minimize any disruption to the other Party, and having regard to all the reasonably applicable circumstances.

PART 6 GENERAL OBLIGATIONS OF SELLER

6.1 Seller's General Obligations.

6.1.1. Obligations Before and After the Closing. Seller's general obligations under this BTA are as follows:

(i) Before Closing, Seller must cause the Project to achieve Mechanical Completion in accordance with the terms of this BTA and the EPC Contract;

(ii) At Closing, Seller must convey to GPC the Project Assets (other than the EPC Contract and the Major Supply Agreements and other Project Contracts as agreed by the Parties) and the Assumed Liabilities, which will thereby convey all rights to the Project;

(iii) After Closing, Seller must cause the Project to be completed and to achieve Substantial Completion and Final Completion in accordance with the terms of this BTA and the EPC Contract; and

(iv) At Final Completion, Seller must assign the EPC Contract and the Major Supply Agreements (and any other Project Contracts as agreed by the Parties) to GPC;

6.1.2. Compliance with the Technical Specifications. The Project will be constructed, and the Work performed, as required by the Technical Specifications set forth in Exhibit A-3 (*Technical Specifications*).

6.1.3. Additional Compliance Requirements. In addition to the requirements under Section 6.1.2 (*Compliance with the Technical Specifications*), Seller acknowledges that GPC maintains certain standards for, and imposes certain compliance requirements on, Persons doing work for GPC, including Persons coming onto GPC property. A copy of these standards and requirements is found in Exhibit P (*Additional Compliance Requirements*) ("**GPC Compliance Requirements**"). Seller further acknowledges and agrees that, prior to Closing, the GPC Compliance Requirements are aspirational in nature and Seller will, and will cause the EPC Contractor and all other Seller to, use their best efforts to comply with the GPC Compliance Requirements while performing the Work (including while performing Work on the Project Site). If Seller, the EPC Contractor, or any other Seller Party is not able to comply with the GPC Compliance Requirements before Closing, Seller must inform GPC of the reason for that Person's non-compliance. After Closing, Seller must, and must cause the EPC Contractor and all other Seller Parties to, comply with the GPC Compliance Requirements and any reasonable directions GPC may give, while performing the Work (including while performing Work on the Project Site). In no event will Seller be entitled to a Change Order for Seller's or Seller Parties' compliance with the GPC Compliance Requirements, either before or after Closing.

6.2 Seller's Obligations Before Closing. The key terms and conditions of the EPC Contract and the Major Supply Agreements are attached to this BTA as Exhibit I (*EPC Contract*) and Exhibit K (*Major Supply Agreements*), respectively. Seller must: (i) promptly (but in no event later than 90 days after the Effective Date) enter into an EPC Contract on terms equal to or better (from GPC's perspective as the future owner of the Project) than those attached to this BTA as Exhibit I (*EPC Contract*); (ii) by no later than two Business Days after the Firm Date, issue the Full Notice to Proceed under the EPC Contract; (iii) promptly (but by no later than 90 days after the Effective Date) enter into the Major Supply Agreements on terms equal to or better (from GPC's perspective as the future owner of the Project) than those attached to this BTA as Exhibit K (*Major Supply Agreements*) and, within two Business Days after entering into each Major Supply Agreement, issue the notice to proceed (or similar) under each such Contract; (iv) cause EPC Contractor and Major Subcontractors to carry out and complete the Work in accordance with the requirements, duties, and obligations imposed on EPC Contractor and Major Subcontractors under the EPC Contract and the Major Supply Agreements; (iv) ensure that EPC Contractor and every Major Subcontractor design and perform the Work in compliance with applicable law, Prudent Utility Practices, and other BTA requirements (including the Technical Specifications) and the Transaction Documents; (v) maintain the requisite resources, experience, qualifications, and capabilities as required to fully and timely perform its obligations under this BTA; (vi) keep GPC informed as to the status of deliveries, and if any Material or Major Equipment: (a) is not being properly manufactured or fabricated in accordance with BTA requirements and the other Transaction Documents and, if different, the Project Contracts under which they were purchased; or (b) do not otherwise conform with the BTA or the applicable Project Contract requirements, in each case, promptly making GPC aware, and taking necessary corrective action; (vii) subject to GPC's prior review and approval, enter into all necessary Project Contracts (including the Real Property Agreements for necessary site control of the Project Site); (viii) manage the interconnection queue process and ensure the completion of all necessary interconnection studies and processes, including any affected system study; (ix) subject to GPC's prior review and approval, execute and perform under the Interconnection Agreement; (x) obtain all Project Permits, consistent with the Project Schedule; and (xi) accomplish all other tasks that are incidental and necessary to Seller's general

BTA obligation to ensure that the Project is completed in accordance with this BTA.

6.3 Project Site Plan. Seller will not make any material modification or change to the Project Site Plan after the Effective Date without GPC's prior written consent.

6.4 EPC Contractor and Subcontractors.

6.4.1. Pre-Approved Subcontractors. In connection with its performance of this BTA, Seller will cause the EPC Contractor to purchase: (i) if applicable under the EPC Contract scope, the Major Equipment from the Major Subcontractors set forth in Exhibit J (*Pre-Approved Subcontractors*) under Major Supply Agreements; and (ii) any other Project Equipment identified in Exhibit J from the GPC-approved Subcontractors identified in that Exhibit. Seller will not use any Person as a Subcontractor of the Project Equipment listed in Exhibit J that is not on Exhibit J unless Seller obtains GPC's prior written approval, in GPC's sole discretion, of that Person as a Subcontractor. As a condition to GPC giving its approval to additions to Exhibit J, Seller must provide GPC with all relevant information as GPC may reasonably request and as is reasonably available on the proposed Subcontractor. Seller will cause any contract with any Subcontractor to include the provision of assignability of applicable warranties under the subcontract to GPC.

6.4.2. No Privity. GPC will have no contractual obligation to, and will not be deemed to be in privity with, EPC Contractor or any Subcontractor until GPC takes assignment of the applicable Project Contracts. For acts and omissions occurring before Final Completion, Seller will be fully liable to GPC under this BTA for all acts and omissions of EPC Contractor and each Subcontractor under any Project Contract not assigned to GPC at Closing to the same extent as though any such act or omission had been performed or omitted to be performed by Seller directly. In no case will Seller's engagement of EPC Contractor or any Subcontractor relieve Seller of any of its obligations or Liabilities under this BTA and, notwithstanding the use of EPC Contractor or any Subcontractors under this BTA, Seller will remain fully and primarily liable to GPC for the full and complete performance of Seller's obligations under this BTA.

6.5 Compliance with Law; Standards of Performance. Seller must comply, and must cause EPC Contractor and each Major Subcontractor to comply, with all applicable laws and Prudent Utility Practices with respect to the Work required by this BTA. As between Seller and GPC, Seller will be responsible for ascertaining the nature and extent of any applicable law, which may affect the Work, the Project, the operation of the Facility before Substantial Completion, or the Project Site as a result of Seller's performance of its BTA obligations. Without limitation, Seller must cause EPC Contractor and each Major Subcontractor to comply with all NERC Reliability Requirements that are applicable to the Facility or the Work.

6.5.1. Foreign Asset Control Compliance. Seller represents and warrants as follows at all times during the term of this BTA: (i) it is not, and it does not act on behalf of any other Person that is, named on the "List of Specially Designated Nationals and Blocked Persons" maintained by the U.S. Department of the Treasury's Office of Foreign Assets Control ("**OFAC**"); (ii) it is not, and it does not act on behalf of any other Person that is the subject of any other sanctions programs administered by OFAC; and (iii) it is in material compliance with all applicable laws and regulations relating to the prevention of money laundering and the financing of terrorism.

6.5.2. Foreign Corrupt Practices Act Compliance. Seller agrees that it will not corruptly offer, promise, or give any pecuniary benefit or other thing of value, whether directly or through intermediaries, in connection with this BTA and the transactions contemplated by this BTA: (i) to a Foreign Public Official for receipt by that Official; (ii) for a third party on behalf of that Official, in order to influence any act or decision of that Official, that the Official act or refrain from acting in violation of the performance of his or her official duties; or (iii) in order to obtain or retain business or other improper advantage for Seller in connection with Seller's work related to this BTA. Seller warrants and represents that, before the execution of this BTA, neither Seller nor any of its Affiliates took any action with respect to any work related to this BTA that would have violated this Section 6.5.2 (*Foreign Corrupt Practices Act Compliance*) had this BTA been signed at that time. As used in this Section 6.5.2: (a) "**Foreign Public Official**" and "**Official**" mean any officer or employee of a foreign government, or any department, agency, or instrumentality thereof; any officer or employee of a public international organization; any foreign political party or official thereof, or any candidate for foreign political office; and (b) "**country**" includes all levels and subdivisions of a government from national to local.

6.5.3. No Toleration of Unacceptable Behavior (Ethics). Seller and the personnel of EPC Contractor

and any Subcontractor must, at all times, conduct their business activities on the Project Site in compliance with all applicable laws, and must not, at any time, exhibit any of the following behaviors:

(i) harassment or discrimination of any kind or character, including conduct or language that: (a) is derogatory to any individual on the basis of race, gender, color, religion, age, national origin, disability, veteran status, sexual orientation, gender identity, or other protected class; or (b) creates an intimidating, hostile or offensive working environment. Specific examples include, but are not limited to, jokes, pranks, epithets, written or graphic material, or hostility or aversion toward any individual or group;

(ii) any conduct or act such as threats or violence that creates a hostile, abusive, or intimidating work environment (examples include fighting, abusive language, inappropriate signage, use or possession of firearms on a work site, destruction of property, or the threat of any of these behaviors);

(iii) use of computers, e-mail, telephone, or voice-mail system that in any way involves material that is obscene, pornographic, sexually oriented, threatening, or otherwise derogatory or offensive to any individual on the basis of race, gender, color, religion, age, national origin, disability, veteran status, or sexual orientation;

(iv) any conduct or act that violates this Section 6.5.3 (*No Toleration of Unacceptable Behavior (Ethics)*);

(v) engagement in any activity that creates a conflict of interest or appearance of the same, or that jeopardizes the integrity of GPC, EPC Contractor, or any Subcontractor (including gifts or gratuities to GPC employees);

(vi) work practices that are unsafe or harmful to the natural environment; or

(vii) posting in any social media forum (e.g., Facebook, Twitter, blogs) or communicating in any other public setting in a manner that violates any provision of this BTA (e.g., divulging confidential information or making an harassing or discriminating statement about, or directed at, another Person), regardless of whether the posting or communication is made using resources of GPC, EPC Contractor, the personnel of any Subcontractor, or a third party, and whether or not made during work hours. No personnel of EPC Contractor or any Subcontractor may imply or indicate in any social media forum or other public setting that he or she speaks on behalf of GPC.

Seller agrees to communicate these required behavior standards to all the personnel of EPC Contractor and any Subcontractor working on the Project Site. Seller will, at a minimum, comply with these behavior standards, and will require and ensure that all personnel of EPC Contractor and any Subcontractor working on the Project Site comply with the same behavior standards in connection with the Work and Seller's performance under this BTA. If any personnel of Seller, EPC Contractor or any Subcontractor observes a GPC employee doing, or is ever asked by a GPC employee to do, something that it considers to be unethical, illegal, or in violation of these behavior standards, GPC expects Seller to notify GPC immediately or to call GPC's Concerns Program at (1-800-754-9452). However, the failure to notify GPC will not constitute a breach of this BTA, unless the failure constitutes gross negligence or willful misconduct.

6.5.4. Drug and Alcohol-free Workplace. Seller acknowledges that GPC is committed to maintaining a drug- and alcohol-free workplace and requires that the personnel of Seller, EPC Contractor, and any Subcontractor performing Work on the Project Site that directly impact GPC's facilities, equipment, processes, operations, or personnel is free from the effects of alcohol or drugs that may impair work performance. Seller must maintain a safe, secure, and drug- and alcohol-free workplace at all times during the term of this BTA. All personnel of Seller, EPC Contractor, and any Subcontractor working on the Project must avoid involvement with drugs or use of alcohol that could compromise their fitness for duty or ability to work safely. In furtherance of these obligations, Seller must comply, and must ensure that EPC Contractor and any Subcontractor also comply, with the additional drug- and alcohol-free workplace and ethics requirements set forth in Exhibit P (*Additional Compliance Requirements*).

6.6 Permits.

6.6.1. Obligation to Obtain and Maintain Permits. Subject to Section 6.6.2 (*Permit Application Review*), Seller will obtain and maintain in accordance with all applicable laws, all Project Permits required

in connection with the design, engineering, development, construction, startup, testing, commissioning, completion, ownership, and operation of the Project in accordance with this BTA and the other Transaction Documents. GPC will be properly included as the permitee, co-permitee, or authorized party with respect to all Project Permits.

6.6.2. Permit Application Review. Seller will provide GPC copies of any application for a Project Permit which is to be held by GPC after the Closing ("**Permit Applications**") that has not been obtained prior to the Effective Date and any Permit Application or other document with respect to any proposed amendment, modification, or supplement of an issued Permit, prior to submission to the applicable Governmental Authority of a Permit Application. GPC will have the right to review and approve any Permit Application that relates to any post-Closing obligation or restriction. GPC will cooperate and respond to any reasonable and timely request from Seller for input or information with respect to a Permit Application. After a Permit Application is in final form, for a Permit Application that relates to any post-Closing obligation or restriction, Seller will seek confirmation from GPC that the Permit Application is approved and this approval will be deemed given if GPC does not respond within fifteen Business Days after submission by Seller affirmatively indicating that the Permit Application is not approved with explanation of the basis for its determination in reasonable detail.

6.6.3. Final Permits. Seller must provide GPC copies of all Project Permits issued to Seller or the Project after the Effective Date by the applicable Governmental Authority. Each issued Project Permit will be deemed sufficient to satisfy the conditions set forth in Section 6.6.2 (*Permit Application Review*) if it: (a) is, or will be on the Closing Date, valid, binding, or in full force and effect; (b) is not conditioned on any future payments after the Closing that are not Excluded Liabilities; and (c) does not restrict the use, performance, or output of the Project as currently contemplated, or has or would reasonably be expected to have an adverse and material effect on the capacity, availability, operations (including costs of operations), maintenance (including the cost of maintenance), reliability, Project Schedule, or safety (including safety of construction) of the Project. As a condition of Final Completion, Seller must close out all Project Permits that remain open, including the National Pollutant Discharge Elimination System (NPDES) permit. Seller will remain responsible for getting the Notice of Termination (NOT) verified and signed by the applicable Governmental Authority.

6.6.4. EPC Contractor and Major Contractor Permit Obligations. Seller must and must cause EPC Contractor and each Major Subcontractor to undertake commercially reasonable efforts to support GPC in obtaining any Permit to be obtained by GPC, including providing engineering and environmental data and statistical information as may be reasonably requested by GPC.

Seller will and cause EPC Contractor and any applicable Subcontractor to, at its or their sole cost and expense, obtain and maintain and close out to GPC's reasonable satisfaction all applicable construction and construction-related Permits that are required by applicable law in order to undertake and perform the Work and their respective obligations under the Project Contract to which they are a party.

6.6.5. Compliance with Required BMPs and Recommended Best Practices. On a regular basis until Final Completion, or as otherwise required or recommended by any Governmental Authority, Seller must review and maintain, and comply with all Required BMPs in connection with the design and construction of the Project. If Seller: (i) is notified of its failure to comply with; (ii) fails to comply with; or (iii) otherwise becomes aware that it is not in compliance with, any Required BMPs, Seller must take steps to regain compliance in accordance with any requirements of any applicable Governmental Authority or otherwise as promptly as commercially practicable. Seller must review all updates to, and any new, Required BMPs on a regular basis before Final Completion and must take steps as may be required to comply with any new or updated Required BMPs in accordance with this Section 6.6.5 (*Compliance with Required BMPs and Recommended Best Practices*). In addition, on a regular basis until Final Completion, Seller must review all Recommended Best Practices in connection with the design and construction of the Project. Seller must always 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 before Final Completion and must take steps to comply with the same in accordance with this Section 6.6.5. If, while acting in good faith and using all commercially reasonable efforts Seller is unable to comply with any Recommended Best Practices before Final Completion, Seller must notify GPC of this inability and the reason Seller 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 reasonable satisfaction. On each anniversary of the Effective Date until Final Completion, Seller must provide to GPC

an Environmental Compliance certificate in the form of Exhibit X (*Environmental Compliance Certification*) signed by a duly authorized officer of Seller.

6.7 Interconnection. Seller must establish a queue position with Transmission Service Provider for all requisite systems studies in order to enter into an Interconnection Agreement that allows the Project to achieve Substantial Completion in accordance with the Project Schedule. Seller must oversee and manage all necessary systems studies and affected systems studies and must engage in all necessary Transmission Service Provider processes. Seller must pay all Interconnection Costs. Seller will be responsible for the management of the interconnection queue process. If the Project is interconnected with GPC's transmission system, the Parties acknowledge that GPC: (i) is acting solely in its capacity as a transmission supplier and its activities under this BTA are separate and apart from its duties as a transmission provider; and (ii) will have no liability under this BTA for actions performed in its role as a transmission provider.

6.8 Opportunities for Other Contractors. Seller must, in accordance with GPC's reasonable instructions, afford to other contractors identified by GPC all reasonable opportunities for carrying out their observation and inspection work, so long as the same do not materially obstruct or disturb the progress of the Work. Seller must also afford access to GPC's employees, including employees who will operate and maintain the Project, to perform their work at the Project Site.

6.9 Labor and Employment.

6.9.1. Compliance by EPC Contractor and Major Subcontractors; Employees. Seller must, and must cause EPC Contractor and each Subcontractor to, ensure that all construction Contracts and subcontracts of any tier for the Project be awarded in compliance with all applicable laws. All employees working on the Project must be allowed to exercise their right to engage in protected concerted activity, as defined in Section 7 of the National Labor Relations Act, as amended, or to refrain from doing so, without any discrimination or other adverse consequence. Seller must, and must cause EPC Contractor and each Subcontractor at any tier to, comply with all applicable laws regarding labor relations and employment matters, including refraining from any discrimination against any employee on the basis of a protected category or the employee's membership or lack of membership in any labor organization. Any administrative or civil proceeding filed against a Seller Party must be promptly reported to GPC. Nothing in this provision will affect any obligation of a Subcontractor under a lawful collective bargaining agreement applicable to some or all of the Subcontractor's operations on the Project.

6.9.2. Collective Bargaining Agreements. Seller must be aware of, familiar with, and comply with (as applicable to Seller's performance of the Work), all collective bargaining agreements that do or may pertain to or affect the Work. Seller must plan and conduct its operations so that its employees and Subcontractors of any tier will work harmoniously with GPC employees and other workers employed on the same or related projects to assure that there will be no delays, work stoppages, excessive labor costs, or other labor difficulties.

6.9.3. No Extension of Outside Closing Date. Despite any other BTA provision, Seller will have no Claim for a Change Order, an extension of the Project Schedule or Outside Closing Date, or any loss, damage, or additional cost and expense of any kind in respect of any alleged or proved unsuitability, scarcity, inefficiency of the labor it may engage or wish to engage or any requirement to engage union labor.

6.10 GPC's Inspection Right.

6.10.1. General Access, Information Covenant. Subject to Section 6.10.5 (*Safety; Compliance with Law*), commencing on the Effective Date and ending on the earlier of the Final Completion and the date as which this BTA is validly terminated in accordance with its terms, Seller and its Affiliates must at all times provide GPC, its Related Persons, and its authorized Representatives access to the Project Site, the Project Assets, and the Books and Records, for the purpose of inspecting the status, progress, quality, scope, schedule and coordination of the Work and Seller's compliance with this BTA. Seller must also provide GPC, and its Representatives, the right to attend meetings (whether conducted in-person, telephonically or through similar medium) relating to the Project which are attended by Seller and EPC Contractor or Major Subcontractors and related to status, progress, quality, scope, schedule, and coordination of the Work. However, any access provided for in this Section 6.10.1 (*General Access; Information Covenant*) will not materially and unreasonably impede the construction of or completion of the Project.

6.10.2. Factory Tests. Seller must provide GPC and its Representatives with reasonable advance notice of any factory acceptance tests or other similar tests being performed by its Subcontractors that supply any Major Equipment and the relevant off-site location. Seller must ensure that GPC and its Representatives have the right to attend and observe any factory acceptance test.

6.10.3. No Liability. Inspections under Section 6.10.1 (*General Access, Information Covenant*) are solely for the benefit of GPC. Any inspection or failure to inspect, and any objection or failure to object by GPC will not: (i) relieve Seller, EPC Contractor, or any Major Subcontractor of its respective obligations under any Project Contract; (ii) be used as evidence that GPC agreed that Seller, EPC Contractor, or any Major Subcontractor fulfilled any obligation under any Transaction Document or Project Contract, or (iii) be a waiver of any GPC right under any Transaction Document.

6.10.4. On Site Access; Construction Activities. Subject to the terms of this BTA), from the Effective Date until the earlier of the Final Completion and the date on which this BTA is validly terminated in accordance with its terms, Seller and its Affiliates must provide GPC, its Related Persons, and its authorized Representatives with Project documentation and information as such Person may reasonably request. Without limiting the foregoing, Seller must provide the following to GPC for review (and Seller will ensure that the EPC Contract provides for the same): (i) the project schedule under the EPC Contract; (ii) copies of the daily and monthly progress reports under the EPC Contract; (iii) copies of plans of the week under the EPC Contract; and (iv) copies of any material design or construction documents prepared under the EPC Contract. Upon GPC's request, Seller will arrange a weekly meeting among Seller, GPC, and the EPC Contractor. GPC may, from time to time during construction and before Final Completion, request that Seller and its Affiliates perform additional work for the Project under the EPC Contract, in which case Seller and its Affiliate will reasonably cooperate by providing pricing and schedule impacts of any GPC proposed additional work. If mutually agreed in a Change Order, any additional work will be at GPC's expense as an addition to the Purchase Price as a GPC-Initiated Change and with Project Schedule adjustment, if any.

6.10.5. Safety; Compliance with Law. In connection with GPC's rights under this Section 6.10 (*GPC's Inspection Right*), GPC and its Representatives will comply with applicable law and the EPC Contactor's Safety Assurance Program while present on the Project Site.

6.10.6. Right to Stop Work for Cause.GPC may order Seller to stop performance of the Work at the Project Site if GPC has a reasonable belief that the activities of Seller or EPC Contractor or their personnel appear to cause, or threaten to cause, danger to life or damage to property, or are otherwise not in compliance with the Project Safety Assurance Program or this BTA. In the event of a stop work order, Seller will not be entitled to a Change Order extending the Project Schedule or adjusting the Purchase Price. The cost of any delay experienced by Seller as a result of any stop work order issued by or on behalf of GPC will be borne by Seller. GPC's right to stop Work under this Section 6.10.6 (*Right to Stop Work for Cause*) will be without prejudice to any other right or remedy GPC may have.

6.11 Drawings and Manuals.

6.11.1. Location of Contractor Drawings and Manuals. Seller must always keep a copy of the most recent version of the Contractor Drawings and Manuals at Seller's office on the Project Site to be made available for GPC's review. In addition, Seller must provide and make available to GPC electronic versions of Contractor Drawings and Manuals through a file transfer protocol site to be maintained by Seller.

6.11.2. Contractor Drawing and Manuals Requirements. The Contractor Drawings and Manuals: (i) will be prepared and submitted in accordance with: (a) the Technical Specifications; (b) Exhibit Q (*Contractor Deliverables Table*); and (c) the "Document Submittal Specifications" in Exhibit P (*Additional Compliance Requirements*); and (ii) when completed, will be in sufficient detail to accurately represent the Project as constructed and, with respect to all drawings of "as-built" Work, the drawings must be in such detail as will enable GPC to operate, maintain, and repair all parts of the Project. The Contractor Drawings and Manuals must be maintained and available, with up-to-date drawings, specifications, and design sheets, for training of GPC's personnel as set forth in Section 6.12 (*Training*).

6.11.3. Draft Manuals. At least 60 days before the expected Closing Date, Seller will provide GPC with initial redline drafts of the final Contractor Drawings and Manuals for review ("**Draft Manuals**"). The Draft Manuals will contain the information described in Section 6.11.2 (*Contractor Drawing and Manual Requirements*), other than the drawings which, in accordance with this Section 6.11.3 (*Draft Manuals*),

must be maintained to be up to date. As a condition of Substantial Completion, Seller must provide two complete sets of the Draft Manuals to GPC at least 60 days before Substantial Completion.

6.11.4. Final Copies. Seller must provide GPC with both hard and electronic final copies of the Contractor Drawings and Manuals. Seller must provide GPC five final hard copies of the Contractor Drawings and Manuals within the earlier of: (i) 60 days after Substantial Completion; and (ii) Final Completion. GPC will not be required to deliver the Final Completion Certificate until all Contractor Drawings and Manuals have been delivered.

6.11.5. Modifications. Any modification to the Contractor Drawings and Manuals made necessary because of any Punch List item or modification to the Work must be issued as addenda to the Contractor Drawings and Manuals within 30 days after following completion.

6.12 Training. Seller or the EPC Contractor, as applicable, must train GPC's personnel (or other employees or agents of GPC) before Substantial Completion and as required by the Technical Specifications, including training (including on-site and classroom) on the interconnection and technical specifications of the Project and operation and maintenance of the Project. Seller must provide this training directly to GPC's personnel and ensure it is conducted by a trainer experienced in the operation and maintenance of projects like the Project.

6.13 Safety.

6.13.1. Seller Safety Obligations. Seller will be solely responsible for being aware of and initiating, maintaining, and supervising compliance with all safety laws, regulations, precautions, and programs in connection with the performance of this BTA. Before Closing, the EPC Contractor's health and safety plan for the Project will be attached to this BTA as Exhibit M (*Project Safety Assurance Plan*) (the "**Project Safety Assurance Program**"). Prior to the start of, and throughout the performance of, the Work, Seller will ensure that each of its employees, together with all employees of its EPC Contractor and each Major Subcontractor: (i) are fully informed concerning all safety, health, and security laws and requirements pertaining to the Work and the Project Safety Assurance Program; (ii) are qualified to perform the Work under applicable Occupational Safety and Health Administration ("**OSHA**") regulations; (iii) have completed all training required under applicable OSHA regulations to perform the Work; (iv) have all licenses and certifications required to perform the Work; and (v) understand and follow Prudent Utility Practices. Seller must cause the EPC Contractor to conduct all operations under this BTA in accordance with the Project Safety Assurance Program.

6.13.2. Violations. If Seller, EPC Contractor, or any Major Subcontractor fails to promptly correct any violation of any applicable law, Prudent Utility Practice, or the Project Safety Assurance Program, GPC may suspend all or any part of the Work until the time that Seller corrects the violation. Seller will not be entitled to any extension of time or reimbursement for costs caused by the suspension. GPC's failure to suspend any of Seller's operations will not relieve Seller of its responsibility for breach of applicable law, Prudent Utility Practices, or the Project Safety Assurance Program. Seller will maintain an accurate record of and will promptly report to GPC all cases of property damage in excess of $100 to property of third parties (not including EPC Contractor or any Subcontractor) and of death, occupational diseases, or injury to employees or any other third parties and incident to Work performed under this BTA. Seller must promptly notify GPC and provide a copy of any safety citation issued by any Governmental Authority.

6.14 Site Security.

6.14.1. Security Prior to Closing Date. Seller must secure the Project Site and the Work at all times before the Closing Date in accordance with Seller's established security procedures, which, at a minimum, must ensure compliance with all applicable law and the Project Permits. All Seller Parties must strictly adhere to all security policies and procedures applicable to the Project Site.

6.14.2. Security After Closing Date. At all times after the Closing Date and before Substantial Completion, Seller must secure the Project Site and the Work, including controlled access. Seller must, on a 24/7 basis, strictly control the admission of Persons to the Project Site and prohibit and prevent unauthorized Persons from accessing and entering the Project Site. Seller must maintain a daily log of all deliveries of Project Equipment and other items and materials to the Project Site and all Subcontractors and other third parties granted access to the Project Site. Seller's security plan following the Closing Date must, at a minimum: (i) meet or exceed Prudent Utility Practices; (ii) comply with all applicable law; and (iii) meet the requirements of and be reasonably acceptable to GPC. This plan will include a method acceptable to GPC for controlling, identifying, and monitoring Persons in all areas of the Project Site. If

GPC, in its reasonable opinion, believes that Seller's security plan does not meet these standards, GPC will notify Seller of deficiencies in writing and Seller must immediately correct the deficiencies in the security plan and implement the corrections. Seller must implement, maintain, and cause EPC Contractor and all Subcontractors to comply with the security plan and cooperate with any GPC security personnel.

6.14.3. Materials and Project Equipment. Until care, custody, control, and risk of loss transfer to GPC under Section 12.7 (*Risk of Loss; Care, Custody and Control*), Seller will be fully responsible for, and bear risk of loss or damage to, all Work, including Materials and Project Equipment.

6.15 Preservation of Public and Private Access. Seller Parties must not damage, close, or obstruct any highway, road, or other public or private easement, except to the extent allowed by applicable law or a Project Permit. If any facilities are closed, obstructed, damaged, or made unsafe by a Seller Party, Seller will, at its sole cost and expense, make any repair as necessary and will also provide any temporary guards, lights, and other signals as may be necessary or required for safety or by applicable law or the Project Permits.

6.16 Avoidance of Noise and Disturbance. Seller must carry out all Work at the Project Site so as to minimize noise and disturbance, and Seller must indemnify and hold harmless (and at GPC's request, defend, unless GPC elects in its sole discretion to so defend) all GPC Indemnified Parties from and against all Third Party Claims and Liabilities for injury, including death, and property damage caused by, arising out of, or in connection with noise or other disturbance created by a Seller Party that violates applicable laws or any Project Permit.

6.17 Fencing, Protection, Lighting. Seller Parties will provide adequate safety barriers, signs, lanterns, and other warning devices and service to protect any Person having access to or near the Project Site in accordance with applicable laws, Permits, Technical Specifications, or GPC Compliance Requirements. Seller will be solely responsible for any act of trespass or any damage to adjacent property resulting from or in connection with the Work or its operations under this BTA.

6.18 Site Services. Seller Parties must obtain and bear the cost of temporary power, water, fuel, air, and other services as the Seller Parties may require for the purpose of performing the Work.

6.19 Cleanup. Seller Parties must: (i) keep the Project Site, including laydown and storage areas used by Seller Parties, free from accumulation of waste materials, debris, or garbage arising out of the Work; and (ii) before Final Completion, remove and properly dispose of any waste material, debris, or garbage from and about the Project Site in accordance with all applicable law. Upon Final Completion, Seller Parties must leave the Project Site in a condition reasonably satisfactory to GPC.

6.20 Wildlife and Cultural Concerns.

6.20.1. 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 any Environmental Law, or any impact to wildlife habitat, 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 Project, Seller will consult with the relevant Governmental Authorities to determine whether incidental take authorization or a species habitat conservation or management plan is required under any Environmental Law for the Project or the Project Site. If required by any Project Permit, Seller will coordinate with GPC to develop a plan for addressing such impacts, which may include, coordination with federal and state wildlife Governmental Authorities. During development and construction of the Project, any wildlife protected by any Environmental Law discovered on the Project Site will be reported in accordance with such Environmental Law and any applicable conservation or management plans, if any.

6.20.2. Cultural Concerns. Seller will prepare and implement an unanticipated discoveries plan that specifies the procedures Seller, EPC Contractor and Subcontractors will follow if any relic, item, or structure with archaeological, cultural, or historical value (including fossils, coins, articles of value or antiquity, or any Native American relics) are discovered on the Project Site.

6.21 Intellectual Property Rights.

6.21.1. No Action to Violate or Infringe. Seller must not take any action that would violate or infringe any Person's Intellectual Property Rights.

6.21.2. Licenses. Seller must obtain and transfer to GPC perpetual, fully paid up, royalty free, transferable licenses to use all computer programs and any other Intellectual Property Rights necessary for the

ownership and operation of the Project from and after the Closing, together with all warranties related to Intellectual Property Rights.

6.22 Spare Parts

6.22.1. Spare Parts and EPC Contract. The EPC Contract must include all spare parts and consumables necessary for the installation, startup, and commissioning of the Project and the complete performance of the Work through Final Completion. These spare parts and consumables must be located at the Project Site and immediately available to Seller Parties to ensure that all Work, including testing and commissioning activities, continue unimpeded by the absence of spare parts and consumables. GPC will not be liable in any way for Seller's inability to achieve Substantial Completion or Final Completion due to lack of any spare parts or consumables and will not be entitled to a Change Order in respect of the same.

6.22.2. List of Spare Parts. Seller must submit to GPC a proposed list of spare parts and associated pricing for the operation of the Facility after Final Completion by no later than 12 months before Substantial Completion. Within 30 days after receipt of the proposed list, GPC will, in its discretion, procure any spare part or, at GPC's election under a GPC-Initiated Change, request Seller to procure, or cause to be procured, spare parts and have spare parts delivered to the Project Site. Upon GPC's request, Seller must meet with GPC and its designees to discuss the proposed spare parts inventory.

6.22.3. GPC Spare Parts. If available, GPC will allow Seller to use any spare part or consumable owned by GPC, but in no event will GPC be liable or will Seller be entitled to a Change Order if the absence of any spare part or consumable impacts completion of the Work. If Seller uses a GPC-owned spare part or consumable with GPC's written consent, Seller must expeditiously replace the spare part and consumable at Seller's sole cost and expense. GPC does not warrant the condition, quality, suitability, absence of defects, fitness for any purpose, or aspect of any GPC-supplied spare part, and if Seller uses any GPC-supplied spare part, Seller does so at Seller's own risk.

6.23 Insurance. As set forth in Schedule 2.14(i) and Exhibit T (*Insurance Requirements*), Seller must maintain or cause to be maintained in full force and effect insurance coverage with respect to the Project until the Closing except for Builders Risk coverage which will remain in place until Substantial Completion. From and after the Closing, GPC will be solely responsible for procuring or causing to be procured insurance with respect to the Project except for Builders Risk coverage which will remain in place until Substantial Completion. GPC will be solely responsible for providing insurance and for responding to any claim pertaining to the period after the Closing. If any claim was made before the Closing Date (or after the Closing Date with respect to claims pertaining to the period prior to the Closing Date) under any insurance policy applicable to the Project or Project Assets, then Seller must, at Seller's expense, file, notice, and otherwise continue to pursue the claim and recover proceeds under the terms of the policies (but only to the extent the policy otherwise allows recovery).

6.24 Reports.

6.24.1. Final Reports. Before the Effective Date, Seller must deliver to GPC the latest version of each Report. GPC will deem each Report acceptable if: (i) it has been prepared by a qualified firm or consultant in accordance with Section 6.24.4 (*Qualified Firms and Consultants*); (ii) it is not materially deficient in form or content in accordance with Prudent Utility Practices, any applicable Project Permit, and any applicable law; and (iii) the content of the Report does not indicate any event, result, occurrence, development, fact, change, or effect of any nature or kind that has or would reasonably be expected to have a Seller Material Adverse Effect.

6.24.2. Change to Reports. If, after delivery to GPC, to Seller's Knowledge there is a material change in any finding or conclusion of a Report delivered to GPC under Section 6.24.1 (*Final Reports*), then Seller must redeliver the Report to GPC in final form to reflect such change (an "**Additional Report**"). Upon delivery of an Additional Report, GPC will have the review and acceptance rights contained in this Section 6.24.2 (*Change to Reports*), which provisions will apply in all respects to the Additional Report. Each Additional Report will be deemed acceptable if it satisfies the requirements in Section 6.24.1 (*Final Reports*).

6.24.3. Reliance Letters. Seller will: (a) obtain from those Persons who prepared the Reports described on Schedule 6.24.3; and (b) use commercially reasonable efforts to obtain from those Persons who prepared material Reports that are not described on Schedule 6.24.3 but that are part of the Project Assets and that GPC reasonably requests, in each case, customary and reasonable letters or other authorizations from such Persons, which letters or other authorizations will allow GPC to rely on each such Report, in

each case, to the extent such Report does not identify GPC as an addressee or recipient or otherwise expressly allow GPC to rely on such Report.

6.24.4. Qualified Firms and Consultants. The firms and consultants listed on Schedule 6.24.4 will be deemed to be qualified for all purposes under this BTA. Any other firm or consultant will be subject to the approval of GPC (not to be unreasonably withheld). Seller may, but is not required to, submit any other firm or consultant for GPC's approval, and its approval will be deemed given if GPC does not affirmatively reject such firm or consultant by notice delivered within fifteen Business Days after Seller's submission, in each case, indicating the basis for any such rejection in reasonable detail.

6.25 Monthly Progress Reports and Progress Meetings

6.25.1. Monthly Progress Reports. After the Effective Date, on or before the fifth day of each month, Seller must provide GPC a monthly progress report, including the information required by Exhibit V (*Requirements for Monthly Progress Reporting*) that details the progress of the Work and projections for future progress (each, a "**Monthly Progress Report**").

6.25.2. Project Problems. In addition to the applicable requirements set forth in Exhibit V (*Requirements for Monthly Progress Reporting*), the Monthly Progress Reports submitted by Seller must specify in detail:

(i) status schedules showing a comparison of the actual Work progress against the Project Schedule;

(ii) any fact, event, or circumstance (each a "**Project Problem**") encountered by any Seller Party during the preceding month (including the failure of GPC to perform any of its obligations under this BTA that might: (a) prevent Seller from completing any Milestone by its respective Milestone Completion Date; or (b) cause Seller to incur additional expenses in completing any Milestone;

(iii) the estimated length of any delay and the estimated amount of any additional cost or expense that may be chargeable to GPC under this BTA, as a result of any Project Problem; and

(iv) to Seller's Knowledge, the cause of any Project Problem specified, and the specific steps taken or proposed to be taken by Seller to correct such Project Problem.

6.25.3. No Relief for Unidentified Project Problems. If Seller fails to specify in writing any Project Problem (an "**Unidentified Project Problem**") with respect to a given monthly period in the applicable Monthly Progress Report, and in such manner and at such time as specified under this BTA as a Project Problem, Seller will not be entitled to rely on any such Unidentified Project Problem as a justification for either: (i) claiming that it is entitled to receive any additional amounts under this BTA (including damages arising out of any alleged failure by GPC to perform any of its obligations that affect the Work); or (ii) failing to complete any Milestone by the specified Milestone Completion Date.

6.25.4. Updates to Monthly Progress Reports. Seller will provide GPC with an update to any Monthly Progress Report upon GPC's request. Until the submission of the next Monthly Progress Report, Seller will promptly notify GPC in writing at any time that Seller has reason to believe that there will be a material deviation from any information in the previously submitted Monthly Progress Report. In addition, Seller will, at no additional cost to GPC, provide any other reports as and when reasonably required by GPC, and will assist GPC in providing any information requested by the Commission in connection with the Project and this BTA.

6.25.5. Progress Meetings. Progress meetings will be held as deemed necessary by GPC, but normally will be held once every two weeks. GPC, GPC's Authorized Representative, and any other Persons designated by GPC will be entitled to attend progress meetings. Following Notice to Proceed, progress meetings will be attended by Seller and EPC Contractor. Progress meetings will be utilized to review the progress of the Work and its compliance with the Project Schedule and to discuss any delay, unusual condition, or critical item that has affected, or could affect, the progress of the Work. Within the last 30 days before Substantial Completion, progress meetings will be held on a daily basis.

6.26 No Liens.

6.26.1. Obligation to keep the Project Site free of Liens. Seller must keep the Work and the Project Site free and clear of all Liens, other than Permitted Liens. If a Lien other than a Permitted Lien is filed by EPC Contractor or any Subcontractors, Seller must, within 30 days after the earlier of: (a) receipt of a

written demand from GPC; or (b) the date on which Seller became aware of the Lien, at Seller's sole expense, discharge, whether by payment or obtaining and recording a lien release bond in a form and substance reasonably satisfactory to GPC, and from surety who is (and who has collateral that is) reasonably satisfactory to GPC, covering an amount sufficient to discharge the Lien, regardless of the action Seller may take with respect to such Claim. The foregoing obligation of Seller will extend to any Lien in respect to the Project, the Project Assets, the Project Site, or any fixtures or personal property included in the Project (whether any Lien is valid or enforceable) created by, through or under, or as a result of any act or omission (or alleged act or omission) of, Seller or any other Seller Party, or any other Person providing personnel, Project Equipment, or Materials for the Work.

6.26.2. Lien Waivers at the Closing Date. On or before the Closing Date, Seller must deliver to GPC: (i) an Interim Lien Waiver from EPC Contractor in the form of Exhibit F-1 (*Form of EPC Contractor's Interim Lien Waiver*) with respect to all Work performed for the Project before the Closing Date; (ii) an Interim Lien Waiver in the form of Exhibit F-2 (*Form of Subcontractors' Interim Lien Waiver*) from each Subcontractor (other than suppliers of Project Equipment) with respect to all Work performed for the Project by each Subcontractor; and (iii) a Final Lien Waiver from the Subcontractor(s) supplying Project Equipment in the form of Exhibit F-4 (*Form of Subcontractors' Final Lien Waiver*).

6.26.3. Final Lien Waivers. As a condition of Final Completion, Seller must deliver to GPC: (i) Final Lien Waivers from EPC Contractor in the form of Exhibit F-3 (*Form of EPC Contractor's Final Lien Waiver*); and (ii) Final Lien Waivers from all Subcontractor(s) (other than suppliers of Project Equipment) in the form of Exhibit F-4 (*Form of Subcontractors' Final Lien Waiver*).

6.26.4. Notice of Commencement. By no later than 15 days before commencement of Work at the Project Site, Seller must: (i) timely file or cause to be filed a notice of commencement (NOC) in accordance with applicable law; and (ii) post on the job site a copy of the NOC, each act to be taken and maintained in accordance with applicable law.

6.27 Expenses. Except as otherwise expressly provided in this BTA, whether or not the transactions contemplated by this BTA are consummated, all costs and expenses incurred in anticipation of, relating to, and in connection with the negotiation and execution of this BTA or the consummation of the transactions contemplated by this BTA will be paid by the Party incurring the costs and expenses. Despite the immediately preceding sentence, Seller must pay all filing fees required by any Governmental Authority in connection with any Consents required to be obtained or made under this BTA.

6.28 Estoppel Letters. Before Closing, Seller must use commercially reasonable efforts to obtain estoppel letters, dated not more than 60 days before the Closing Date, and in form and substance reasonably satisfactory to GPC and the Title Company, executed by each landowner, Easement grantor and licensor under any Real Property Agreement.

6.29 Books and Records. Seller must maintain all Books and Records in accordance with GAAP and in Dollars to support any invoice, Claim, or dispute under this BTA. Seller must allow GPC, upon reasonable notice and during business hours, to audit Seller's Books and Records related to the Project to verify invoice amounts and any increase or decrease to the EPC Contract Price or any EPC Change Order, as well as any report or correspondence related to any Project Permit or safety or environmental compliance.

6.30 Data Breaches. Seller will promptly notify GPC upon the occurrence of any security breach, cyberattack, other data security, or cyber incident or unauthorized access to any Project IT Asset, about which Seller has Knowledge, that occurs prior to the Closing and results in the unauthorized access, unauthorized use, misappropriation, modification, encryption, corruption, disclosure, or transfer of any material information or data contained in, or relating to, the Project Assets.

6.31 Health and Safety.

6.31.1. General Obligations. Seller must not: (a) install or operate, or allow EPC Contractor or its Subcontractors or other Representatives (including EPC Contractor or any of its subcontractors) to install or operate, any underground storage tank on the Project Site; (b) disturb (other than through demolition and removal or other abatement) any asbestos contained in or that forms part of any building, building component, structure, or office space on the Project Site; and (c) use or store any polychlorinated biphenyls at the Project Site in connection with construction of the Project.

6.31.2. EH&S Procedures. Not less than 90 days before Work commences at the Project Site, Seller must prepare and submit to GPC materials management and emergency response procedures in accordance with applicable Environmental Laws covering any Hazardous Substances that Seller expects to be used in the completion and testing of the Work, which procedures must be reasonably satisfactory to GPC. Seller must, and must cause all other Seller Parties to, comply at all times with the GPC-approved materials management and emergency response procedures, which must be developed and maintained in accordance with GPC's Contractor Environmental, Health, and Safety Specifications ("**EH&S Procedures**"), available at https://www.southerncompany.com/content/dam/southerncompany/pdfs/about/suppliers/technical-projects-solutions-/construction_ehs_manual.pdf.

6.31.3. Releases on the Project Site. Seller Parties must not release any Hazardous Substance at the Project Site in violation of any Environmental Law. Seller must immediately notify GPC of any Release of any Hazardous Substance at the Project Site by any Seller Party that violates or, to Seller's Knowledge, has the potential to violate any Environmental Law, including state and federal laws relating to water pollution, hazardous material disposal, and hazardous materials Release requirements. In addition, Seller must immediately notify any applicable Governmental Authority of any Release that is reportable to Governmental Authorities under any applicable Environmental Law and must take emergency measures consistent with Prudent Utility Practices as necessary to comply with the EH&S Procedures and all applicable laws, including with respect to the immediate containment of any Release and Remediation of the affected area.

6.31.4. Releases off the Project Site. In the event of a Release by any Seller Party of a Hazardous Substance off the Project Site but related to the Work that is reportable to a Governmental Authority under any applicable Environmental Law, Seller must notify all applicable federal, state, and local Governmental Authorities in accordance with applicable law, or for causing notification to occur by the Seller Party responsible for such action. Seller must take all appropriate steps consistent with the EH&S Procedures and required by applicable law for containment of any Release and Remediation of the affected area.

6.31.5. Liability. Seller must implement any requirement under any Environmental Laws relating to pre-existing Hazardous Substances identified in any environmental surveys or Reports. Seller will be liable to GPC for any Release of Hazardous Substances at or from the Project Site to the extent the Release has occurred before Final Completion, except to the extent the Release is exacerbated by the gross negligence or willful misconduct of GPC after the Final Completion Date.

6.31.6. Notice. Seller must notify GPC as soon as reasonably practicable of the occurrence of any event that would reasonably be expected to result in any actual or potential violation of or noncompliance with any Environmental Law relating to the Work, the Project, or the Project Site, or that otherwise constitutes a Seller Material Adverse Effect.

6.32 Update of Seller's Disclosure Schedules. From time to time, before the Closing Date, Seller may, supplement or amend Seller's Disclosure Schedule regarding any fact, matter, condition, event, or circumstance with respect to: (i) deletions of any Contract that expires in accordance with its terms, in the absence of any breach or default; (ii) additions of and amendments to any Contract executed in accordance with this BTA; (iii) additions of and amendments to any Project Permit; (iv) additions of, updates to, and supplements to any Report; and (v) any other change that has occurred with respect to the Project Assets or the Project since the Effective Date that, if existing, occurring, or known on or before the Effective Date, or the Closing Date, would have been required to be set forth or described in a Seller's Disclosure Schedule ("**Update**").

6.32.1. Seller Material Adverse Effect Update Matters. If any fact, matter, condition, event, or circumstance described in an Update ("**Disclosure Items**") has, or would be reasonably expected to have, a Seller Material Adverse Effect, then GPC may elect to terminate this BTA under Section 1.7.1(iv) (*Termination Prior to Closing Date*). If GPC elects not to terminate this BTA under this Section 6.32.1 (*Seller Material Adverse Effect Update Matters*), then Seller may update the applicable Schedule(s) to properly reflect the Disclosure Item disclosed to GPC in the Update, and the applicable Seller representations or warranties subject to the Update made following the Update will be subject to the Schedule(s) attached to this BTA, as modified or amended by the Disclosure Item in the Update.

6.32.2. Non-Material Adverse Effect Update Matters. If any Disclosure Item disclosed in an Update is a Permitted Update Matter or does not have, and would not reasonably be expected to have (either individually or when aggregated with any other Disclosure Item), a Seller Material Adverse Effect and

therefore would not allow GPC to terminate this BTA under Section 6.32.1 (*Seller Material Adverse Effect Update Matters*), then the Disclosure Item will not be grounds under Section 1.5 (*GPC's Conditions Precedent*) for GPC to refuse to perform its obligations to effect the Closing and, if the Closing occurs, then despite any other BTA provision, the Disclosure Item disclosed in the Update may not be the basis for any indemnification by Seller under Section 17.3(i) (*Indemnification by Seller*).

6.33 Tax Benefits.

6.33.1. Seller and Seller Affiliates must not engage in any action, or fail to take any action, that would reasonably be likely to jeopardize the realization by, or allowance to GPC or any GPC Affiliate of, any Tax Benefit.

6.33.2. Seller and Seller Affiliates must not take any action that would, or fail to take any action, the omission of which would, cause to be untrue, incorrect, or incomplete any certification contained in the Begun Construction Certificate. Seller must notify GPC in writing within 10 days after Seller or any of its Affiliates becoming aware of any Safe Harbor Controversy.

6.33.3. Seller must cause the Project to be "placed in service" within the meaning of Sections 48 and 168 of the Code and the IRS Notice no later than December 31 of the year specified in Exhibit A-1 (*Project Information*).

6.34 Transfer of Project Contracts and Project Permits.

6.34.1. Project Contracts. Before Closing, to the extent that the Consent of a party (other than Seller) (each, a "**Counterparty**") to a Project Contract is required in order to transfer the Project Contract to GPC without violating any provision of the Project Contract or any applicable law, Seller must use commercially reasonable efforts to obtain the Counterparty's written Consent ("**Contract Consent**") to the assignment to GPC, and the assumption by GPC, of the Project Contract at the Closing. If, notwithstanding the use of commercially reasonable efforts, any Project Contract is not assignable to GPC, then Seller must, at no additional cost to GPC, maintain the Project Contract in full force and effect and enter a back-to-back arrangement with GPC, in form and substance satisfactory to GPC, to provide GPC with the benefits of the Project Contract. GPC will reasonably cooperate with Seller in its efforts to obtain all Contract Consents from Counterparties, so long as GPC is not required to make any payment or assume any Liability not otherwise required to be paid or assumed by Seller under the terms of the Project Contract, or offer or grant any financial accommodation or other benefit to the Counterparty not otherwise required to be offered or granted by Seller under the terms of the Project Contract. After Closing, Seller must reasonably cooperate with GPC in GPC's efforts to provide notices to any Counterparties to any Project Contracts as GPC (acting reasonably) may deem necessary, including notices providing Counterparties with updated notice or bank account information to which any applicable payment should be made by the Counterparties.

6.34.2. Project Permits. Before the Closing Date, to the extent the Consent of any Governmental Authority is required to transfer any Project Permit to GPC without violating any provision of the Project Permit or any applicable law, Seller must use commercially reasonable efforts to either transfer or obtain the reissuance of the Project Permit to GPC at the Closing. If, notwithstanding the use of commercially reasonable efforts, any Project Permit is not transferable or re-issuable to GPC, Seller must maintain the Project Permit in full effect until such time as GPC is able to obtain its own Permit. GPC will reasonably cooperate with Seller in its efforts to transfer or obtain the reissuance of any Project Permit. GPC will have the right to review in advance all characterizations of the information relating to the transactions contemplated by this BTA that appear in any document to be submitted in connection with any filings to transfer any Project Permit, and Seller must consider in good faith any comment reasonably requested by GPC.

PART 7 GENERAL OBLIGATIONS OF GPC

7.1 GPC's General Obligations. GPC will:

(i) keep Seller reasonably informed as to the status of any governmental or regulatory or other activities undertaken by GPC that relate to the Project and that are likely to materially and adversely affect Seller's ability to perform the Work;

(ii) comply with all applicable laws;

(iii) plan and conduct its operations so that its employees and subcontractors will not unreasonably interfere with Seller employees and other workers employed on the Project; and

(iv) maintain its records and accounts in accordance with GAAP to support any invoice, Claim, and dispute under this BTA.

7.2 GPC's Authorized Representative.

7.2.1. GPC's Designated Representative. GPC may at any time and from time-to-time delegate to its representative ("**GPC Authorized Representative**") any of its duties and obligations (other than its payment obligations) under this BTA. Except as explicitly provided in this BTA, any written decision, instruction, or order given by GPC's Authorized Representative to Seller in accordance with such delegation will have the same effect as though it had been given by GPC.

7.2.2. Duties of GPC's Authorized Representative. GPC's Authorized Representative will carry out the duties that are specified in this BTA but, except as expressly provided in this BTA, neither the performance of, or the failure to perform, such duties, whether properly or at all by GPC's Authorized Representative, nor the fact that GPC's Authorized Representative has been appointed by GPC, will relieve Seller of any responsibility or liability for any of its obligations under this BTA. GPC's or GPC's Authorized Representative's approval of or consent to, or failure to approve or consent to, any matter will not relieve Seller of any Liability or any of its BTA obligations.

7.3 GPC Response. If Seller is required to obtain approval or consent from GPC under this BTA, upon receipt of Seller's request for approval or consent, GPC will, in its reasonable discretion (not to be unreasonably withheld), respond by: (i) granting approval or consent; (ii) denying approval or consent; or (iii) requesting supporting material or information, in the time expressly specified in this BTA. Where no time period is expressly specified, the time period will be deemed to be 15 Business Days.

7.4 GPC Replacement Security.[1] With respect to each item listed on Schedule 7.4 ("**Credit Support Obligations**"), GPC will obtain, at or before Closing, substitute credit support arrangements in replacement for the Credit Support Obligations, to the extent substitute credit support arrangements are required to release and discharge Seller or its Affiliates from their obligations under the Credit Support Obligations. GPC will reasonably cooperate with Seller and its Affiliates to effectuate the release and discharge of Seller and its Affiliates from their obligations under the Credit Support Obligations, under documents in form and substance reasonably satisfactory to the Parties, at or promptly after the Closing, and in any event, Seller and its Affiliates must terminate their Credit Support Obligations no later than 30 days after the Closing Date. GPC will not be required to extend additional rights to Seller's creditor nor limit GPC's rights under this BTA.

PART 8 PROJECT SCHEDULE

8.1 Preliminary Project Schedule. Exhibit N (*Project Schedule*) includes a preliminary milestone schedule setting forth the major tasks that must be completed by Seller (each a "**Milestone**") and completion dates for these tasks ("**Milestone Completion Dates**") as provided by Seller in accordance with the Technical Specifications, including the Critical Milestones and associated Critical Milestone Completion Dates, consistent with Exhibit O (*Critical Milestones and Critical Milestone Completion Dates*). The preliminary project schedule includes a Milestone (and a corresponding Milestone Completion Date) for development of a Level 2 project schedule by Seller (as the same will be updated under Section 8.3.1 (*Level 3 Project Schedule*) below, the "**Project Schedule**") as further described in Section 8.2 (*Form of Project Schedule*).

8.2 Form of Project Schedule. The Project Schedule will be in the form set forth in Exhibit N (*Project Schedule*). The Project Schedule will set forth in more detail the Milestones and Milestone Completion Dates, including the Critical Milestones and Critical Milestone Completion Dates, and specify any task, obligation, or responsibility that GPC will perform or fulfill under this BTA (each a "**GPC Obligation**") for Seller to achieve the Milestone Completion Dates for each Milestone, and the date by which GPC is required to fulfill each GPC Obligation in accordance with this BTA. Subject to Section 8.4 (*No Alterations to Project Schedule*), Seller may make non-material updates to the Project Schedule at its sole discretion, but the Milestone Completion Dates for the final three Milestones (i.e., Mechanical Completion, Substantial Completion, and Final Completion) must remain unchanged except to the extent GPC agrees to a Change Order adjusting the Project Schedule and Milestone Completion Dates. Seller must deliver the initial Project Schedule, and any updates, in Primavera

[1] GPC to discuss providing replacement security after the Closing if GPC has post-Closing payment obligations.

electronic file format (XER) unless GPC agrees to an alternative native scheduling software format.

8.3 Update of Project Schedule.

8.3.1. Level 3 Project Schedule. No later than 30 days after execution of the EPC Contract, Seller must submit to GPC for review and approval a detailed level 3 critical path method ("CPM") Project Schedule. The Critical Milestones and associated Critical Milestone Completion Dates must not be different than the Critical Milestones and Critical Milestone Completion Dates in Exhibit O (*Critical Milestones and Critical Milestone Completion Dates*)). The CPM Project Schedule and any update to the CPM Project Schedule, at a minimum, must:

(i) Identify each phase of the Work and Milestone Dates.

(ii) Use a work day as the smallest unit of time.

(iii) Reflect a true critical path and show a continuous logic/duration-driven path to the Guaranteed Substantial Completion Date and any involved Milestone Date without the use of constrained dates and minimal use of lags.

(iv) Show in detail any engineering activity required to complete design packages, including review activities.

(v) Include procurement activities and major delivery dates.

(vi) Show construction execution steps for individual packages.

(vii) Include startup activities and system testing.

(viii) Include punchlist activities and durations, when applicable.

(ix) Measure progress against the original Project Schedule.

(x) Be accompanied by a list and narrative, where appropriate, of variances against the original Project Schedule.

(xi) Identify logic change between all activities.

8.3.2. Final Project Schedule. If GPC comments on any Project Schedule submitted by Seller, Seller must, within seven days after receipt of GPC's comments, submit a copy to GPC of the Project Schedule consistent with GPC's comments. The Project Schedule copy approved by GPC will be considered the final Project Schedule, subject to Section 8.3.3 (GPC Project Schedule Adjustments).

8.3.3. GPC Project Schedule Adjustments. GPC will have the right to reasonably request Seller to vary, amend, substitute, or otherwise change the Project Schedule after approval. Any variation, amendment, substitution, or other change (other than: (i) as provided in Section 8.5 (*Recovery Plan*); or (ii) caused by Seller's failure to perform any of its obligations in accordance with this BTA), requested by GPC will be considered a GPC-Initiated Change under Section 9.2.2 (*Changes Initiated by GPC*).

8.4 No Alterations to Project Schedule. After GPC's approval of the final Project Schedule, Seller must not, without a written Change Order executed by GPC, make any material change to the Project Schedule, including changing any Critical Milestone or Critical Milestone Completion Date.

8.5 Recovery Plan. If, at any time or from time to time: (i) Seller fails to achieve a date or Milestone on the Project Schedule; or (ii) GPC, based on Project documentation, including the Monthly Progress Report and the Project Schedule and updates, reasonably determines that the Project will not achieve: (a) Mechanical Completion on or before the Outside Closing Date; or (b) Substantial Completion on or before the Guaranteed Substantial Completion Date, then, in either case and upon GPC's written request, Seller must promptly, but in no event later than five Business Days after GPC's request, submit for GPC's approval a written recovery plan that feasibly explains and displays how Seller will regain compliance with the Project Schedule ("**Recovery Plan**"). The Recovery Plan must include an electronic copy of a "Detailed Float Analysis" in Primavera [P6] or a similar deliverable from a software product mutually agreed with GPC, showing the then-current progress of the Work against the Project Schedule. GPC may submit reasonable suggestions to the Recovery Plan. Seller will incorporate GPC's suggestions into the Recovery Plan or will provide a reasonable explanation for why GPC's suggestions should not be incorporated. Seller must diligently perform the Work in accordance with the approved Recovery Plan and must (and must cause Seller Parties requested by GPC to) participate in any meeting that GPC may require in connection with the production and implementation of the Recovery Plan. Neither the approval

by GPC of the Recovery Plan nor Seller's performance of the Work in compliance with the Recovery Plan will: (1) be deemed in any way to relieve Seller of its obligations under this BTA; or (2) be a basis for a Change Order or any other compensation or increase in the Purchase Price.

PART 9 CHANGE ORDERS

9.1 Changes. Subject to this Part 9 (*Change Orders*), without invalidating this BTA, GPC may instruct Seller to make a Change. Changes may only be authorized by Change Orders issued in accordance with this Part 9. The form of Change Order to be used by the Parties is set forth in Exhibit R (*Form of Change Order*) ("**Change Order Form**").

9.2 Procedure for Changes.

9.2.1. Changes Initiated by Seller. Seller may, at any time, submit a Change Order Request to GPC for improvements, efficiencies, cost savings, and other similar Changes to the Work (each a "**Seller-Initiated Change**"), but no Change Order Request will be carried out by Seller except under a Change Order executed by GPC's Authorized Representative, which execution will be in GPC's discretion, subject to Section 9.2.3 (*Required Change Orders*).

(i) Any Change Order Request must include and be supplemented with information as GPC may reasonably require in order to determine: (a) the factors allegedly necessitating the Change; (b) the impacts that the Change is projected to have on the Project Schedule; (c) the impact that the Change is projected to have on the Construction Costs; and (d) any other information as GPC may request to determine whether to accept or reject the Change Order Request, subject to Section 9.2.3.

(ii) Seller must submit a Change Order Request for a Change Order that is required to be made in accordance with Section 9.2.3 in writing as soon as possible, but no later than five days after the occurrence of the facts or circumstances giving rise to the Change that Seller reasonably believes necessitates a Change Order.

(iii) Upon its receipt of a Change Order Request, GPC may, but except as provided in Section 9.2.3 (*Required Change Order*), is not obligated to, issue a Change Order.

Unless otherwise stated by GPC in writing, any work outside the Work described in this BTA performed by Seller or any Seller Party before having received a Change Order from GPC will be considered unauthorized work and will be at Seller's sole risk and expense.

9.2.2. GPC-Initiated Changes. If GPC desires to make a Change (each a "**GPC-Initiated Change**") not comprising recovery Work due to the negligence of, or breach of this BTA by, any Seller Party, GPC will submit a written Change Order Notice to Seller detailing the nature and extent of the proposed GPC-Initiated Change to the scope of Work or adjustment to the Project Schedule. Seller must promptly review the Change Order Notice and, by no later than 10 Business Days after receipt of the Change Order Notice, notify GPC of: (i) the options for implementing the proposed GPC-Initiated Change (including, if possible, any option that does not involve an increase in the Construction Costs or an extension of the Project Schedule); (ii) the estimated effect(s), if any, that each option would have on the Construction Costs and the Project Schedule; and (iii) any other provision of this BTA that may be affected by the Change. The response must also contain all those matters required to be set out in a Change Order Request. Based upon this information, GPC's Authorized Representative may, in its discretion, issue a Change Order for a GPC-Initiated Change.

9.2.3. Required Change Orders. Subject to Sections 9.2.4 (*No Adjustments without Change Order*) and 9.2.8 (*Seller Error and Failure to Plan and Perform No Cause for Change Order*), Seller will be entitled to a Change Order: (i) increasing the Contract Price and extending the Project Schedule if and to the extent that Seller demonstrates that a GPC-Initiated Change, Change in Law, or Seller-Initiated Change accept by GPC: (a) subject to Section 9.2.5 (*Adjustments to Purchase Price*) and Section 11.1.5 (*Schedule Adjustments*), if applicable, results in an increase in the Construction Costs; or (b) results in a demonstrated delay to the critical path of the Work; or (ii) extending the Project Schedule if and to the extent that Seller demonstrates an Excusable Event directly resulted in a demonstrated delay to the critical path of the Work. (each a "**Required Change Order**"). Seller agrees that: (i) a Change Order adjusting the Project Schedule will be Seller's sole relief for the circumstances described in subsection (ii) above and that Seller will not be entitled to a Change Order in any other form or for any other event or circumstance.

9.2.4. No Adjustments without Change Order. For the avoidance of doubt, except in the circumstances expressly stated in Section 9.2.1 (*Changes Initiated by Seller*) (if approved by GPC), Section 9.2.2 (*GPC-Initiated Changes*) and Section 9.2.3 (*Required Change Orders*), and with respect to which a Change Order Request is properly made in accordance with this Part 9 (*Change Orders*), Seller will not be entitled to seek a Change Order extending the Project Schedule (including the Outside Closing Date) or increasing the Purchase Price or to receive any additional remuneration or reimbursement with respect to the Work. Other than with respect to Post-Closing GPC EPC Change Order Costs, any change order or other price adjustment under the EPC Contract or any Subcontract that increases Seller's Construction Costs, including an increase to the EPC Contract Price, for any reason other than as allowed in and subject to the provisions of this Section 9.2 (*Procedure for Changes*), whether such change order is issued before, on or after Closing, will be Seller's sole responsibility and will not result in a Purchase Price increase or a Project Schedule adjustment.

9.2.5. Adjustments to Purchase Price. Despite any other BTA provision, Seller will not be entitled to an increase in the Purchase Price under any Change Order, other than a GPC-Initiated Change authorized under Section 9.2.2 (GPC-Initiated Changes), until the increase in Construction Costs resulting from all events and circumstances that would otherwise entitle Seller to a Change Order exceeds an amount equal to five percent of the Purchase Price. The Purchase Price may be increased or decreased by a Change Order. Any net Purchase Price adjustment resulting from a Change Order will be applied at Closing or paid to the applicable Party at Substantial Completion, as applicable.

9.2.6. Documentation. All claims by Seller for adjustments to the Purchase Price or the Project Schedule because of Changes must be supported by documentation as GPC may reasonably require verifying to GPC's satisfaction the accuracy of the request. In connection with any proposed Change Order adjusting the Project Schedule, Seller must provide GPC with an electronic copy of a "Detailed Float Analysis" in Primavera Project Planner for Windows, or a similar deliverable from a software product mutually agreed with GPC, showing the then-current progress of the Work and the projected impact the relevant Change will have on the Critical Milestones. In connection with any proposed Change Order adjusting the Purchase Price, Seller will provide GPC with invoices, purchase order, rate sheets, and other documentation as GPC may reasonably require substantiating such change.

9.2.7. Duty to Mitigate. Seller must use commercially reasonable efforts to mitigate potential impacts to the Project Schedule or potential increases to the Construction Costs arising out of any Change (and the cost of any mitigation efforts agreed to between the Parties are to be addressed in any applicable Change Order).

9.2.8. Change Order Full Relief. Seller stipulates and agrees that a Change Order executed in accordance with this Part 9 will represent full and final relief to Seller for all impacts arising from or relating to the Change.

9.2.9. Seller Error and Failure to Plan and Perform No Cause for Change Order. Despite any other provision of this Part 9 (*Change Orders*), Seller will not be entitled to a Change Order or any adjustment to the Project Schedule or Purchase Price to the extent the need for the Change was caused by a defect in the Work or any action or inaction of Seller or any Seller Party, including EPC Contractor's failure to adequately plan or schedule the performance of Work or to perform the Work in accordance with the Technical Specifications, applicable laws, applicable Permits, or the other requirements of this BTA in effect as of the Effective Date.

9.2.11. GPC Change Order Directive. Subject to GPC's right to reject any Seller-initiated Change Order as described in Section 9.2.1(iii) (*Changes Initiated by Seller*), if GPC and Seller cannot agree on: (i) the Purchase Price or Project Schedule adjustment for a Change; (ii) whether a Change has occurred; or (iii) Seller's entitlement to a Change Order; or (iv) any other item relevant to a claimed Change, then despite whether GPC or Seller initiated the Change, GPC may issue a written directive ("**Change Order Directive**") ordering that Seller proceed with the Work and any Change. Seller must comply with any Change Order Directive.

9.3 Continued Performance Pending Resolution of Disputes. Pending the resolution of any dispute regarding a claimed Change or Change Order, Seller Parties must proceed with the Work and the performance of any Change ordered by GPC, unless GPC directs Seller not to proceed. Disputes concerning any claimed Change or Change Order will be subject to the dispute resolution process described in this BTA.

9.4 Preservation of Project Schedule and Purchase Price. Where any proposed Change may give rise to an extension of the Project Schedule or an increase in the Construction Costs, including the EPC Contract Price, GPC reserves the right, in its sole discretion and to the extent possible, to require Seller to vary, amend, or effect any such Change to the Work in a manner that will mitigate or avoid the requirement for an extension of the Project Schedule or increase in Construction Costs, as applicable.

PART 10 PERFORMANCE TESTS AND PERFORMANCE GUARANTEES

10.1 Performance Guarantees. Seller guarantees that the Project, while complying with applicable laws and applicable Permits, will achieve each of the Performance Guarantees set out in Exhibit S (*Commissioning and Testing*), including during Performance Tests conducted in accordance with the Commissioning and Test Plan. Except to the extent stated otherwise in Exhibit S, each of the Performance Guarantees is a must fix, minimum performance guarantee, and Seller has an absolute obligation under this BTA to cause the Project to satisfy all Performance Guarantees. Seller must, at its expense, do all things necessary or appropriate to achieve each of the Performance Guarantees, including exercising every repair or replacement alternative.

10.2 Commissioning and Performance Tests. As soon as practicable before Substantial Completion, Seller must conduct, or cause to be conducted, the Commissioning Tests and the Performance Tests in accordance with: (i) the Technical Specifications; (ii) the commissioning and test procedures and protocols of Exhibit S (*Commissioning and Testing*); and (iii) the other tests, procedures, and protocols developed by the Parties under this BTA. At least 60 days before the commencement of each of the initial Commissioning Tests and Performance Tests, Seller will deliver to GPC a supplement to Exhibit S (*Commissioning and Testing*) further outlining in detail the tests, procedures, and protocols to be followed in conducting the Commissioning Tests or Performance Tests, as applicable. This supplement will include, at a minimum, provisions addressing: (a) commissioning and testing procedures for each item of Major Equipment; and (b) any other activity that, in accordance with Prudent Utility Practices, should be included. The Parties will promptly negotiate in good faith to mutually agree on modifications so that Exhibit S (*Commissioning and Testing*), as supplemented under this Section 10.2 (*Commissioning and Performance Tests*), is satisfactory to GPC (as agreed, the "**Commissioning and Test Plan**").

10.3 Cost and Direction. Seller will provide all materials, charging electricity, consumables (including fuel), stores, and personnel necessary to supervise starting up and conducting the Commissioning Tests and the Performance Tests in accordance with the Commissioning and Test Plan and must provide all necessary technical assistance and advice in connection with the Commissioning Tests and the Performance Tests. Except as approved by GPC in writing, Seller must not use personnel in excess of the normal contingent of Project operations staff to operate the Project during the Commissioning Tests and the Performance Tests. While training and conducting the Commissioning Tests and the Performance Tests, GPC's operating personnel will be working under the direction and instruction of Seller Parties, and Seller will be responsible for the accuracy of the instructions/directions provided to GPC's operating personnel.

10.4 GPC's Right to Validate Performance Tests. Seller must provide GPC: (i) at least 30 days' prior written notice of the anticipated date on which the Commissioning Tests and the Performance Tests will begin; (ii) at least five Business Days' prior notice of the actual date (or any change to the actual date) on which the Commissioning Tests and the Performance Tests will begin; and (iii) at least three Business Days' prior notice of any subsequent Performance Test. GPC will have the right to be present and observe the Commissioning Tests and the Performance Tests and will the right, in advance or during the Commissioning Tests and the Performance Tests, to inspect and validate all meters, meter readings, and other pertinent data necessary to verify the results of the Commissioning Tests and the Performance Tests. GPC will provide reasonable notice to Seller of any observation and inspection, including the specific information desired and method of obtaining information. Seller and GPC will coordinate such observation, inspection, and validation so as not to interfere with the Commissioning Tests and the Performance Tests and to provide for a verifiable result.

10.5 Performance Test Reports. Within the period set forth in the Commissioning and Testing Plan, after the conclusion of each Performance Test, Seller will provide GPC with copies of the Performance Test results and a detailed written report about the results, any deficiencies indicated in such test results, and any actions taken or to be taken to correct any deficiencies. Upon the successful completion of a Performance Test, as demonstrated by a test report delivered to GPC under this Section 10.5 (*Performance Test Reports*) that is accepted by GPC in writing, the Performance Test will be deemed to have been passed on the date the successful Performance Test was concluded. Despite the successful conclusion of the Performance Test, Seller will diligently and expeditiously proceed with the correction of any deficiencies in the Project Equipment or Work noted during the Performance Test.

10.6 Failure on Tests or Inspection. Following any failed Performance Test, Seller must replace or repair the applicable Work, Project Equipment, or Materials and re-submit the same for test or inspection in accordance with this Part 10 (*Performance Tests and Performance Guarantees*). In addition to its other rights under this BTA, all expenses reasonably incurred by or on behalf of GPC in connection with re-testing or inspection must be paid by Seller.

PART 11 EXCUSABLE EVENTS

11.1 Force Majeure.

11.1.1. Definition of Force Majeure Event (FME). For the purpose of this BTA, a "Force Majeure Event (**FME)**" as to a Party means any event or circumstance, or combination of events or circumstances, that directly affects, prevents, or delays that Party's ability to perform its obligations under this BTA (other than payment obligations) or, with respect to Seller, EPC Contractor's ability to perform the Work under the EPC Contract, if and to the extent that the event or circumstance: (i) arises after the Effective Date; (ii) is unforeseeable and not within the reasonable control, directly or indirectly, of the affected Party; (iii) could not have been prevented or mitigated by the reasonable efforts and due diligence (including the expenditure of commercially reasonable sums) by the affected Party; and (iv) is beyond the reasonable control of, and does not result from the affected Party's or its Related Persons' negligence or fault, or failure of the affected Party to perform its obligations under this BTA. So long as these criteria are met, examples of events and circumstances that are beyond the reasonable control of a Party include: invasion; drought, landslide, tornado, hurricane, tsunami, flood, earthquake, and other acts of God; abnormally severe weather conditions constituting at least a 25 year event according to the records of the National Oceanic and Atmospheric Administration for the vicinity of the affected location; explosion; pandemics or epidemics; invasion, acts of terrorism, war (declared or undeclared), or other armed conflict; riot, revolution, insurrection or similar civil disturbance or commotion; acts of the public enemy; perils of sea; blockade; sabotage or vandalism; court orders or injunctions; strikes and other labor disputes (including collective bargaining disputes and lockouts) except as excluded below; industrywide shortages of required materials or equipment, but only to the extent caused by a separate and independent FME; transportation accidents; delays in transportation due to closure of roads or other transportation route by Governmental Authorities or otherwise due to an FME; quarantines, embargoes, acts of expropriation, and other acts or omissions of a Governmental Authority (other than acts or omissions in response to acts or omissions of the affected Party, its Affiliates, Subcontractors or Related Persons or the employees and agents of any of them).

11.1.2. Force Majeure Exclusions. Despite any other provision in this BTA, FME excludes: (i) strikes and other labor disputes (including collective bargaining disputes and lockouts) directed at the affected Party, its Affiliates, or Related Persons, unless the strike is part of a widespread or general strike extending beyond such Party, Affiliate or Related Person; (ii) unavailability, late delivery, failure, breakage or malfunction of equipment or materials, unless there is an independent, verifiable FME causing the condition; (iii) events that affect the cost or availability of equipment or materials, unless there is an independent, verifiable FME causing the condition; (iv) economic hardship (including lack of money) of any entity or its Affiliates or their respective contractors or suppliers; (v) delays in transportation (including delays in clearing customs), other than delays in transportation resulting from accidents or closure of roads or other transportation route by Governmental Authorities, or otherwise due to an independent, verifiable FME causing the condition; (vi) actions of a Governmental Authority in respect of, or in relation to, or resulting from, a Party's non-compliance with applicable laws, unless resulting from the other Party's negligence or intentional misconduct or breach of its obligations under this BTA; (vii) any action (including a withhold release order) taken under an Anti-Forced Labor Law, whether existing as of the Effective Date or imposed or applied after the Effective Date; or (viii) any inability to comply with applicable law or Permit.

11.1.3. No Breach or Liability. If an FME occurs, subject to compliance with Section 11.1.3 (*Mitigation*), the affected Party will be excused from performance of its obligations under this BTA and will not be in default in respect of its obligations to the extent that, and for so long as, its failure to perform is due to an FME. Despite any other provision of this Section 11.1.2 (*No Breach or Liability*), no FME will relieve, suspend, or otherwise excuse: (i) any Party from performing any obligation to make any payment owed to another Party or Person (including Seller's obligation to pay Construction Costs other than any Post-Closing GPC EPC Change Order Costs); or (ii) Seller from its obligation to indemnify, defend, or hold harmless any Indemnified GPC Party in accordance with this BTA.

11.1.4. Mitigation. Following the occurrence of an FME, and as a condition to relief under Section 11.1.2 (*No Breach or Liability*), the affected Party must:

(i) give the other Party written notice as promptly as possible, but in no event later than 10 Business Days, after the occurrence of the FME. This notice must describe the particulars of the FME and any action that the Party has taken to avoid or minimize the effects of the FME;

(ii) continue to perform its obligations under this BTA to the extent not affected by the FME;

(iii) use all reasonable efforts to mitigate and overcome its inability to perform as soon as reasonably practicable;

(iv) subject to Sections 11.1.4 (*Burden of Proof and Supporting Documentation*) and 11.1.6 (*Extended FME*), provide the other Party with regular periodic updates with respect to the continuing effects of the FME and the measures it is taking to mitigate and overcome the effects.

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 Sections 11.1.3 (*Burden of Proof and Supporting Documentation*), 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.

11.1.5. Burden of Proof and Supporting Documentation. The burden of proof regarding whether an FME has occurred and the impact of the 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) after the FME concludes, 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 BTA. The affected Party must provide the required documentation by no later than 5 Business Days after the date the FME concludes.

11.1.6. Schedule Adjustments. Subject to the requirements of this Section 11.1 (*Force Majeure*) and Part 9 (*Change Orders*), if and to the extent the affected Party demonstrates that an FME had a material impact on its ability to perform its obligations in accordance with the Project Schedule, the Parties will enter into a Change Order adjusting the Project Schedule in accordance with the provisions of Section 9.2.3(ii) (*Required Change Orders*).

11.1.7. Extended FME. If the affected Party has reason to believe that an FME will result in an Extended FME, that Party must notify the other Party promptly and submit an "**FME Remedy Plan**" to the other Party within 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 it, which the affected Party will submit within 30 days after the request. The FME Remedy Plan must set forth a plan and schedule for mitigation and other 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 BTA as soon as reasonably practicable. The affected Party will diligently pursue the performance of the FME Remedy Plan to completion, and the following conditions will apply:

(i) while an FME Remedy Plan is in effect, the Party prevented from performing its obligations due to an Extended FME must provide monthly status reports to the other Party, notifying the other Party of the implementation of the FME Remedy Plan, including the steps taken to remedy the Extended FME, any changes to the FME Remedy Plan, and the expected remaining duration of the Party's inability to perform its obligations, as well as any additional relevant information that 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 BTA as soon as reasonably practicable;

(ii) the Party not prevented from performing its obligations due to an Extended FME may at any time terminate this BTA effective upon 10 days' prior written notice to the affected Party, if: (a) the affected Party does not or cannot implement the remedy for an FME; or (b) the affected Party remains unable to perform its obligations under this BTA 12 months following the initial suspension

of performance due to the FME. The 12-month period need not be continuous if, and 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; and

(iii) upon termination of this BTA as provided in this Section 11.1.6 (*Extended FME*), the Parties will have no further liability or obligation to each other, except for any obligation arising prior to the date of such termination.

11.2 Change in Law. If and to the extent Seller demonstrates that a Change in Law: (i) results in a demonstrated delay in the progress of the Work in meeting any Critical Milestone by its appliable Critical Milestone Completion Date; or (ii) has, or will have, an impact that will increase Seller's Construction Costs, then, subject to Section 9.2.5 (*Adjustments to Purchase Price*), the Parties will enter into a Change Order in accordance with the provisions of Section 9.2.3(ii) (*Required Change Orders*). However, the Party affected by any Change in Law must use reasonably diligent efforts to take appropriate measures to avoid or mitigate the effect of the event.

11.3 GPC-Caused Delay. If and to the extent Seller demonstrates that a GPC-Caused Delay results in a demonstrated delay in the progress of the Work in meeting any Critical Milestone by its appliable Critical Milestone Completion Date; or (b) has or will have an impact that will increase Seller's Construction Costs, then the Parties will enter into a Change Order in accordance with the provisions of Section 9.2.3 (*Required Change Orders*).

PART 12 STAGES OF COMPLETION; DELAY LIQUIDATED DAMAGES

12.1 Completion Milestones. Seller must cause the EPC Contract to include the following Critical Milestones as milestones for completion:

(i) Mechanical Completion;

(ii) Substantial Completion; and

(iii) Final Completion.

12.2 Mechanical Completion.

12.2.1. Mechanical Completion Certificate. Seller must provide GPC with no less than 10 Business Days' notice before Seller's expected delivery of the Mechanical Completion Certificate. When Seller determines that the Work satisfies the requirements for Mechanical Completion set forth in Exhibit W-1 (*Mechanical Completion Criteria*), Seller will so notify GPC and provide GPC a certificate in the form of Exhibit H-1 (*Form of Mechanical Completion Certificate*) certifying that Mechanical Completion was achieved and Seller's claimed Mechanical Completion date ("**Mechanical Completion Certificate**").

12.2.2. GPC's Review of Mechanical Completion Certificate. Within five Business Days after receipt of each Mechanical Completion Certificate, GPC will either: (i) reject the Mechanical Completion Certificate, specifying the reasons for rejection; or (ii) accept the Mechanical Completion Certificate by countersigning the Mechanical Completion Certificate, in which case, Mechanical Completion will be deemed to occur on the date stated in the Mechanical Completion Certificate.

12.2.3. Resubmission of Mechanical Completion Certificate. If GPC rejects a Mechanical Completion Certificate, then Seller must promptly provide to GPC a plan and schedule for remedying the deficiencies specified by GPC and carry out the plan at Seller's cost and expense. Upon completion of any remedial work and Seller's belief that it has satisfied Mechanical Completion requirements, Seller must issue a new Mechanical Completion Certificate to GPC under Section 12.2.1 (*Mechanical Completion Certificate*). This procedure will repeat until GPC accepts the Mechanical Completion Certificate under Section 12.2.2(ii) (*GPC's Review of Mechanical Completion Certificate*). Disputes as to whether Seller has achieved Mechanical Completion will be resolved under Part 19 (*Dispute Resolution; Governing Law*).

12.3 No Energization and Synchronization. Seller must refrain from performing Energization and Synchronization on, or placing into service, the Project (or any part, block, or circuit of the Project) until: (a) GPC has accepted Seller's Mechanical Completion Certificate; and (b) GPC provides written notice to synchronize the Facility ("**Energization and Synchronization Notice**"). **Seller acknowledges that Seller undertaking Energization and Synchronization before receipt of an Energization and Synchronization Notice from GPC may result in significant economic damage to GPC, for which GPC retains all rights for recovery available to it under law and equity, and the Parties agree that damages arising from Seller's undertaking**

Energization and Synchronization before receipt of an Energization and Synchronization Notice will not be consequential damages under this BTA.

12.4 Substantial Completion.

12.4.1. Substantial Completion Certificate. Seller must provide GPC with no less than 10 Business Days' notice before Seller's expected delivery of the Substantial Completion Certificate. When Seller determines that the Work satisfies the requirements for Substantial Completion set forth in Exhibit W-2 (*Substantial Completion Criteria*), Seller must notify GPC and provide GPC a certificate in the form of Exhibit H-2 (*Form of Substantial Completion Certificate*) certifying that Substantial Completion was achieved on the date stated ("**Substantial Completion Certificate**").

12.4.2. GPC's Review of Substantial Completion Certificate. Within five Business Days after receipt of each Substantial Completion Certificate, GPC will either: (i) reject the Substantial Completion Certificate, specifying the reason for GPC's rejection; or (ii) accept the Substantial Completion Certificate by countersigning the Substantial Completion Certificate, in which case, Substantial Completion will be deemed to have occured on the date set forth in the Substantial Completion Certificate.

12.4.3. Resubmission of Substantial Completion Certificate. If GPC rejects a Substantial Completion Certificate, then Seller must promptly provide GPC with a plan and schedule for remedying the deficiencies specified by GPC and will carry out the plan at its own cost and expense. Upon completion of the remedial work and Seller's belief that it has satisfied Substantial Completion requirements, Seller will issue a new Substantial Completion Certificate to GPC under Section 12.4.1 (*Substantial Completion Certificate*). This procedure will be repeated until GPC accepts the Substantial Completion Certificate under Section 12.4.2(ii) (*GPC's Review of Substantial Completion Certificate*). Disputes as to whether Seller has achieved Substantial Completion will be resolved under Part 19 (*Dispute Resolution; Governing Law*).

12.5 Punch List Items.

12.5.1. Punch List. Seller must begin to compile a preliminary punch list as the Work progresses and must work with GPC in good faith to mutually determine the Dollar value of each item on the punch list. Seller must submit to GPC the completed preliminary punch list at least 15 Business Days before the anticipated Substantial Completion Date. At least five Business Days before the anticipated Substantial Completion Date, Seller and GPC will mutually agree on the final punch list of items, the value of each punch list item, and a schedule for completion of the items ("**Punch List**"). Seller must complete or otherwise resolve all Punch List items expeditiously after the Substantial Completion Date in accordance with the schedule for completion provided as part of the Punch List. GPC will provide Seller reasonable access to the Work for this purpose. If Seller fails to complete the Punch List within 60 days after the Substantial Completion Date, GPC may, upon written notice to Seller, complete or cause the completion of the Punch List and charge to Seller the costs GPC incurred, which may be withheld and setoff from the Punch List Holdback Amount.

12.5.2. Removal of Seller's Equipment. Before Final Completion, Seller must remove from the Project Site all of Seller's equipment, materials, temporary structures constructed by or on behalf of Seller, or other items of any nature required for execution or completion of the Work, but excluding equipment, materials, appliances, or other items intended to form or forming part of the Work, including the Project Equipment, Materials, and the Project.

12.6 Final Completion.

12.6.1. Final Completion Certificate. Seller must provide GPC with no less than 10 Business Days' notice before Seller's expected delivery of the Final Completion Certificate. When Seller determines that the Work satisfies the requirements for Final Completion set forth in Exhibit W-3 (*Final Completion Criteria*), Seller will so notify GPC and provide GPC a certificate in the form of Exhibit H-3 (*Form of Final Completion Certificate*) certifying that Final Completion has been achieved and the date thereof ("**Final Completion Certificate**").

12.6.2. GPC's Review of Final Completion Certificate. Within five Business Days after receipt of each Final Completion Certificate, GPC will either: (i) reject the Final Completion Certificate, specifying the reasons therefor; or (ii) accept the Final Completion Certificate by countersigning the Final Completion Certificate, in which case, Final Completion will be deemed to have occured on the date set forth in the Final Completion Certificate.

12.6.3. Resubmission of Final Completion Certificate. If GPC rejects a Final Completion Certificate, then Seller will promptly provide GPC with a plan and schedule for remedying the deficiencies specified by GPC, and will carry out the plan at its own cost and expense. Upon completion of remedial work and Seller's belief that it has satisfied the requirements for Final Completion, Seller will issue a new Final Completion Certificate to GPC under Section 12.6.1 (*Final Completion Certificate*). This procedure will be repeated until GPC accepts the Final Completion Certificate under Section 12.6.2(ii) (*GPC's Review of Final Completion Certificate*). Disputes as to whether Seller has achieved Final Completion will be resolved under Part 19 (*Dispute Resolution; Governing Law*).

12.7 Risk of Loss; Care, Custody and Control. Seller will be responsible for risk of loss of the Work, including all Project Equipment, Materials, and the Project, and will make good at Seller's own cost and expense any loss or damage that may occur to the Work or any part of the Work from any cause whatsoever on or before the Substantial Completion Date. Care, custody, and control of the Work, including all Project Equipment, Materials, and the Project, will transfer to GPC on the date GPC accepts Substantial Completion. However, Seller will remain responsible for any loss or damage to the Work, including all Project Equipment, Materials, and the Project to the extent caused by any act or omission of Seller or any Seller Parties after the Substantial Completion Date.

12.8 Delay Liquidated Damages.

12.8.1. Mechanical Completion Delay Liquidated Damages. If the Project fails to achieve Mechanical Completion on or before the Outside Closing Date, Seller must pay GPC liquidated damages in the applicable amount stated in the Table in Exhibit A-1 until the Mechanical Completion Date ("**Mechanical Completion Delay Liquidated Damages**").

12.8.2. Substantial Completion Delay Liquidated Damages. If the Project fails to achieve Substantial Completion on or before the Guaranteed Substantial Completion Date, Seller must pay GPC liquidated damages in the applicable amount stated in Exhibit A-1 per day for each day of delay until the Substantial Completion Date ("**Substantial Completion Delay Liquidated Damages**").

12.9 Delay Liquidated Damage Payment. Subject to Section 12.10 (*Certain Liquidated Damages Refunded*), GPC will deduct: (i) Delay Liquidated Damages owed under Section 12.8.1 (*Mechanical Completion Delay Liquidated Damages*) from the Closing Payment amount due under Section 1.4.2 (*Closing Payment*); and (ii) Delay Liquidated Damages owed under Section 12.8.2 (*Substantial Completion Delay Liquidated Damages*) from the payment of the remainder of the Purchase Price due at Substantial Completion under Section 1.4.3 (*Substantial Completion Payment*).

12.10 Certain Liquidated Damages Refunded. If the Project achieves Substantial Completion on or before the close of business on the Guaranteed Substantial Completion Date, then Seller will not be liable for any Mechanical Completion Delay Liquidated Damages, and GPC will refund to Seller any Mechanical Completion Delay Liquidated Damages withheld by GPC within 30 days after the Substantial Completion Date.

PART 13 DRAWINGS

13.1 Drawings Generally.

13.1.1. Contract Documentation and Drawing List. Following receipt and approval of the Project Schedule, Seller will prepare a contract documentation and drawing list identifying those key drawings, data, calculations (as required for regulatory purposes and consents), drawings, technical specifications, and concepts required for review for conformance with this BTA. Seller will, within the time detailed in the Project Schedule or elsewhere in this BTA, including Exhibit Q (*Contractor Deliverables Table*), submit to GPC in hard copy and electronic form (the specific form of which will be agreed to by the Parties), and in in accordance with: (i) the Technical Specifications; (ii) Exhibit Q (*Contractor Deliverables Table*); and (iii) the "Document Submittal Specifications" in Exhibit P (*Additional Compliance Requirements*), such key data, calculations, drawings, technical specifications, and concepts. Seller must timely submit to GPC's Authorized Representative drawings of temporary and permanent buildings and structures and any other information required under the terms and conditions of any Consent, license, and planning permission obtained or to be obtained by Seller or GPC.

13.1.2. Disapproval by GPC. GPC may, in its discretion, disapprove any drawing if GPC notifies Seller of GPC's disapproval within 10 Business Days after receipt. Seller will supply additional copies of documents or information (including calculations) in the form and numbers stated in this BTA. Without waiver of or prejudice to any right of GPC, Seller will bear all risk relating to Seller's performance of Work

arising from or relating to all documents or information (including calculations).

13.2 GPC's Design Review.

13.2.1. Review. Seller must ensure that the EPC Contract provides GPC and its designated Representative ("**GPC Design Review Parties**") with commercially reasonable review rights, in respect of certain design drawings, specifications, and similar documents which will set forth in detail the requirements for the construction of the Project, including the right to review: (i) 30% designs; (ii) 60% designs; (iii) 90% designs; and (iv) issued for construction drawings ("**Design Documents**"). The Design Documents will include engineering and technical specifications for the Project for an installed capacity equal to the Project Nameplate Capacity.

13.2.2. GPC's Comments. The GPC Design Review Parties will have 15 Business Days after receipt of the Design Documents to provide comments. Any comment will address conformance of the Design Documents to the Technical Specifications and the Transaction Documents.

13.2.3. Resubmitting Design Documents. If the GPC Design Review Parties timely provide comments on any Design Document, Seller Parties must resubmit revised Design Documents that are responsive to those comments. The GPC Design Review Parties will then have 10 Business Days after receipt of the resubmission to provide any additional comment. Seller Parties may only proceed with the Work once the GPC Design Review Parties either approve the Design Documents without comment or offer written consent that the comments do not have to be incorporated into the Design Documents.

13.2.4. Delay or Lack of Comments. A delay or lack of comments from the GPC Design Review Parties will not relieve the Seller from meeting its obligations under this BTA or the EPC Contractor from meeting its obligations in the EPC Contract, and GPC reserves the right to allow the work to proceed "under protest."

13.3 Documents not in Accordance with BTA. Seller must promptly modify to comply with this BTA any document or information (including calculations) that the GPC Design Review Parties identify as not in compliance with this BTA.

13.4 Drawings Submitted. Seller must not deviate from drawings accepted or approved by GPC Design Review Parties or issued by Seller as approved for construction, except with the prior written consent of GPC.

13.5 Inspection of Drawings. Seller must maintain and provide GPC from time to time, or upon request of GPC, a complete list of drawings identifying those drawings that are approved for construction. GPC Design Review Parties will have the right at all reasonable times to inspect all drawings of any part of the Work.

13.6 GPC's Use of Drawings.

13.6.1. Work for Hire. Drawings and information created by Seller Parties for purposes of designing, developing, constructing, commissioning, and operating the Project constitute "work made for hire," and Seller transfers and assigns all rights in and to such drawings and information to GPC. The EPC Contract will similarly require that EPC Contractor transfer and assign to GPC all rights in and to such drawings and information.

13.6.2. Use. Drawings and information supplied by Seller Parties that are not created by Seller specifically for or in connection with the Project, but that are necessary or useful for the operation and maintenance of the Project, the Work, or any portion of thereof, may be used by GPC for the purposes of completing, maintaining, operating, improving, adapting, renewing, enlarging, dismantling, re-assembly, adjusting, and repairing the Work, and for any other legal purpose, under the license granted in Section 13.6.3 (*License*).

13.6.3. License. Seller grants to GPC an irrevocable, perpetual, royalty free license to use all drawings and information provided under this BTA, including the Design Documents, for the purposes described in Section 13.6.2 (*Use*), and Seller will provide GPC with copies of such drawings and information.

13.7 Errors in Drawings Supplied by Seller.

13.7.1. Errors. Seller will be responsible for the accuracy, completeness, and suitability of all Design Documents and other drawings, samples, patterns, models, calculations, or information submitted by Seller Parties in connection with the Work. No review, inspection, or approval by GPC or any GPC Design Review Party of any drawing, sample, pattern, model, calculation, or information submitted by any Seller

Party will relieve Seller of any responsibility or liability imposed on it by any provisions of this BTA, and Seller will be fully responsible for any error, omission, or discrepancy in the Design Documents.

13.7.2. Delay, Seller must bear all third-party costs Seller or GPC may incur as a result of delay in providing any drawings, samples, patterns, models, calculations, or information or as a result of material errors, omissions, discrepancies or correction.

13.7.3. Seller Responsibility. Seller must, at its sole cost and expense, carry out or cause to be carried out, any alteration or remedial work necessitated by errors, omissions, or discrepancies for which it is responsible and modify the drawings, samples, patterns, models, calculations, or information accordingly.

PART 14 WARRANTIES OF WORK

14.1 Warranties.

14.1.1. Seller Obligations. Seller must perform, or cause performance of, all Work in a good, proper, efficient, and workmanlike manner in accordance with the requirements of this BTA, industry standards, and Prudent Utility Practices.

14.1.2. EPC Contractor and Subcontractor Warranty. Seller must cause the EPC Contractor and each Major Subcontractor to provide a warranty under the EPC Contract or Major Supply Agreement, as applicable ("**Warranty**"), for a duration no less than the applicable Warranty Period stated in this Part 14 (*Warranties of Work*). The scope of the Warranty must include:

(i) that the Project and all Project Equipment and Materials, and other Work furnished by EPC Contractor or Major Subcontractor, as applicable, including installation will: (a) be free from defects in design, engineering, construction, fabrication, workmanship and materials (collectively, "**Defects**," and individually "**Defect**"); (b) be new and unused (except for use as part of the Project); (c) be of good quality, undamaged and in good condition; and (d) conform to the applicable requirements of this BTA and the other Transaction Documents, including the Technical Specifications, in each case, in effect as the Substantial Completion Date;

(ii) that the procurement, design, engineering, and construction services included as part of the Work will: (a) be performed, as applicable, with EPC Contractor's and each Major Subcontractor's best skill and judgment, in a good and workmanlike manner; (b) will conform to and be designed, engineered and constructed in accordance with Prudent Utility Practices, applicable laws, and the Project Permits, in each case, in effect as of the Substantial Completion Date; and (c) will conform with, and be designed and engineered (with registered professional engineer stamp for EPC Contractor's deliverables and Major Subcontractor's deliverables, as applicable): (1) according to the professional standards and skill, expertise, and diligence of design professionals regularly involved in energy projects similar to the Project; and (2) in conformity with the Technical Specifications;

(iii) that the completed Work will perform its intended function as a complete, integrated operating system as explicitly described or implied in the Technical Specifications;

(iv) that all software provided by Seller as part of the Work will: (a) be free from defects; (b) perform in accordance with its intended purpose; and (c) appropriately and effectively interface all applicable Project Equipment, without defect, failure, interference or complication, and without any errors caused by an incorrect operation of the unmodified computer code in the software or any flaw in the same that produces incorrect results;

(v) that none of the Work, the Project, the Project Equipment, the Materials, the final plans or the design, engineering, and other services rendered by EPC Contractor or any Major Subcontractor, nor the use or ownership by GPC in accordance with the licenses granted under this BTA, infringes, violates, or constitutes a misappropriation of any Person's Intellectual Property Rights; and

(vi) that no advisory, bulletin, notice, product modification or other technical publication issued by a Major Equipment Supplier ("**Major Equipment Supplier Publication**") will mandate a repair, modification, or replacement of one or more parts or components of the Major Equipment to address issues of personnel safety, reliability, or integrity of the Major Equipment, or to assure continued safe and reliable operation of the Facility.

14.2 Warranty Exclusions. The Warranty will not extend to Defects or deficiencies to the extent resulting from: (i) operation by GPC's personnel in a manner inconsistent with or contrary to instructions contained in the operation and maintenance manuals provided by Seller under Section 6.11 (*Drawings and Manuals*); (ii) repairs or alterations by GPC's personnel in a manner inconsistent with or contrary to written instructions provided in advance by Seller, or as contained in the operation and maintenance manuals provided by Seller under Section 6.11; or (iii) normal wear and tear.

14.3 Gap Warranty. Seller must provide a gap warranty ("**Gap Warranty**") for a duration no less than the applicable Warranty Period stated in this Part 14 (*Warranties of Work*). The scope of the Gap Warranty will include:

(i) that the Project and all Project Equipment and Materials, and other Work furnished by Seller, including installation will: (a) be free from improper workmanship and Defects; (b) be new and unused; (c) be of good quality, undamaged, and in good condition; and (d) conform to the applicable requirements of this BTA and the other Transaction Documents, including the Technical Specifications, in each case, in effect as of the Final Completion Date;

(ii) that the procurement, design, engineering, and construction services performed by Seller or any Seller Party as part of the Work (including for the avoidance of doubt, Work related to installation of the Project Equipment) will: (a) be performed with such Person's best skill and judgment, in a good and workmanlike manner; (b) will conform to and be designed, engineered, and constructed in accordance with the terms and conditions of the Transaction Documents, including the Technical Specifications, Prudent Utility Practices, applicable laws, and the Project Permits, in each case, in effect as of the Final Completion Date; and (c) will conform with, and be designed and engineered: (1) according to the professional standards and skill, expertise, and diligence of design professionals regularly involved in energy projects similar to the Project; and (2) containing the Project Equipment, Materials, and supplies described in the Technical Specifications;

(iii) that the completed Work will perform its intended function as a complete, integrated energy generation operating system as explicitly described or implied in the Technical Specifications;

(iv) that all software provided as part of the Work will: (a) be free from defects; (b) perform in accordance with its intended purpose; and (c) appropriately and effectively interface all applicable Project Equipment, without defect, failure, interference or complication, and without any errors caused by an incorrect operation of the unmodified computer code in the software or any flaw in the same that produces incorrect results; and

(v) that none of the Work, the Project, the Project Equipment, the Materials, the final plans or the design, engineering, and other services rendered by Seller or a Seller Party under this BTA, nor the use or ownership thereof by GPC in accordance with the licenses granted under this BTA, infringes, violates, or constitutes a misappropriation of any Intellectual Property Rights of any third party.

14.4 Warranty Period.

14.4.1. General Warranty Period. Subject to the provisions in this Part 14 (*Warranties of Work*), the Warranty will remain in full force and effect for a period beginning on the Substantial Completion Date and ending on the date 24 months after the Substantial Completion Date ("**Warranty Period**"). However, if a Serial Defect occurs within the Warranty Period, then the Warranty Period for that type of component will be automatically extended for all components of that type for an additional 12 months from the date of the failure that caused the Serial Defect.

14.4.2. Extended Warranty Period for Certain Equipment. Seller must cause the EPC Contractor to: (a) obtain warranty coverage for the modules that: (i) endures for a period of not less than 10 years, after the Substantial Completion Date, and includes the supply of repaired or replacement parts as required to remedy defects in the modules for the Project, and the supply of all "in and out" labor to remove defective parts and install repaired or replacement parts; and (ii) includes a power output warranty with a warranty period of no less than 25 years; (b) obtain warranty coverage for the transformers (including on-load tap changers) that endures for a period of not less than 5 years after the Substantial Completion Date, and includes the supply of repaired or replacement parts as required to remedy defects in the transformers for the Project, and the supply of all "in and out" labor to remove defective parts, and install repaired or replacement parts; (c) obtain warranty coverage for the inverters that endures for a period of not less than

10 years after the Substantial Completion Date, and includes the supply of repaired or replacement parts as required to remedy defects in the inverters for the Project, and the supply of all "in and out" labor to remove defective parts, and install repaired or replacement parts; (d) obtain warranty coverage covering the supply of repaired or replacement parts as required to remedy defects in the drive components for the [trackers for the Project (which includes motor, gear and controller)][2] supplied by or through EPC Contractor that : (i) endures for a period of not less than 5 years after delivery to the Project Site, and includes the supply of repaired or replacement parts as required to remedy defects in the structural components for the trackers, and that endures for a period of not less than 10 years after delivery to the Project Site; and (e) obtain warranty coverage for the combiner boxes that endures for a period of not less than 5 years after the Substantial Completion Date, and includes the supply of repaired or replacement parts as required to remedy defects in the combiner boxes for the Project, and the supply of all "in and out" labor to remove defective parts, and install repaired or replacement parts. Seller will deliver to GPC, promptly following execution or receipt of the applicable Project Contract, a copy of these warranties ("**Major Equipment Warranty Requirements**").

14.5 Repair of Defects. If GPC or Seller discovers that the Work, or any portion of the Work, fails to meet the Warranty or the Gap Warranty, then it will notify the other Party of the failure within a reasonable time after discovery. Upon receipt of such notice, Seller will: (a) cure the failure, or cause the failure to be cured, in accordance with the Warranty or Gap Warranty, so to remedy the Defect and any resulting property damage resulting therefrom, and re-perform the Work, including any engineering, repairing, modifying, replacing, disassembling, removing, transporting, storing, re-assembling or re-performing the affected portion of the Work and other property, in each case in accordance with this Section 14.5 (*Repair of Defects*); and (b) perform any tests as GPC may reasonably require to demonstrate the cure of the failure. Seller will coordinate repairing, replacing, or re-performing any of the Work with EPC Contractor and GPC to minimize any adverse effects on the operation of the Project.

14.6 Right to Self-Perform. If the Seller does not commence, or cause the commencement of, the Warranty service within five Business Days after receipt of notice from GPC, then GPC may perform or have performed by a qualified third party, the necessary remedy consistent with the requirements set forth in this BTA with respect to the Work, and Seller will be liable for all actual documented costs, charges, and expenses (including transportation, labor, and travel costs) incurred by GPC in connection with the remedy. Corrective work self-performed by GPC will not void the Gap Warranty or Warranty obligations except to the extent of GPC's (or such third party's) gross negligence or willful misconduct.

14.7 Warranty Period Extension. Any Work re-performed, and any part of the Project Site that is reworked, repaired or replaced in satisfaction of Seller's or EPC Contractor's obligations in connection with the Warranty or Gap Warranty will be re-warranted under the same Warranty or Gap Warranty set forth in this Part 14 (*Warranties of Work*), and Seller and EPC Contractor, as applicable, will have the same obligations as set forth in this Part 14 (*Warranties of Work*) until the later of: (a) 12 months from the date of re-performance, rework, repair or replacement is completed; or (b) the end of the original Warranty Period.

14.8 Serial Defects. If a Serial Defect occurs during the Warranty Period, Seller will, or will case EPC Contractor to:

(i) prepare a root cause report for the component(s) subject to the Serial Defect and deliver the report to GPC within 10 Business Days after the discovery or notice of a Serial Defect, including the proposed solution and the planned method for redesign or repair, and retrofit of the component(s) for which the Serial Defect occurred and any related Work;

(ii) at its sole cost, undertake any action required to give effect to the solution for the Serial Defect, which solution will: (a) be applied to all of the Project Equipment or Work that have substantially the same defect or failure to perform, regardless of whether or not the Project Equipment or Work has yet to exhibit the adverse consequences of the Defect or other root cause; (b) address the cause, and not just the effect, of the Serial Defect; and (c) bring the Project Equipment and the Work into compliance with the Warranty requirements of this BTA ("**Serial Defect Warranty Work**"). The solution will also specify the period after which the Serial Defect

[2] *To be modified if fixed-tilt system is used.*

Warranty Work is required to be completed ("**Serial Defect Warranty Work Completion Date**"); and

(iii) without limiting the generality of the foregoing, if the root cause is determined to be a design defect, the remedy will include prosecuting and administering the applicable Project Equipment warranty with the manufacturer to ensure the manufacturer formulates a reasonable retrofit design that resolves the cause and effect of such component(s) and causes all affected components of the Project to be retrofitted with the new design as promptly as possible.

14.9 Assignment of Warranties. Unless otherwise assigned under a Major Supply Agreement, the EPC Contract will require EPC Contractor to assign to GPC all of EPC Contractor's rights with respect to any outstanding Major Equipment warranties that are in effect upon the earlier of: (i) any termination of this BTA after the Closing Date; or (ii) the end of the Warranty Period. Seller will be responsible for ensuring that any warranties are freely assignable to GPC without the prior consent of the applicable Subcontractor, and Seller must provide all necessary cooperation and assistance to GPC with respect to the assignment of any such warranties.

PART 15 DEFAULT

15.1 Seller Default. Seller will be in default (a "**Seller Default**") if:

(i) Seller fails to pay GPC any undisputed amount due GPC under this BTA, and the failure continues for 15 Business Days after Seller receives notice from GPC;

(ii) Seller fails to pay EPC Contractor any undisputed amount due EPC Contractor under the EPC Contract, and the failure continues for 15 Business Days after Seller receives notice from GPC;

(iii) Seller fails to deliver and maintain any Performance Security required under Part 4 (*Performance Security*), and the failure continues for seven Business Days after Seller receives notice from GPC;

(iv) EPC Contractor fails to deliver and maintain any performance security required under the EPC Contract or this BTA and the failure continues for five Business Days after Seller receives notice from GPC;

(v) Seller fails to achieve: (a) Mechanical Completion within 60 days after the Outside Closing Date; or (b) Substantial Completion within 60 days after the Guaranteed Substantial Completion Date;

(vi) Seller fails in any material respect to comply with any of its other material obligations under this BTA (not otherwise described in this Section 15.1 (*Seller Default*)), and the failure continues for 30 days after Seller receives notice from GPC. However, the 30 day period will be extended for a period not to exceed an additional 30 days if: (a) the breach is reasonably capable of cure, and curing the breach reasonably requires more than 30 days; (b) Seller commences the cure as soon as reasonably practicable after Seller receives notice of the breach; and (c) Seller continuously and diligently pursues the cure;

(vii) Seller, or a Person providing Performance Security on behalf of Seller, becomes Insolvent; or

(viii) any representation or warranty made by Seller for which an express remedy is not provided proves to have been false in any material respect as of the date made or deemed made, unless the circumstances that make such representation or warranty false are subject to cure or remedy by Seller within a period of 30 Business Days, and Seller is diligently pursuing the cure or remedy, in which case the representation or warranty being false in any material respect will not become a Seller Default until 30 Business Days after Seller receives notice from GPC (unless the representation and warranty is no longer false in any material respect).

15.2 GPC Default. GPC will be in default (a "**GPC Default**") if:

(i) GPC fails to pay Seller any undisputed amount due Seller under this BTA, and the failure continues for 15 Business Days after GPC receives written notice from Seller;

(ii) GPC fails in any material respect to comply with any of its other material obligations under this BTA (not otherwise described in this Section 15.2 (*GPC Default*)) and the failure continues

for 30 days after GPC receives written notice from Seller. However, the 30 day period will be extended for a period not to exceed an additional 30 days if: (a) curing the breach reasonably requires more than 30 days; (b) GPC commences the cure as soon as reasonably practicable after GPC receives written notice of the breach; and (c) GPC diligently pursues the cure;

(iii) GPC becomes Insolvent; or

(iv) any representation or warranty made by GPC for which an express remedy is not provided proves to have been false in any material respect as of the date made or deemed made, unless the circumstances that make the representation or warranty false are subject to cure or remedy by GPC within a period of 30 Business Days and GPC is diligently pursuing the cure or remedy, in which case the representation or warranty being false in any material respect will not become a GPC Default until 30 Business Days after GPC receives notice from Seller (unless the representation and warranty is no longer false in any material respect).

15.3 Remedies on Default.

15.3.1. Cure Rights. Upon receipt of any notice from GPC that Seller is in default of any of its obligations under this BTA or any of the other Transaction Documents, in addition to any other rights GPC may have under this BTA, at law, or in equity, GPC will have the right, but not the obligation, to cure any Seller Default under this BTA or any other Transaction Document. If GPC at any time exercises its right under this Section 15.3.1 (*Cure Rights*), Seller will indemnify and hold harmless GPC from and against any costs incurred by GPC to exercise its right under this Section 15.3.1 (*Cure Rights*).

15.3.2. No Excuse. Notwithstanding the exercise by GPC of any of its rights under Section 15.3.1 (*Cure Rights*), nothing set forth in this Section 15.3 (*Remedies on Default*) will excuse Seller of its obligations to remedy a Seller Default and perform its obligations under this BTA.

PART 16 TERMINATION FOR DEFAULT

16.1 Termination by GPC. Upon the occurrence and continuation of a Seller Default, this BTA will terminate upon delivery to Seller of a written termination notice after the end of the applicable cure period provided in Section 15.1 (*Seller Default*), and if no cure period is provided in Section 15.1, then 14 days after delivery to Seller of a written notice of termination. In the event of a termination by GPC under this Section 16.1 (*Termination by GPC*), Seller must pay GPC the Termination Payment Amount and GPC may retain any Upgrade Security pursuant to Section 1.8 (*Grid Improvements*).

16.2 Termination by Seller. Upon the occurrence and continuation of a GPC Default, this BTA will terminate upon delivery to GPC of a written termination notice after the end of the applicable cure period provided in Section 15.2 (*GPC Default*), and if no cure period is provided in Section 15.2, then 14 days after delivery to GPC of a written notice of termination. Despite any other provision in this BTA, in the event of a termination by Seller under this Section 16.2 (*Termination by Seller*) with respect to a GPC Default under Section 15.2(i) (*GPC Default*), GPC will owe Seller the Cancellation Payment, which will represent Seller's exclusive relief and remedy for termination.

16.3 Exclusive Remedies. The rights and remedies of Seller set forth in Section 16.2 (*Termination by Seller*) for a GPC Default are the exclusive rights and remedies of Seller, and no other remedy of any kind whatsoever exists or applies if there is a GPC Default or termination of this BTA by Seller in accordance with this Part 16 (*Termination for Default*).

16.4 Survival; Post-Closing Termination. After a valid termination, all future obligations of the Parties under this BTA (other than the provisions that by their terms are intended to survive BTA expiration or termination) will be terminated. Any termination that occurs after Closing will not invalidate the prior transfer to GPC of all rights, title, and interest in the Project.

PART 17 RISK AND CLAIMS

17.1 Survival of Representations, Warranties, and Covenants. All representations and warranties made by Seller or GPC in this BTA will survive for a period of 24 months after the Effective Date, except that the Seller Fundamental Representations and the GPC Fundamental Representations will survive until 60 days after the expiration of the applicable statute of limitations (giving effect to any extensions or waivers thereof). The covenants and agreements of the Parties contained in this BTA to be performed by their terms at or prior to the Closing will survive the Closing for a period of 24 months after the Closing Date, and the covenants and agreements of the Parties contained in this BTA to be performed by their terms after the Closing will survive the Closing until fully

performed in accordance with their terms. However, the covenants set forth in Section 1.2 (*Purchase and Sale; Excluded Assets; Excluded Liabilities; Assumed Liabilities*) will survive the Closing until 60 days after the expiration of the applicable statute of limitations (giving effect to any extensions or waivers thereof). The indemnities covered by Section 17.3(iii) (*Indemnification by Seller*) will survive the Closing until 60 days after the expiration of the applicable statute of limitations (giving effect to any extensions or waivers thereof). All representations, warranties, covenants, and agreements will survive beyond the period specified in this Section 17.1 (*Survival of Representations, Warranties, and Covenants*) with respect to any inaccuracy therein or breach thereof, if notice of the inaccuracy or breach has been duly given within the applicable period in accordance with Section 17.5 (*Notice of Proceeding*), but only if, and for the time period, necessary to resolve any Claim for indemnification arising from an asserted inaccuracy in or breach of the applicable representation or warranty or breach of the applicable covenant or agreement.

17.2 Liability for the Project. Before the Closing Date, as between the Parties, Seller retains all liability and risk regarding the Project and the Project Site. GPC: (i) assumes no duty, responsibility, obligation, or liability regarding the Project or the Project Site, condition, or operation; (ii) is not liable for injury or damage associated with the Project (including its operation, maintenance, repair, or replacement) or the Project Site; and (iii) is not responsible for transmission, distribution, or control of electric energy within the Project or at the Project Site**. Without limiting the generality of the previous sentence, GPC is not responsible for physical damage to, or destruction of, Seller's property, and Seller will not seek recovery from GPC for property damage, except in the case of the sole negligence or intentional wrongdoing by GPC**.

17.3 Indemnification by Seller. To the fullest extent allowed by law, Seller must indemnify, release, hold harmless, and at GPC's request, defend, GPC and any GPC Related Person (each an "**GPC Indemnified Party**" and collectively, the "**GPC Indemnified Parties**") from or against any Claim caused by, arising out of, or related to:

(i) any breach or inaccuracy of a representation, warranty, or other statement made by Seller in this BTA, or any of the other Transaction Document, or the Seller Closing Certificate;

(ii) any breach by Seller of, or default in, the performance by Seller of any covenant or obligation to be performed by Seller under this BTA, or any of the other Transaction Document;

(iii) the Excluded Asset or the Excluded Liabilities;

(iv) any fraud, intentional misrepresentation, or willful misconduct of Seller or any Seller Party in connection with this BTA, or any other Transaction Document, or the transactions contemplated by this BTA;

(v) any loss in value of, or any inability to claim or otherwise take advantage of: (a) relevant federal, state, or local Tax credits or accelerated depreciation (MACRS); or (b) Tax Benefits, in either case, due to any act or omission by Seller or any Person acting on Seller's behalf;

(vi) any security breach, cyber-attack, other data security or cyber incident, or unauthorized access to any Project IT Asset that results in the unauthorized use, misappropriation, modification, encryption, corruption, disclosure, or transfer of any material information or data relating to the Project Assets due to any act or omission by Seller or any Person acting on Seller's behalf;

(vii) infringement or violation of any Intellectual Property Right of a third party with regard to any part of the Work, or the ownership or operation of the Project or the Project Assets;

(viii) any Claim or Liability arising from any oral farming lease pertaining to any part of the Project Site that was not properly and legally terminated in accordance with applicable law before the Closing Date;

(ix) any payment or other obligation to the EPC Contractor or any Subcontractor under any of the Project Contracts (including Construction Costs, or other payments under the EPC Contract or Major Supply Agreements), whether such payment or obligation arises or is incurred prior to, on, or after the Closing Date, other than any Post-Closing GPC EPC Change Order Costs;

(x) any Lien made or filed upon the Work or the Project Site on account of any labor performed or labor, services, equipment, or materials furnished by Seller or any Seller Party, and all laborers, materialmen, mechanics, and other Persons in connection with the Work;

(xi) any defect in title upon any of the Work, including the Project Equipment, Materials, or the

Project, purchased under this BTA; and

(xii) any Claim, including bodily injury and property damage, caused by, arising out of, or related to an act or omission associated with the Project by Seller or any of its Affiliates unless the Claim resulted from the sole negligence or intentional wrongdoing of a GPC Indemnified Party, in which case Seller will not be liable under this subpart (xii).

17.4 Environmental Indemnity. Without limiting GPC's other rights to indemnification under this BTA, Seller will indemnify and hold harmless (and at GPC's request, defend, unless GPC elects in its sole discretion to so defend) the GPC Indemnified Parties from and against any Claim, and will compensate and reimburse the GPC Indemnified Parties for, any Claim that arises out of or in connection with, or relate to: (i) any loss, obligation, or other responsibility under any Environmental Law (whether or not the loss, obligation or other responsibility existed on or before the Closing Date) arising out of or relating to: (a) the ownership, operation, or condition at any time on or before the Closing Date, of the Project, the Project Site, or any of the other Project Assets; (b) any Hazardous Substance that was present or existing on, at, or under the Project, the Project Site, or any of the other Project Assets at any time on or prior to the Closing Date; (c) any Hazardous Substance, wherever located, that was generated, transported, stored, treated, Released, or otherwise handled by Seller or its Affiliates in connection with the Project at any time on or before the Closing Date; or (d) any Hazardous Activity conducted by Seller, or by any other Person for whose conduct Seller is or may be held responsible; or (ii) loss of life, bodily injury, property damage, or other damage of or to any Person, including any employee or former employee of Seller or any Seller Party, regardless of when the loss of life, bodily injury, property damage, or other damage occurred or manifested, in any way arising from or allegedly arising from any Hazardous Activity conducted on or before the Closing Date with respect to the Project, the Project Site, or any of the other Project Assets, or with respect to the operation of the Project, or from any Hazardous Substance that was: (I) present on or before the Closing Date on, at, or under the Project Site (or present on, at, or under any other property, if the Hazardous Substance emanated, or allegedly emanated, from the Project Site on or before the Closing Date); or (II) Released by Seller, a Seller Party, or any other Person for whose conduct Seller is or may be held responsible, at any time on or before the Closing Date. GPC will be entitled (at its election) to control any investigatory, cleanup, remedial, or response activity, any related Action, and, except as provided in the following sentence, any other Action for which relief may be sought under this Section 17.4 (*Environmental Indemnity*). The procedure described in Section 17.5 (*Notice of Proceeding*), however, will apply to any Third-Party Claim solely for monetary damages relating to a matter covered by this Section 17.4.

17.5 Notice of Proceeding. GPC will promptly notify Seller of any Claim or proceeding in respect of which GPC seeks to be indemnified under this BTA ("**Indemnification Claim**"). Any notice must be given as soon as reasonably practicable after the GPC Indemnified Party becomes aware of the Indemnification Claim. Failure to give this notice will not excuse the indemnification obligation of Seller except to the extent failure to provide notice prejudices Seller. If requested by GPC, Seller will assume the defense of the Indemnification Claim with counsel designated by GPC. However, if the defendants in any such action include both a GPC Indemnified Party and Seller, and the GPC Indemnified Party reasonably concludes that there may be legal defenses available to it that are different from, additional to, or inconsistent with, those available to Seller, the GPC Indemnified Party will have the right to select and be represented by separate counsel, at the expense of Seller. If, following a request by GPC, Seller fails to assume the defense of an Indemnification Claim, the indemnification of which is required under this BTA, the GPC Indemnified Party may, at the expense of Seller, contest, settle, or pay the Indemnification Claim, but that settlement or full payment of the Indemnification Claim may be made only with Seller's consent or, absent such consent, written opinion of the GPC Indemnified Party's counsel that the Indemnification Claim is meritorious or warrants settlement.

17.6 Pursuit of Indemnity Payments Under Project Contracts. With respect to any Indemnification Claim under Section 17.3 (*Indemnification by Seller*) for which any counterparty to a Project Contract bears responsibility after GPC takes assignment of such Project Contract, GPC will use reasonable efforts to recover the maximum extent available under the Project Contract in respect of the event giving rise to the right of indemnity of Seller under Section 17.3. The amount of any indemnity payment made by Seller under Section 17.3, will be reduced by the amount of any indemnity or other payment received by the GPC Indemnified Party from any counterparty to a Project Contract in respect of the event giving rise to the right of indemnity under Section 17.3.

17.7 Materiality. Despite any other provision in this BTA, for purposes of Section 17.3.1(i) (*Indemnification by Seller*), in determining: (i) whether an inaccuracy or breach has occurred in any representation or warranty contained in this BTA, any Transaction Document, or the Seller Closing Certificate; or (ii) the amount of damage or loss suffered by a GPC Indemnified Party as a result of any such inaccuracy or breach, this determination will

be made without regard to any "materiality," "Seller Material Adverse Effect," or similar qualification.

17.8 Effect of Investigation. A GPC Indemnified Party's right to indemnification, payment, reimbursement, or any other remedy based upon any representation, warranty, covenant, agreement, or obligation contained in this BTA or any Transaction Document will not be limited, diminished, or otherwise affected by any investigation conducted, or any knowledge acquired at any time, whether before or after the Closing, and regardless of whether such knowledge came from GPC, Seller, their respective Representatives, or any other Person, with respect to the accuracy or inaccuracy of or compliance or noncompliance with any such representation, warranty, covenant, agreement, or obligation.

17.9 No Duplicate Payments. Despite any other provision in this BTA, all amounts payable under the indemnification obligations of this BTA will be paid without duplication.

17.10 Right to Specific Performance. Without limiting or waiving any right or remedy of a Party under this BTA now or hereafter existing at Law, in equity, or by statute, each Party will be entitled to specific performance of the obligations to be performed by the other Party in accordance with the provisions of this BTA.

17.11 Tax Characterization. Unless otherwise required by applicable law, any indemnity payment made under this BTA will be treated as an adjustment to the Purchase Price for all Tax purposes.

17.12 Incorporation of Indemnity Limitations. If at any time any clause or part of the indemnity under Section 17.3 (*Seller Indemnity*) or section 17.4 (*Environmental Indemnity*) is found by any court, tribunal, or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, or unenforceable in any respect, the legal limitations will be made part of the indemnification obligation to the minimum extent necessary to bring this provision into conformity with applicable law, and, as so modified, this general indemnity will continue in full force and effect.

PART 18 TAX MATTERS

18.1 Transfer Tax. Seller will be responsible for, and must timely pay, all Transfer Taxes. Seller must prepare and file all Tax Returns for any Transfer Tax and must remit the Transfer Tax shown as due on each Tax Return. GPC and Seller will, upon request, use their commercially reasonable efforts to obtain any certificate or other document from any Governmental Authority or any other Person that may be necessary to mitigate, reduce, or eliminate any Tax described in this Section 18.1 (*Transfer Tax*).

18.2 Seller Tax Indemnity. Seller must indemnify and hold harmless GPC Indemnified Parties from and against: (i) Seller Income Taxes; (ii) Pre-Closing Taxes; and (iii) Transfer Taxes.

18.3 Maintenance of Tax Benefits. Neither Seller nor any Affiliate of Seller will engage in any action, or fail to take any action, that would be reasonably likely to jeopardize the realization by, or allowance to GPC or any of its Affiliates, of any Tax Benefits, or the eligibility of the Project (or any property that is part of the Project) for any other Tax benefit.

18.4 Seller Tax Returns. For any Tax Returns that relate to a taxable period ending on or before the Closing Date, Seller must timely prepare and file, or must cause to be timely prepared and filed, with the appropriate Governmental Authorities all Tax Returns required to be filed with respect to the Project and the Project Assets, and all Tax Returns must correctly and accurately set forth the amount of any Taxes relating to the applicable Tax period, and Seller will pay within the time and manner prescribed by Law all Taxes due and payable with respect to any Tax period.

18.5 Tax Contests. GPC will control, in its sole discretion, any Tax audit, litigation, or other proceeding with respect to any income Taxes of GPC with respect to the Project ("**Tax Contest**"), except solely to the extent that such audit, litigation, or proceeding involves a Claim made or proposed by the IRS that, if successful, would result in a Claim for which Seller will be required to indemnify GPC under this BTA, including a contest related to the PWA Requirements (an "**Indemnified Tax Claim**"). In that case, upon GPC's request, Seller will, at its own expense, control the defense and settlement of the applicable proceeding solely to the extent of matters directly and solely impacting such Indemnified Tax Claim, including the content of all related communications with any Taxing Authority. However, Seller will keep GPC reasonably apprised of the developments of such Tax Contest and may not settle or compromise any asserted Liability that would adversely affect GPC's ability to claim any Tax credit or Tax Benefit without the prior written consent of Seller.

18.6 Assistance and Cooperation. GPC and Seller will provide each other with assistance and cooperation as reasonably requested by the other Party in connection with the preparation of any Tax Return, any audit or

other examination by any Taxing Authority, or any judicial or administrative proceedings relating to Liability for Taxes. This assistance and cooperation will include the retention and (upon the other Party's request) the provision of records and information that are reasonably relevant to any audit, litigation, or other proceeding, and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided under this BTA. Each Party will retain and provide the requesting Party with any records or information until the expiration of the statute of limitations (and, to the extent notified by the other Party, any extensions thereof) of the respective taxable periods which may be relevant to the Tax Return, audit or examination, proceedings, or determination.

18.7 Allocation of Taxes. For purposes of determining the amount of Taxes with respect to the Project attributable to the portion of the Straddle Period ending on the Closing Date, any Liability for Taxes attributable to the Straddle Period will be apportioned between the portion of the period ending on the Closing Date and the portion of the period beginning on the day after the Closing Date: (a) in the case of real and personal property Taxes, by apportioning such Taxes on a per diem basis; and (b) in the case of all other Taxes, on the basis of a closing of the books as of the close of business on the Closing Date, as described in Section 18.2 (*Seller Tax Indemnity*).

18.8 Duties and Excises. The Purchase Price includes all Taxes (including any related customs broker fees or similar charges) imposed on the sale or delivery of the Project Assets, the Work and the Project, and Seller will duly and timely remit any such Taxes in accordance with all applicable Laws (including all customs and import duties arising upon the importation of the Project, Project Equipment, and Materials into the applicable port of entry). Seller will provide GPC any information and data requested by GPC, and will fully cooperate, in connection with: (i) the reporting of any such Taxes; (ii) any audit relating to any such Taxes; or (iii) any assessment, Claim, or proceeding relating to any such Taxes.

18.9 Tax Characterization. [***Placeholder for tax characterization***].

18.10 Coordination with General Indemnification. The provisions of this Part 18 (*Tax Matters*) will govern the indemnification rights and obligations of GPC, Seller, and their Affiliates with respect to Tax matters if there is any conflict or overlap between the provisions of Part 17 (*Risk and Claims*) and this Part 18 (*Tax Matters*), and this Part 18 (*Tax Matters*) will be treated for all purposes of this BTA as arising solely under this Part 18 (*Tax Matters*).

PART 19 DISPUTE RESOLUTION; GOVERNING LAW

19.1 Dispute Resolution. Each 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 BTA. This notice ("**Notice of Dispute**") will describe with specificity the basis for the Disputing Party's belief and may propose a resolution of the dispute. Within 15 Business Days after receiving the Notice of Dispute, the Responding Party will provide the Disputing Party with a written response to the Notice of Dispute, describing with specificity the basis for the Responding Party's position, and which may include: (i) additional issues (if any) with respect to the dispute raised by the Notice of Dispute; and (ii) a proposal for the resolution of the dispute (the "**Dispute Response**"). Within five Business Days after the submission of the Dispute Response, the dispute will be submitted to a designated senior Representative of Seller and a designated senior Representative of GPC 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 in writing, then either Party may pursue any rights and remedies as may be available under applicable Law, subject to the terms and conditions of this BTA.

19.2 Governing Law; Forum for Disputes. The validity, interpretation, and performance of this BTA, and each of its provisions, will be governed by the Laws of the state of Georgia without giving effect to principles of conflicts of Law that would require the application of Laws of another jurisdiction. The Parties agree that the state and federal courts, as applicable, of the state of Georgia will have exclusive jurisdiction for the resolution of disputes under this BTA and the Parties consent to such jurisdiction.

19.3 Consent to Jurisdiction. Any legal suit, action, or proceeding arising out of or based upon this BTA or the transactions contemplated by this BTA will be brought in the Federal District Court for the Northern District of Georgia, Atlanta Division, or the Superior Court of Fulton County, Georgia, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding. Each Party irrevocably and unconditionally waives any objection to the laying of venue of any suit, action, or any proceeding in such courts and irrevocably waives and agrees not to plead or claim in any such

court that such suit, action, or proceeding brought in any such court has been brought in an inconvenient forum.

PART 20 LIMITATIONS ON LIABILITY

20.1 Waiver of Consequential Damages. Unless expressly provided in this BTA, and except for the payment of liquidated damages to the extent specified in this BTA, neither Party nor any of its Affiliates nor any Person claiming through either Party will be liable to the other Party for: (i) consequential, incidental, special, punitive, exemplary, treble, or indirect damages (including lost profits, loss of use, loss of 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 BTA, any damage or delay in connection with this BTA, a Party's act or failure to act, or a Party's performance or non-performance under this BTA, whether or not reasonable, foreseeable, contemplated, or avoidable and whether by statute, in tort or contract, or otherwise. However, the foregoing limitation will not apply in the case of any amount owed to a third party for which this BTA requires indemnification, or to limit the liability of a Party whose actions giving rise to such Liability constitute gross negligence or willful misconduct, nor will such will such limitation limit or reduce any amount owed by a defaulting Party under Section 1.7.4 (*Early Termination Fee*), Section 16.1 (*Termination by GPC*), or Section 16.2 (*Termination by Seller*), it being expressly agreed by the Parties that no portion of the Termination Payment will be considered consequential, special, incidental, punitive, exemplary, or indirect damages, lost profits, or other business interruption damages and it being expressly agreed that the lost value of any ITC, PTC, or any other similar Tax credit or benefit will not be considered consequential damages for purposes of this Section 20.1 (*Waiver of Consequential Damages*). If the damages required to be paid under this BTA are liquidated, the Parties acknowledge that: (a) the actual damages likely to be incurred are difficult or impossible to determine; (b) otherwise obtaining an adequate remedy is inconvenient; and (c) the liquidated damage does not constitute a penalty and is a reasonable approximation of the actual harm or loss. The limitation in this Section 20.1 applies regardless of fault and will survive BTA termination, cancellation, suspension, completion, or expiration.

20.2 Representatives and Affiliates. Despite any other BTA provision, no Related Person or Seller Representative will have any personal liability to GPC or any other Person as a result of this BTA or the breach of any representation, warranty, obligation, covenant, or agreement of Seller in this BTA, and no Related Person nor Representative of GPC will have any personal liability to Seller or any other Person as a result of this BTA or the breach of any representation, warranty, obligation, covenant, or agreement of GPC in this BTA. However, nothing in this Section 20.2 (*Representatives and Affiliates*) limits the EPC Contractor's liability to GPC under the EPC Contract after the Closing Date.

20.3 Enforceability of Liquidated Damages. The Parties explicitly agree and intend that the provisions of Section 12.8 (*Delay Liquidated Damages*) and Exhibit S (*Performance Guarantees; Testing and Commissiong*) will be fully enforceable by any court exercising jurisdiction over any dispute between the Parties arising under this BTA. Each Party irrevocably waives any defenses available to it under law or equity relating to the enforceability of the liquidated damages provisions set out in this BTA.

PART 21 MISCELLANEOUS

21.1 Notices. Exhibit A-2 (*Notices*) lists each Party's point-of-contact for BTA notices and correspondence. Each Party will provide notice to the other as provided in Exhibit A-2. Notice under this Section 21.1 (*Notices*) must include the Project 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) prepaid 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). Any notice, request, consent, claim, demand, waiver, and other communication under this BTA must be in writing (including email) and must be sent, delivered, mailed, or addressed to the applicable point-of-contact specified in Exhibit A-2.

21.2 Payments. Except for payments due at Closing, if a Party is required to make any payment under this BTA on a day other than a Business Day, the date of payment will be extended to the next Business Day.

21.3 Entire Agreement. This BTA and the Transaction Documents, including, in each case, any schedule and exhibit to this BTA and any Transaction Document, supersedes all prior discussions and agreements between the Parties with respect to the subject matter of this BTA and the Transaction Documents, and contains the entire agreement between the Parties with respect to the subject matter of this BTA and the Transaction Documents. In the event of a conflict between this BTA and the Transaction Documents, the terms of this BTA will control. This BTA will be binding upon, and will inure to the benefit of, the Parties, and their respective successors and permitted assigns.

21.3.1. Resolution of Conflicts. If there is a conflict or ambiguity within or between the Transaction Documents that involves an obligation, duty, or the quality or quantity of Work, then the Transaction Document (including an exhibit) imposing the most stringent obligation or duty or the highest quality or greatest quantity will control.

21.3.2. Use of Electronic Data Files. If there is any discrepancy between any Seller deliverable (including deliverables from EPC Contractor or Major Subcontractor) represented by an electronic data file and a printed/plotted hardcopy of the file that has the registered professional engineer's stamp, the stamped hardcopy will govern.

21.4 Confidentiality.

21.4.1. Non-Disclosure. Each Party acknowledges that portions of this BTA 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 BTA, disclose a disclosing Party's Confidential Information to any third party, except that a receiving Party may disclose Confidential Information: (i) to its Affiliates, consultants, agents, and advisors who: (a) need to know the information in connection with the receiving Party's performance of its obligations under this BTA; and (b) are subject to a contractual obligation to maintain the confidentiality of Confidential Information; and (ii) to the extent required by applicable Law. Seller acknowledges and agrees that the terms of this BTA, and all price and payment information provided by GPC to Seller are Confidential Information.

21.4.2. Disclosure of Confidential Information to the Commission. Each Party agrees to request confidential treatment of the Confidential Information from the Commission in accordance with the Commission's rule regarding trade secrets, but Seller understands that certain terms, conditions, and provisions of this BTA may need to be disclosed in connection with GPC's regulatory obligations before the Commission. GPC makes no assurance or commitment regarding the ability of GPC to obtain confidential treatment from the Commission. The Parties agree that if Confidential Information is required to be disclosed under applicable Law, the disclosing Party will make reasonable efforts to obtain protection from disclosure under the trade secret provisions applicable to any Governmental Authority or court to ensure that the Confidential Information is protected from public disclosure.

21.4.3. Survival of Confidentiality Obligations. Despite any other provision in this BTA, this Section 21.5 (*Confidentiality*) will survive for a period of two years after the termination or expiration of this BTA, except that, to the extent any Confidential Information constitutes a "**trade secret**" under any applicable Law, the receiving Party's obligations under Section 21.5 (*Confidentiality*) will apply for the life of the trade secret.

21.5 Public Statements or Press Releases. Neither Seller nor any of its Affiliates will issue any public statement (including any news release, internet, website, social media posting, or other publication) concerning: (i) this BTA, or the transactions described in this BTA; (ii) the Project with respect to this BTA; or (iii) Seller's relationship with GPC, in each case, without the communication first being reviewed and agreed upon by GPC before any 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 21.6 (*Public Statements or Press Releases*).

21.6 Waivers.

21.6.1. Grant of Waivers. Any term or condition of this BTA may be waived at any time by the Party that is entitled to the benefit of that term or condition, but no waiver will be effective unless set forth in a written instrument duly executed by or on behalf of the Party waiving the term or condition. No failure or delay of any Party, in any one or more instances: (i) in exercising any power, right, or remedy (other than failure or unreasonable delay in giving notice of default) under this BTA; or (ii) in insisting upon the strict performance

by the other Party of any covenant, obligation, or agreement under this BTA, will operate as a waiver, discharge, or invalidation, nor will any single or partial exercise of any right, power, or remedy, or insistence on strict performance, or any abandonment or discontinuance of steps to enforce a right, power, or remedy, or to enforce strict performance, preclude any other or future exercise of, or insistence upon any other right, power, or remedy.

21.6.2. Exercise of Remedies. Except to the extent stated expressly in another BTA provision, all remedies, either under this BTA, by law, or otherwise afforded, will be cumulative and not alternative. Subject to Section 17.1 (*Survival of Representations, Warranties, Covenants, and Agreements*), each covenant, obligation, and agreement of a defaulting Party and each right and remedy of the other Party upon a default, will continue and remain in full force and effect with respect to any subsequent breach, act, or omission.

21.7 Amendments; Consents. This BTA may not be amended, supplemented, or modified except by an instrument in writing signed on behalf of GPC and Seller. The Parties acknowledge and agree that, in giving any consent under this BTA, the Party giving its consent is not in any way waiving or altering any of its rights under this BTA, or any of the conditions precedent to Closing; and no consent will constitute a course of dealing or performance with respect to the terms and conditions of this BTA.

21.8 No Construction Against Drafting Party. The language used in this BTA is the product of the Parties' efforts, and each Party irrevocably waives the benefits of any rule of contract construction that disfavors the drafter of a contract, or the drafter of specific words in a contract.

21.9 No Third-Party Beneficiary. The terms and provisions of this BTA are intended solely for the benefit of each Party to this BTA and their respective successors or permitted assigns, and the Parties do not intend to confer third-party beneficiary rights on any other Person, except that GPC Indemnified Parties will be third-party beneficiaries of this BTA solely with respect to their rights to seek indemnification under Part 17 (*Risk and Claims*).

21.10 Headings. The headings used in this BTA are for convenience of reference only and do not define or limit the provisions of this BTA.

21.11 Severability. The provisions of this BTA are severable, and the invalidity or unenforceability of any provision will not affect the validity or enforceability of the other provisions of this BTA. If any provision of this BTA, or the applicability of the provision to any Person or any circumstance, is found to be invalid or unenforceable in any jurisdiction: (i) the provision, or the permissible portion of the provision, or the application of the provision, as applicable, will be enforced to the fullest extent permitted by Law; and (ii) the remainder of this BTA, and the applicability of the provision to any Person or circumstance will not be affected by such invalidity or unenforceability, nor will such invalidity or unenforceability affect the validity or enforceability of the this BTA or the provision, or the application of the provision, in any other jurisdiction.

21.12 Assignment. Neither this BTA, nor any of the rights or obligations under this BTA, will be assigned or delegated by any Party without the prior written consent of the other Party. However, GPC may transfer its rights and obligations under this BTA to an Affiliate with the approval of the Commission. This BTA will be binding upon, inure to the benefit of, and be enforceable by, the Parties and their respective successors and permitted assigns. Any attempted assignment in violation of the terms of this Section 21.13 (*Assignment*) will be void.

21.13 Electronic Signature. This BTA 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. Each Party acknowledges that electronic records and Electronic Signatures may be used in connection with the execution of this BTA, 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 BTA had been delivered and signed using a handwritten signature. Each Party: (i) agrees that an Electronic Signature, whether digital or encrypted, is intended to authenticate this BTA and to have the same effect as a handwritten signature; and (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. If a Party executes this BTA by Electronic Signature, the Party 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.

21.14 Digital or Electronic Signature. In addition to this BTA, any other documents to be delivered in connection

with this BTA may be executed by handwritten signature or Electronic Signature. Each Party 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 BTA or other documents to be delivered in connection with this BTA are the same as handwritten signatures for the purposes of validity, enforceability, or admissibility, and that delivery to the other Party of an Electronic Signature, or a signed copy of, this BTA and related documents may be made by facsimile, email, or other electronic transmission.

21.15 Counterparts. This BTA may be executed in multiple counterparts, and by electronic transmission of signatures in portable document format (PDF) or other electronic format, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

21.16 No Agency. Neither Seller nor any of its Representatives or Affiliates, nor any of their respective employees, agents, or subcontractors will, for any reason or purpose, be deemed to be an agent, partner, or employee of GPC, and this BTA will not be interpreted or construed to create an association, agency-relationship, joint venture, or partnership between the Parties. Seller and GPC will for all purposes be considered independent contractors. Seller will have full responsibility for all labor and employment matters, including for all its hiring, discipline, supervision, control, compensation, benefits, labor relations, collective bargaining, as well as payroll taxes and costs. Any general superintendence, inspection, review, coordination, monitoring, and oversight by GPC, or the exercise of any of GPC's rights under this BTA, will not relieve Seller of any of its responsibilities under this BTA.

21.17 Schedules. Either Party may, at its option, include in its Schedules items that are not material to avoid any misunderstanding, and any inclusion, or any references to Dollar amounts, will not be deemed to be an acknowledgment or representation that the items are material, to establish any standard of materiality or to define further the meaning of such terms for purposes of this BTA. Information disclosed in any Schedule will constitute a disclosure for purposes of all other Schedules, and each Section of this BTA where information is relevant notwithstanding the lack of specific cross-reference, but only to the extent the applicability of such disclosure to such other Schedule is reasonably apparent on its face. In no event will the inclusion of any matter in the Schedules be construed as constituting a representation or warranty of a Party or be deemed or interpreted to broaden a Party's representations, warranties, covenants, or agreements contained in this BTA. No reference to, or disclosure of, any item or other matter in the Schedules will be construed as: (i) an admission, indication, or evidence that such item or other matter is material; (ii) that such item is reasonably likely to result in a GPC Material Adverse Effect or Seller Material Adverse Effect, as applicable; or (iii) that such item or other matter is required to be referred to or disclosed in the Schedules. No reference in the Schedules to any agreement or document will be construed as an admission or indication that such agreement or document is enforceable, or currently in effect, or that there are any obligations remaining to be performed, or any rights that may be exercised under such agreement or document, except to the extent that any such agreement or document is referred to by reference to the Schedules in an express representation or warranty to that effect set forth in this BTA. No disclosure in the Schedules relating to any possible breach or violation of any Contract or Law will be construed as an admission or indication that any such breach or violation exists or has actually occurred. The headings and descriptions of the disclosures in the Schedules are for convenience of reference only, and are not intended to, and do not, alter the meaning of any provision of this BTA, or of the Schedules. The information provided in the Schedules is solely for the use of the Parties in connection with the transactions contemplated by this BTA and will be subject to the terms of this BTA and may not be used or relied upon by any other Person or for any other purpose.

21.18 Contract Interpretation. Each exhibit, attachment, appendix, schedule, regulatory requirement, policy, procedure, standard, or other document attached to or referenced in this BTA (expressly including the *Schedule of Defined Terms*) is incorporated into, and is integral to, this BTA as if included in the main body. In this BTA 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 BTA 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 BTA part by caption (e.g., *Site Security*) or number (e.g., Part 6 (*General Obligations of Seller*) includes all separate sections (e.g., Section 6.14 (*Site Security*) and subsection (e.g., Section 6.14.1 (*Security Prior to Closing Date*)) within that part and reference to a section by caption or number includes all separate subsections within that section.

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 BTA documents. Captions are for convenience only, and do not affect BTA interpretation.

Time is of the essence in this BTA with respect to Seller's performance of its obligations. Whenever this BTA refers to a number of days, the number will refer to calendar days unless Business Days are specified, and any date specified for action that is not a Business Day will mean the first Business Day after the applicable date. Relative to the determination of any period of time, "from" means "including and after," "to" means "to but excluding" and "through" means "through and including."

All accounting terms used herein and not expressly defined will have the meanings given to them under, and all accounting determinations this BTA will be made in accordance with, GAAP.

Each Party acknowledges that this BTA was negotiated by it with the benefit of representation by legal counsel, and any rule of construction or interpretation otherwise requiring this BTA to be construed or interpreted against any Party will not apply to any construction or interpretation of this BTA.

All references in this BTA to "Dollars" or "$" will, in each case, be deemed to refer to United States currency.
The phrases "delivered" or "made available" when used with respect to information or documents means that the information or documents have been physically or electronically delivered to the relevant Party (including, in the case of "made available" to GPC, posted and provided to GPC through the online Data Site established by Seller), in each case, prior to the date of this BTA.

Each Party agrees to all terms and conditions of this BTA. The Parties may exchange counterparts of this BTA 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. The **"Effective Date"** is the date on which the last Party signs, as shown below.

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

EXHIBIT A-1 – PROJECT INFORMATION

Table A-1.1 **Facility, Site, and Seller Information**	
Site	#Street Address# #City, #State, #ZipCode
GPS Coordinates	#Latitude latitude and #Longitude longitude
IC Number	IC-#InterconnectionID#
Facility Description	#FacilitySize MW (AC) #combined cycle generation***OR***#combustion turbine generation***OR***#solar photovoltaic energy generation with energy storage system***OR***#energy storage system
Projecty Name	#FacilityName
Project Nameplate Capacity	#FacilityNameplateCapacity MW (AC)
Seller Information	#SellerName, #a*OR*#an #OrgState# #limited liability company*OR*#OtherOrgStructure
Major Equipment	#DescribeMajorEquipment

Table A-1.2 **Project Dates**	
Firm Date Deadline	#Month #Day, #Year
Outside Closing Date	#Month #Day, #Year
Phase I and Phase II Environmental Assessment Latest Date (As Applicable)	#Number days before the Closing Date
"Placed in Service" Year for Tax Purposes (see BTA Section 6.33.3 (*Tax Benefits*))	#Year
Guaranteed Substantial Completion Date	#Month #Day, #Year

Table A-1.3 **Financial Information**	
Base Purchase Price Cash Amount	$#BasePurchasePriceAmount
Termination Payment Amount	$#TerminationPaymentAmount

Table A-1.3 **Financial Information**	
Cancelation Payment Schedule	#AddCancelationPaymentSchedule
Tax Benefit Percentage	#Number%
Initial Performance Security	$#InitialPerformanceSecurity
Construction Period Performance Security	$#ConstructionPeriodPerformanceSecurity

Table A-1.4 **Relevant Third Parties**	
Title Company	#TitleCompanyName, #a*OR*#an #OrgState# #limited liability company*OR*#OtherOrgStructure

Table A-1.5 **Project Contracts Threshold Amounts**	
Project Contracts Extended Credit Threshold Amount (see BTA Section 2.12.1(vi) (*List of Project Contracts*))	$#Amount
Project Contracts Payments Threshold Amount (Payments by or to Seller) (see BTA Section 2.12.1(vii) (*List of Project Contracts*))	$#Amount
Project Contracts Threshold Amount for Items that Constitute Capital Expenditures (see BTA Section 2.12.1(viii)(a) (*List of Project Contracts*))	$#Amount
Project Contracts Threshold Amount for Items Involving or Reasonably Expected to Involve Capital Expenditures (see BTA Section 2.12.1(viii)(b) (*List of Project Contracts*))	$#Amount

Project Contract or Real Property Agreement Material Threshold Amount for Modification, Amendment, or Termination (see BTA Section 5.3.2(i) (*Negative Covenants of Seller*))	$#Amount
Project Contract or Real Property Agreement Material Threshold Amount for new agreements (see BTA Section 5.3.2(iii) (*Negative Covenants of Seller*))	$#Amount

Table A-1.5 **Performance Security and Termination Payment**	
	Note to Bidders: This table will be populated with the applicable amounts stated in the RFP Exhibit E – Attachment 1 (Performance Security and Termination Liquidated Damages.

Table A-1.6 **Delay Liquidated Damages**	
Mechanical Completion Delay Liquidated Damages	***Note to Bidders: This table will be populated with the applicable amounts stated in the RFP Exhibit E, Attachment 2 (Delay Liquidated Damages Summary).***
Substantial Completion Delay Liquidated Damages	

Table A-1.7 **Seller Cancelation Payment Curve**	
	Note to Bidders: Bidder must submit with its Bid a proposed Cancelation Payment Schedule/Curve setting the amount payable by GPC if GPC terminates the BTA for convenience or Seller terminates the BTA for GPC's default.

EXHIBIT A-2 – NOTICE CONTACTS

Address for delivery of Upgrade Security in accordance with Eligible Collateral for Performance Security in accordance with BTA Section 4.6 (*Delivery of Eligible Collateral for Performance Security*) and BTA Section 1.9 (*Grid 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 BTA Section 21.1 (*Notices*):

In accordance with BTA Section 21.1 (*Notices*), 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 (which will not constitute Notice):

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#

With Copy to (which will not constitute Notice):

#SellerLegalName#
Attention: #SellerContactIndividualName#
#Title
#SellerAddress
#City, #State #Zip
Email: #SellerContactEmail#

EXHIBIT A-3 – TECHNICAL SPECIFICATIONS

[*Note to Bidders: Refer to Minimum Technical Requirements on IE Website. To be finalized during BTA due diligence.*]

EXHIBIT B – FORM OF BILL OF SALE AGREEMENT

This **Bill of Sale Agreement** ("**Agreement**"), dated as of as of _____, 20__ (the "**Closing Date**") is entered into by **#AssignorLegalName#**, #a/an# #OrgState# #limited liability company# ***OR*** #OtherOrgStructure# ("**Assignor**") and Georgia Power Company, a Georgia corporation ("**GPC**"). Assignor and GPC are each sometimes referred to in this Agreement individually as a "**Party**" and collectively as the "**Parties**." Assignor and GPC acknowledge as follows:

- The Parties have entered into a **Build Transfer Agreement for All-Source Capacity Request for Proposals for 2029 - 2031 at #ProjectName#**, dated as of #Date# ("**BTA**"), where Assignor will sell, convey, transfer, assign, and deliver to GPC all of Assignor's right, title, and interest in and to the Acquired Assets, and GPC has agreed to purchase from Assignor the same; and
- The Parties are executing and delivering this Agreement to evidence the sale, conveyance, transfer, assignment, and delivery to GPC of the Project Assets effective as of the Closing Date.

To induce GPC to enter into and perform its obligations under this BTA, and for and in consideration of the foregoing statements, the mutual agreements contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Assignor and GPC agree as follows:

PART 1 - DEFINITIONS

1.1 Definitions. Unless otherwise defined in this Agreement, capitalized terms have the meanings specified or referred to in the BTA.

PART 2 - SALE, TRANSFER, AND ASSIGNMENT

2.1 Sale, Transfer, and Assignment to GPC. Effective as of the Closing Date, and subject to the terms and conditions contained in the BTA, Assignor sells, conveys, transfers, assigns, and delivers to GPC**,** and GPC purchases and accepts, all of Assignor's right, title and interest in and to the Project Assets, free and clear of all Liens other than Permitted Liens, and GPC purchases all of Assignor's right, title, and interest in and to all of the Project Assets as set forth in the BTA.

2.2 No Further Rights of Assignor. From and after the date of this Agreement, Assignor will have no further right, title, or interest in and to the Acquired Assets, and GPC will be entitled to exercise all rights, powers, and privileges with respect to the Acquired Assets. Without limiting the generality of the foregoing, GPC will succeed to the entire right, title, and interest of Assignor in and to the Acquired Assets.

2.3 Recordation. Simultaneously with the execution and delivery of this Agreement, the Parties will record a memorandum of assignment publishing notice of the transfer of all Project Real Property that is being assigned and the Parties to such assignment in the real property records of the county in which the Project Real Property is located.

2.4 Further Assurances. Each Party agrees to do and take, or cause to be done or taken, all further acts, assurances, and things, and to execute, acknowledge, and deliver, or cause to be executed, acknowledged, and delivered, all further instruments and other documents, in each case, as may be reasonably requested by any other Party in order to better consummate and carry out the intent of this Agreement and give effect to this Agreement. Without limiting the generality of the foregoing, each Party agrees, on the request of any other Party, to execute or re-execute, as the case may be, new or additional assignments or memorandums of assignment, in recordable form, with respect to the Project Assets, including the Project Real Property.

2.5 Build Transfer Agreement. This Agreement is executed and delivered and is subject to in all respects the terms and conditions of the BTA. GPC acknowledges and agrees that Assignor makes no, and GPC is not relying on any, representation, or warranty with respect to the Project Assets except as expressly set forth in the BTA, and each of the Parties acknowledges and agrees that neither the representations and warranties nor the rights and remedies of the Parties under the BTA will be deemed to be enlarged, modified, or altered in any way by this Agreement. To the extent a conflict should arise between this Agreement and the BTA, the BTA will control.

PART 3 - MISCELLANEOUS

3.1 Governing Law. This Agreement 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.

3.2 Successors and Assigns. This Agreement will be binding upon, inure to the benefit of, and be enforceable by the Parties and their respective successors and permitted assigns.

3.3 Amendment. This Agreement may not be amended, supplemented, or modified except by an instrument in writing signed on behalf of GPC and Assignor.

Each Party agrees to all terms and conditions of this Agreement. The Parties may exchange counterparts of this Agreement 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 C – FORM OF ASSIGNMENT AGREEMENT

This **Assignment Agreement** ("**Agreement**"), dated as of as of _____, 20__ (the "**Closing Date**") is entered into by **#AssignorLegalName#**, #a/an# #OrgState# #limited liability company# ***OR*** #OtherOrgStructure# ("**Assignor**") and Georgia Power Company, a Georgia corporation ("**GPC**"). Assignor and GPC are each sometimes referred to in this Agreement individually as a "**Party**" and collectively as the "**Parties**." Assignor and GPC acknowledge as follows:

- The Parties have entered into a **Build Transfer Agreement for All-Source Capacity Request for Proposals at #ProjectName#**, dated as of #Date# (the "**BTA**"), where Assignor has agreed to assign to GPC the Project Contracts (including the Real Property Agreements); and
- The Parties are executing and delivering this Agreement to evidence: (i) the sale, transfer, and assignment of all Project Contracts (including the Real Property Agreements) by Assignor; and (ii) GPC acceptance of the assignment of the Project Contracts effective as of the Closing Date subject to the terms of the BTA other than Excluded Liabilities.

To induce GPC to enter into and perform its obligations under the BTA, and for and in consideration of the foregoing statements, the mutual agreements contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Assignor and GPC agree as follows:

PART 1 - DEFINITIONS

1.1 Definitions. Unless otherwise defined in this Agreement, capitalized terms have the meanings specified or referred to in the BTA.

PART 2 - ASSIGNMENT

2.1 Assignment to and Assumption by GPC. Effective as of the Closing Date, and subject to the terms and conditions contained in the BTA, Assignor assigns and delegates to GPC, and GPC assumes and will pay, perform, and discharge when due, all of Assignor's right, title and interest in and to the Project Contracts (including the Real Property Agreements), free and clear of all Liens other than Permitted Liens, and GPC purchases all of Assignor's right, title, and interest in and to all of the Project Contracts (including all Real Property Agreements) as set forth in the BTA.

2.2 Excluded Liabilities. GPC assumes no Excluded Liabilities, and the Parties agree that all Excluded Liabilities will remain the sole responsibility of and will be retained, paid, performed, and discharged solely by Assignor.

2.3 Build Transfer Agreement. This Agreement is executed and delivered and is subject to in all respects the terms and conditions of the BTA. GPC acknowledges and agrees that Assignor makes no, and GPC is not relying on any, representation, or warranty with respect to the Assumed Liabilities except as expressly set forth in the BTA, and each of the Parties acknowledges and agrees that neither the representations and warranties nor the rights and remedies of the Parties under the BTA will be deemed to be enlarged, modified, or altered in any way by this Agreement. To the extent a conflict should arise between this Agreement and the BTA, the BTA will control.

PART 3 - MISCELLANEOUS

3.1 Governing Law. This Agreement 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.

3.2 Successors and Assigns. This Agreement will be binding upon, inure to the benefit of, and be enforceable by the Parties and their respective successors and permitted assigns.

3.4 Amendment. This Agreement may not be amended, supplemented, or modified except by an instrument in writing signed on behalf of GPC and Assignor.

Each Party agrees to all terms and conditions of this Agreement. The Parties may exchange counterparts of this Agreement 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 D – LEASE ASSIGNMENT CONSENT

This **Lease Assignment Consent** ("**Consent**"), dated as of as of _____, 20__ (the "**Closing Date**") is entered into by **#LandlordLegalName#**, #a/an# #OrgState# #limited liability company# ***OR*** #OtherOrgStructure# ("**Landlord**") and **#TenantLegalName#**, #a/an# #OrgState# #limited liability company# ***OR*** #OtherOrgStructure# ("**Tenant**"). Landlord and Tenant are each sometimes referred to in this Consent individually as a "**Party**" and collectively as the "**Parties**." Landlord and Tenant acknowledge as follows:

- Landlord and Tenant have entered into a Lease Agreement, dated as of #Date#, which is attached to this Consent as Exhibit A (*Lease*) (the "**Lease**");
- Tenant and Georgia Power Company ("**GPC**") have entered into a **Build Transfer Agreement for All-Source Capacity Request for Proposals for 2029 – 2031 at #ProjectName#**, dated as of #Date# ("**BTA**"), where Tenant will sell, convey, transfer, assign, and deliver to GPC all of Tenant's right, title, and interest in and to the Lease; and
- Landlord and Tenant are executing and delivering this Consent to evidence the consent of Landlord to the assignment of the Lease from Tenant to GPC.

In consideration of the mutual covenants contained in this Consent and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Landlord and Tenant agree as follows:

PART 1 - ASSIGNMENT OF LEASE

1.1 Landlord Consent. Landlord consents to the assignment by Tenant to GPC of the Lease, together with all of Tenant's rights under the Lease with respect to the real property described in Exhibit D-2 (*Property*) (the "**Property**").

1.2 Landlord Acknowledgment. Landlord acknowledges that: (i) the Lease is, at the date of this Consent, in full force and effect and, to the best knowledge of the Landlord, no default exists on the part of Landlord or Tenant; (ii) Landlord has no claims, offsets, credits, deductions, or other defenses as to the performance of Landlord's duties under the Lease; and (iii) the Lease constitutes the complete agreement between Landlord and Tenant regarding the Property, and there are no other agreements, provisions, options, or rights existing between Landlord and Tenant with respect to the Property, except as contained in the Lease.

1.3 Landlord Representations and Warranties. Landlord represents and warrants that Landlord is the only person or entity having the right to consent to Tenant's assignment of the Lease and that there are no lienholders, partners, trustees, owners, or other parties or entities whose consent is required for the assignment of the Lease.

1.4 Further Assurances. Each Party agrees to do and take, or cause to be done or taken, all further acts, assurances, and things, and to execute, acknowledge, and deliver, or cause to be executed, acknowledged, and delivered, all further instruments and other documents, in each case, as may be reasonably requested by any other Party in order to better consummate and carry out the intent of this Agreement and give effect to this Agreement. Without limiting the generality of the foregoing, each Party agrees, on the request of any other Party, to execute or re-execute, as the case may be, new or additional assignments or memorandums of assignment, in recordable form, with respect to the Lease or the Property.

PART 2 - MISCELLANEOUS

2.1 Governing Law. This Consent 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.

2.2 Successors and Assigns. This Consent will be binding upon, inure to the benefit of, and be enforceable by the Parties and their respective successors and permitted assigns.

2.3 Amendment. This Consent may not be amended, supplemented, or modified except by an instrument in writing signed on behalf of Landlord and Tenant.

2.4 Third Party Beneficiaries. Landlord and Tenant agree and acknowledge that GPC is an intended third party beneficiary and is entitled to rely on the representations, warranties, covenants, and remedies set forth in this Consent as if an original party to this Consent.

Each Party agrees to all terms and conditions of this Consent. The Parties may exchange counterparts of this Consent 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.

#LandlordLegalName#	**#TenantLegalName#**
By: _____	By: _____
#LandlordSignatureName#	#TenantSignatureName#
#LandlordSignatureTitle#	#TenantSignatureTitle#
Date: _____	Date: _____

EXHIBIT D-1- LEASE

[To be attached]

EXHIBIT D-2- PROPERTY

[To be attached]

EXHIBIT E – CLOSING TITLE ENDORSEMENTS

[To be completed during BTA finalization]

Seller must procure and maintain in effect each of the following endorsements:

1. ALTA 3 (Zoning) as applicable
2. ALTA 8.2-06 (Environmental Protection Lien)
3. ALTA 9 (Comprehensive) as applicable
4. ALTA 9.9-06 (Private Rights)
5. ALTA 17 (Access and Entry) as applicable
6. ALTA 17.2.06 (Utility Access)
7. ALTA 18-06 (Single Tax Parcel)
8. ALTA 22-06 (Location)
9. ALTA 25-06 (Same as Survey)
10. ALTA 26 (Subdivision)
11. ALTA 36 (Energy Project) as applicable
12. ALTA 39-06 (Policy Authentication)
13. #AdditinoalEndorsements#

EXHIBIT F – FORMS OF LIEN WAIVERS

EXHIBIT F-1 – INTERIM WAIVER AND RELEASE UPON PAYMENT

WAIVER AND RELEASE OF LIEN AND PAYMENT BOND RIGHTS UPON INTERIM PAYMENT

STATE OF GEORGIA
COUNTY OF _____

The undersigned mechanic and/or materialman has been employed by _____ (*name of party you contracted with*) to furnish _____ (*describe materials and/or labor*) for the construction of improvements known as _____ (*title of the Project or building*) which is located in the City of _____, County of_____, and is owned by _____ (*name of owner*) and more particularly described as follows:

_____
_____
_____
(*describe the property upon which the improvements were made by using either a metes and bounds description, the land lot district, block, and lot number, or street address of the Project*.)
Upon the receipt of the sum of $_____, the mechanic and/or materialman waives and releases any and all liens or claims of liens it has upon the foregoing described property or any rights against any labor and/or material bond through the date of _____ (*date*) and excepting those rights and liens that the mechanic and/or materialman might have in any retained amounts, on account of labor or materials, or both, furnished by the undersigned to or on account of said contractor for said buildings or premises.
Given under hand and seal this _____ day of _____, ____.

_____
Business Name

Witness: Signed: (Seal)

_____ _____
Name: _____ Name: _____
Address: _____ Title: _____
_____

NOTICE: When you execute and submit this document, you shall be conclusively deemed to have waived and released any and all liens and claims of liens upon the foregoing described property and any rights regarding any labor or material bond regarding the said property to the extent (and only to the extent) set forth above, even if you have not actually received such payment, 90 days after the date stated above unless you file an affidavit of nonpayment prior to the expiration of such 90-day period. The failure to include this notice language on the form shall render the form unenforceable and invalid as a waiver and release under O.C.G.A. § 44-14-366.

EXHIBIT F-2 – SUBCONTRACTOR'S INTERIM WAIVER AND RELEASE UPON PAYMENT

SUBCONTRACTOR/SUPPLER/VENDOR WAIVER AND RELEASE OF LIEN AND PAYMENT BOND RIGHTS UPON INTERIM PAYMENT

(To be executed by Subcontractors and provided by Contractor to Owner with each Application for Payment)

STATE OF GEORGIA
COUNTY OF _____

The undersigned mechanic and/or materialman has been employed by _____ (*name of contractor or subcontractor you contracted with*) to furnish _____ (*describe materials and/or labor*) for the construction of improvements known as _____ (*title of the Project or building*) which is located in the City of _____, County of_____, and is owned by _____ (*name of owner*) and more particularly described as follows:

_____
_____
_____

(*describe the property upon which the improvements were made by using either a metes and bounds description, the land lot district, block, and lot number, or street address of the Project*.)

Upon the receipt of the sum of $_____, the mechanic and/or materialman waives and releases any and all liens or claims of liens it has upon the foregoing described property or any rights against any labor and/or material bond through the date of _____ (*date*) and excepting those rights and liens that the mechanic and/or materialman might have in any retained amounts, on account of labor or materials, or both, furnished by the undersigned to or on account of said contractor for said buildings or premises.

Given under hand and seal this _____ day of _____, ____.

	_____
	Business Name
Witness:	Signed: (Seal)
_____	_____
Name: _____	Name: _____
Address: _____	Title: _____
_____	

NOTICE: When you execute and submit this document, you shall be conclusively deemed to have waived and released any and all liens and claims of liens upon the foregoing described property and any rights regarding any labor or material bond regarding the said property to the extent (and only to the extent) set forth above, even if you have not actually received such payment, 90 days after the date stated above unless you file an affidavit of nonpayment prior to the expiration of such 90-day period. The failure to include this notice language on the form shall render the form unenforceable and invalid as a waiver and release under O.C.G.A. § 44-14-366.

EXHIBIT F-3 – CONTRACTOR'S WAIVER AND RELEASE UPON FINAL PAYMENT

CONTRACTOR'S WAIVER AND RELEASE OF LIEN AND PAYMENT BOND RIGHTS UPON FINAL PAYMENT

(To be provided by Contractor at the time of Final Payment)

STATE OF GEORGIA
COUNTY OF _____

The undersigned mechanic and/or materialman has been employed by _____ (*name of party you contracted with*) to furnish _____ (*describe materials and/or labor*) for the construction of improvements known as _____ (*title of the Project or building*) which is located in the City of _____, County of_____, and is owned by _____ (*name of owner*) and more particularly described as follows:

_____
_____
_____

(*describe the property upon which the improvements were made by using either a metes and bounds description, the land lot district, block, and lot number, or street address of the Project*.)

Upon the receipt of the sum of $_____, the mechanic and/or materialman waives and releases any and all liens or claims of liens it has upon the foregoing described property or any rights against any labor and/or material bond on account of labor or materials, or both, furnished by the undersigned to or on account of said contractor for said buildings or premises.

Given under hand and seal this _____ day of _____, ____.

_____
Business Name

Witness:

_____
Name: _____
Address: _____
_____

Signed: (Seal)

_____
Name: _____
Title: _____

NOTICE: When you execute and submit this document, you shall be conclusively deemed to have waived and released any and all liens and claims of liens upon the foregoing described property and any rights regarding any labor or material bond regarding the said property to the extent (and only to the extent) set forth above, even if you have not actually received such payment, 90 days after the date stated above unless you file an affidavit of nonpayment prior to the expiration of such 90-day period. The failure to include this notice language on the form shall render the form unenforceable and invalid as a waiver and release under O.C.G.A. § 44-14-366.

EXHIBIT F-4 – SUBCONTRACTOR'S WAIVER AND RELEASE UPON FINAL PAYMENT

SUBCONTRACTOR/SUPPLIER/VENDOR WAIVER AND RELEASE OF LIEN AND PAYMENT BOND RIGHTS UPON FINAL PAYMENT

(To be executed by Subcontractors and provided by Contractor to Owner at the time of Final Payment)

STATE OF GEORGIA
COUNTY OF _____

The undersigned mechanic and/or materialman has been employed by _____ (*name of contractor or subcontractor you contract with*) to furnish _____ (*describe materials and/or labor*) for the construction of improvements known as _____ (*title of the Project or building*) which is located in the City of _____, County of_____, and is owned by _____ (*name of owner*) and more particularly described as follows:

_____
_____
_____

(*describe the property upon which the improvements were made by using either a metes and bounds description, the land lot district, block, and lot number, or street address of the Project*.)

Upon the receipt of the sum of $_____, the mechanic and/or materialman waives and releases any and all liens or claims of liens it has upon the foregoing described property or any rights against any labor and/or material bond on account of labor or materials, or both, furnished by the undersigned to or on account of said contractor for said buildings or premises.

Given under hand and seal this _____ day of _____, ____.

_____
Business Name

Witness: Signed: (Seal)

_____ _____
Name: _____ Name: _____
Address: _____ Title: _____
_____

NOTICE: When you execute and submit this document, you shall be conclusively deemed to have waived and released any and all liens and claims of liens upon the foregoing described property and any rights regarding any labor or material bond regarding the said property to the extent (and only to the extent) set forth above, even if you have not actually received such payment, 90 days after the date stated above unless you file an affidavit of nonpayment prior to the expiration of such 90-day period. The failure to include this notice language on the form shall render the form unenforceable and invalid as a waiver and release under O.C.G.A. § 44-14-366.

EXHIBIT G – FORMS OF PERFORMANCE SECURITY

EXHIBIT G-1 – FORM OF GUARANTY

Guaranty

This **Guaranty Agreement** ("**Guaranty**"), effective as of _____, 20__ ("**Effective Date**"), is entered into by _____ ("**Guarantor**") in favor of Georgia Power Company ("**Beneficiary**"). Guarantor acknowledges:

- Beneficiary and _____ ("**Company**"), [an Affiliate of Guarantor], have entered into an **Build Transfer Agreement for 2029-2031 All-Source RFP at #ProjectName#** dated as of _____, 20__ (as amended, restated, supplemented or otherwise modified from time to time, the "**BTA**") regarding a #FacilityType facility located in #ProjectCity, Georgia.
- Beneficiary has required, as an inducement to its entry into the BTA, that Guarantor deliver to the Beneficiary this Guaranty or other Eligible Collateral as and when required under the BTA;
- Guarantor qualifies as a Seller Guarantor under the BTA, and this Guaranty qualifies as Eligible Collateral under the BTA; and
- Guarantor will derive substantial direct and indirect benefit from the transactions contemplated by the BTA.

To induce Beneficiary to enter into and perform its obligations under the BTA, 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 BTA.

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 BTA or under any other documents or instruments now or in the future evidencing, securing, or otherwise relating to the BTA ("**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 Part 4 (*Performance Security*) of the BTA (plus costs of enforcement of this Guaranty as provided in Section 4.4 (*Expenses*) of the BTA). 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 BTA, 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 BTA. This Guaranty constitutes a guarantee of payment and not of collection. The obligations of Guarantor under this Guaranty are primary obligations and are several from Company or any other Person, and Guarantor is the principal obligor under this Guaranty. Guarantor's liability under this Guaranty will be direct and immediate and not conditional or contingent upon the pursuit of any remedies against Company or any other person, nor against securities or liens available to Beneficiary or Beneficiary's successors or assigns. **Guarantor's liability under this Guaranty will be irrevocable, absolute, and unconditional irrespective of, and Guarantor unconditionally and irrevocably waives any defenses it may now have or later acquire in any way relating to:**

(i) any change in the time, manner, or place of payment of, or in any other term of, any of the Guaranteed Obligations, or any other amendment, modification, or waiver of, or any consent to departure from, the terms of any Guaranteed Obligations, or any compromise, settlement, release, or termination of any of the Guaranteed Obligations;

(ii) any change, restructuring, or termination of the corporate structure or existence of Company or any of its subsidiaries, including Guarantor's disposal of any part of Guarantor's interest in Company, or Guarantor's alteration of Guarantor's investment in Company in any manner;

(iii) any lack of validity or enforceability, in whole or in part, of the Guaranteed Obligations, the BTA, or any agreement or instrument relating the Guaranteed Obligations or the BTA;

(iv) any failure of Beneficiary to disclose to either Company or Guarantor any information relating to the business, condition (financial or otherwise), operations, performance, properties, or prospects of either Company or any of its subsidiaries now or in the future known to Beneficiary (Guarantor waiving any duty on the part of Beneficiary to disclose the information);

(v) any failure, omission, delay, or lack on the part of Beneficiary to enforce, ascertain, or exercise any right, power, or remedy under or pursuant to the terms of the BTA, the Guaranteed Obligations, or this Guaranty;

(vi) any failure by Beneficiary to commence an action against Company, including as contemplated by the provisions of O.C.G.A. Section 10-7-24, as amended; any lack of due diligence by Beneficiary in the collection or protection of or realization upon any collateral securing the Guaranteed Obligations;

(vii) the bankruptcy, insolvency, winding up, dissolution, liquidation, administration, reorganization, or other similar or dissimilar failure or financial disability of Guarantor or Company, or any legal limitation, disability, incapacity, or other circumstance relating to Guarantor or Company;

(viii) the addition, substitution or partial or entire release of any guarantor, maker, or other Parson (including Company) primarily or secondarily liable or responsible for the payment and observance of the Guaranteed Obligations or by any extension, waiver, amendment, or other action or instrument that may release or discharge (in whole or in part) a guarantor, maker, or other Person (other than as a result of the indefeasible payment of the Guaranteed Obligations in full);

(ix) the taking, variation, renewal, addition, substitution, subordination, or partial or entire release of any security or other credit support for the Guaranteed Obligations, or the enforcement or neglect to perfect or enforce the security or support; or

(x) except as provided in Section 2.3.3 (*Waiver of Rights and Remedies*), 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 the case may be, 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 Seller Default. In the case of Seller Default under the BTA or Seller's failure to perform any of the Guaranteed Obligations, Guarantor agrees that Beneficiary will have the right to enforce its rights, powers, and remedies under the BTA 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 BTA, 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. The provisions of this Guaranty will extend and be applicable to any modification of the BTA.

2.3.3. Waiver of Rights and Remedies. Guarantor unconditionally and irrevocably waives all rights and remedies accorded by application of Law to sureties or guarantors and Guarantor must not assert or take advantage of those rights or remedies, including:

(i) any right to require Beneficiary to proceed against Company or any other person or to proceed against or exhaust any security held by Beneficiary at any time or to pursue any other remedy in Beneficiary's power before proceeding against Guarantor;

(ii) any defense that may arise because of the incapacity, lack of authority, death, or disability of any other Person or the failure of Beneficiary to file or enforce a claim against the estate (in administration, bankruptcy, or any other proceeding) of any other Person; or

(iii) any defense arising because of the exercise of any right or remedy available to, or election made by, Beneficiary under the U.S. Bankruptcy Code, whether as an unsecured or under secured creditor, seeking adequate protection or otherwise.

2.3.4. Guarantor's Waiver of Defenses Based on Set-Off or Counterclaim. Guarantor unconditionally and irrevocably waives any defense based on any right of set-off or counterclaim against or concerning the obligations of Guarantor under this Guaranty.

2.3.5. Guarantor Waiver of Defenses, Claims, and Discharges. Guarantor unconditionally and irrevocably waives all defenses, claims, and discharges of Company, or any other obligor regarding the Guaranteed Obligations. Without limiting the generality of the preceding sentence, Guarantor will not assert, plead, or enforce against Beneficiary or any other Person any defense of waiver, release, statute of limitations, res judicata, statute of frauds, fraud, incapacity, minority, usury, illegality, or unenforceability that may be available to Company or any other person liable concerning any indebtedness, or any setoff available against Beneficiary to Company or any other Person, whether or not on account of a related transaction. Guarantor expressly waives reliance on any anti-deficiency statute(s). If a foreclosure proceeding is commenced, Guarantor expressly agrees that Guarantor will be and remain unconditionally liable, to the fullest extent permitted by applicable Law, for any deficiency remaining after foreclosure of any mortgage or security interest securing indebtedness, whether or not the liability of Company or any other person for the deficiency is discharged under statute or judicial decision.

2.4 Subrogation. Despite any payment or payments made by Guarantor under this Guaranty, Guarantor unconditionally and irrevocably waives any rights of subrogation to the rights of Beneficiary against Company and any rights of reimbursement, assignment, indemnification, or implied contract or any similar rights (including any statutory rights of subrogation under U.S. Bankruptcy Code Section 509 (11 U.S.C. § 509)) against Company or against any other guarantor of all or any part of the Guaranteed Obligations until when the Guaranteed Obligations have been indefeasibly performed in full. If, despite the preceding sentence, any amount will be paid to Guarantor on account of the subrogation or similar rights at any time when all of the Guaranteed Obligations will not have been indefeasibly paid in full, those amounts will be held by Guarantor in trust for Beneficiary and Guarantor must turn over to Beneficiary those amounts in the exact form received by Guarantor, to be applied against the Guaranteed Obligations in the order that Beneficiary may determine in Beneficiary's sole discretion.

2.5 Contribution, Indemnification, Reimbursement. Guarantor unconditionally, irrevocably, and absolutely waives all right of contribution, indemnification, reimbursement, or similar rights against Company regarding the Guaranty, whether the rights arise under an express or implied contract or by operation of Law, and it is the intention of Guarantor and Company that Guarantor will not be deemed to be a "creditor" (as defined in U.S. Bankruptcy Code Section 101 or any other applicable Law) of Company because of the existence of this Guaranty if Company becomes a debtor in any proceeding under the U.S. Bankruptcy Code or any other applicable Law.

2.6 Agreement regarding Bankruptcy of Company. So long as any Guaranteed Obligations are owed to Beneficiary, Guarantor must not, without the prior written consent of Beneficiary, commence, or join with any other person in commencing, any bankruptcy, reorganization, or insolvency proceeding against Company.

PART 3 – REPRESENTATIONS AND WARRANTIES

Guarantor represents and warrants as follows:

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

3.2 Authorization; No Conflict. The execution and delivery by Guarantor of this Guaranty, and the performance by Guarantor of its obligations under this Guaranty: (i) are within Guarantor's #GuarantorEntityType# powers; (ii) have been duly authorized by all necessary #GuarantorEntityType# action; (iii) do not contravene its #bylaws ***OR*** #operating agreement ***OR*** #OtherOrganizationalDocument or any Law or regulation applicable to or binding on Guarantor or any of its properties; and (iv) do not require the consent or approval of any Person that has not already been obtained or the satisfaction or waiver of any conditions precedent to the effectiveness of this Guaranty that have not been satisfied or waived.

3.3 Enforceability. This Guaranty constitutes the legal, valid, and binding obligation of Guarantor, enforceable against Guarantor in accordance with its terms, except to the extent that that enforceability may be limited by applicable bankruptcy, insolvency, dissolution, reorganization, moratorium, liquidation, or other similar Laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at Law).

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

3.5 No Legal Proceedings. There are no legal proceedings that would be reasonably likely to materially adversely affect Guarantor's ability to perform this Guaranty.

PART 4 - MISCELLANEOUS

4.1 Continuing Guaranty; Assignment. This Guaranty is a continuing guaranty and will: (i) remain in full force and effect until all of the Guaranty Obligations have been satisfied; (ii) consistent with the terms of this Guaranty, apply to all Guaranteed Obligations whenever arising; (iii) be binding upon Guarantor, its successors and assigns; and (iv) inure to the benefit of, and be enforceable by, Beneficiary and its permitted assignees under this Guaranty. Guarantor must not assign or delegate Guarantor's rights or obligations under this Guaranty without: (i) the prior written consent of Beneficiary, which consent may be withheld in Beneficiary's sole discretion; and (ii) a written assignment and assumption agreement in form and substance reasonably acceptable to Beneficiary. Without prejudice to the survival of any of the other agreements of Guarantor under this Guaranty, the agreements and obligations of Guarantor contained in Section 4.4 (*Expenses*) (regarding enforcement expenses) and the last sentence of Section 2.2.1 (*Guarantor Guarantees*) will survive the payment in full of the Guaranteed Obligations and all of the other amounts payable under this Guaranty.

4.2 Notices. All notices, requests, demands and other communications that are required or may be given under this Guaranty must be in writing and will be deemed to have been given when actually received if: (i) personally delivered; (ii) transmitted by facsimile, electronic, or digital transmission method; or (iii) if sent by certified or registered mail, return receipt requested. In each case, notice will be to the contacts identified in this Section 4.2 (*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
30 Ivan Allen Junior Boulevard, NW
Bin SC1407
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 HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR PROCEEDING BETWEEN THEM ARISING OUT OF OR RELATING TO THIS GUARANTY BROUGHT IN ANY COURT IN OR OF THE STATE OF GEORGIA, AND HEREBY FURTHER IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY COURT IN OR OF THE STATE OF GEORGIA HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.]

4.7.7. [Applicable Only to Foreign Guarantor: Waiver of Immunity. TO THE EXTENT THAT THE GUARANTOR HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT IN THE STATE OF GEORGIA OR FROM ANY LEGAL PROCESS THEREIN, GUARANTOR HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, SUCH IMMUNITY, AND AGREES NOT TO ASSERT, BY WAY OF MOTION, AS A DEFENSE, OR OTHERWISE, IN ANY SUCH SUIT, ACTION OR PROCEEDING, THE DEFENSE OF SOVEREIGN IMMUNITY, OR ANY CLAIM: (1) THAT IS NOT PERSONALLY SUBJECT TO THE JURISDICTION OF THE COURTS IN THE STATE OF GEORGIA BY REASON OF SOVEREIGN IMMUNITY OR OTHERWISE; (2) THAT IT IS IMMUNE FROM ANY LEGAL PROCESS (WHETHER THROUGH SERVICE OR NOTICE, ATTACHMENT PRIOR TO THE JUDGMENT, ATTACHMENTS IN AID OF EXECUTION, EXECUTION OR OTHERWISE) REGARDING ITSELF OR ITS PROPERTY, BY REASON OF SOVEREIGN IMMUNITY; (3) THAT ANY ACTION IS BROUGHT IN AN INCONVENIENT FORUM; (4) THAT THE VENUE OF ANY ACTION IS IMPROPER; OR (5) THAT THIS GUARANTY MAY NOT BE ENFORCED IN OR BY A FEDERAL COURT IN THE STATE OF GEORGIA. THE GUARANTOR EXPRESSLY ACKNOWLEDGES THAT THE FOREGOING WAIVERS AND SUBMISSIONS TO JURISDICTION ARE INTENDED TO BE IRREVOCABLE UNDER THE LAWS OF THE STATE OF GEORGIA AND OF THE UNITED STATES OF AMERICA AND OF THE LAWS APPLICABLE TO THE GUARANTOR, INCLUDING THE LAWS OF THE JURISDICTION IN WHICH THE GUARANTOR IS ORGANIZED.]

4.7.8. Waiver of Right to Jury Trial. GUARANTOR UNCONDITIONALLY AND IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT, OR OTHERWISE) ARISING OUT OF OR RELATING TO, THIS GUARANTY, OR THE ACTIONS OF BENEFICIARY IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE OR ENFORCEMENT OF THIS GUARANTY.

4.8 Severability. Any provision of this Guaranty that is prohibited or unenforceable will be ineffective to the extent of the prohibition or unenforceability without invalidating the remaining provisions of this Guaranty.

4.9 Execution and Attestation.

4.9.1. Electronic Signature. This Guaranty may be executed by handwritten signature or Electronic Signature. An "**Electronic Signature**" means any electronic sound, symbol, or process attached to or logically associated

with a record and executed and adopted by a Person with the intent to sign the record, including facsimile or e-mail electronic signatures. Guarantor acknowledges that electronic records and Electronic Signatures may be used in connection with the execution of this Guaranty and Electronic Signatures transmitted by electronic mail in so-called ".pdf" format will be legal and binding and will have the same full force and effect as if a paper original of this Guaranty had been delivered and signed using a handwritten signature. Guarantor: (i) agrees that an Electronic Signature, whether digital or encrypted, is intended to authenticate this Guaranty and to have the same effect as a handwritten signature; (ii) intends to be bound by the signature (whether original, faxed, or electronic) on any document sent or delivered by facsimile, electronic mail, or other electronic means; (iii) is aware that Beneficiary will rely on the signatures; and (iv) waives any defenses to the enforcement of the terms of this Guaranty based on the forms of signature described in this Section 4.9. If Guarantor executes this Guaranty by Electronic Signature, Guarantor expressly consents under the Electronic Signatures in Global and National Commerce Act ("**E-SIGN**"), and Uniform Electronic Transactions Act as enacted in the State of Georgia ("**UETA**"), that a signature by fax, email, or other electronic means will constitute an Electronic Signature to an Electronic Record under both E-SIGN and UETA regarding this transaction.

4.9.2. Digital or Electronic Signature. In addition to his Guaranty, any other documents to be delivered in connection with this Guaranty may be executed by handwritten signature or Electronic Signature. Guarantor acknowledges that any digital or Electronic Signature (including pdf, facsimile, or electronically imaged signatures provided by DocuSign or any other digital signature provider) appearing on this Guaranty or other documents to be delivered in connection with this Guaranty are the same as handwritten signatures for the purposes of validity, enforceability, or admissibility, and that delivery to Beneficiary of an Electronic Signature, or a signed copy of, this Guaranty and related documents may be made by facsimile, email, or other electronic transmission.

Guarantor has caused this Guaranty to be executed and delivered under seal by its authorized representative as of Effective Date.

#GUARANTOR LEGAL NAME#

By: _____

Name Printed: _____

Title: _____

Date: _____

EXHIBIT G-2 – FORM OF STANDBY LETTER OF CREDIT

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 SC 1407
30 Ivan Allen Jr Blvd., NW
Atlanta, GA 30308

Project ID: GPC-[Add Project ID]

Program ID: All-Source Capacity RFP for 2029 – 2031

"Account Party": _____

Address: _____

"Expiry Date": _____, 20__, and any automatically extended date, as provided in this Standby Letter of Credit [(but in no event later than _____, 20__)]

"Total Amount": _____United States Dollars (U.S. $_____)

We, the Issuer, 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 90 days prior to any such date, in accordance with the notice provisions set forth in this Standby Letter of Credit, 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 agree with you that we will duly honor the same within three business days after 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, and 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 in this Standby Letter of Credit, 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, so long as, 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 immediately issue an irrevocable letter of credit to such transferee with provisions 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 in this Standby Letter of Credit 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 of this Standby Letter of Credit, 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 in this Standby Letter of Credit. 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: _____

#Name#

#Title#

Date: _____

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: _____

#Name#

#Title#

Date: _____

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], 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: _____

#Name#

#Title#

Date: _____

ANNEX 3

INSTRUCTION TO ASSIGN IN ENTIRETY

Re: Irrevocable Standby Letter of Credit No.

Ladies and Gentlemen:

For value received, the undersigned beneficiary 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. 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.

This Standby Letter of Credit is returned and in accordance with such return, 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: _____

#Name#

#Title#

Date: _____

EXHIBIT H – FORMS OF COMPLETION CERTIFICATES

EXHIBIT H-1 – FORM OF MECHANICAL COMPLETION CERTIFICATE

Mechanical Completion Certificate

RE: Build Transfer Agreement for 2029–2031 All-Source RFP, dated as of #Date#, by and between Georgia Power Company and #SellerLegalName#, #a/an# #OrgState# #limited liability company# ***OR*** #OtherOrgStructure# ("**BTA**")

DATE:

1. The Mechanical Completion Certificate is delivered to you pursuant to Section 12.2.1 (*Mechanical Completion Certificate*) of the BTA. Capitalized terms used in this Mechanical Completion Certificate and not otherwise defined have the meanings specified in the BTA and all section references refer to the BTA.
2. Seller certifies and represents that the following statements are true as of the date of delivery to GPC:
   2.1. Seller has satisfied all of the requirements for the achievement of Mechanical Completion as required by 12.2 (*Mechanical Completion*) and Exhibit W-1 (*Mechanical Completion Criteria*) of the BTA.
   2.2. As required by Section 12.2.1 (*Mechanical Completion Certificate*) of the BTA, Seller delivers this Mechanical Completion Certificate, completed except for signature by GPC, to GPC's duly authorized representative on the above date.
3. The person signing below is authorized to submit this Mechanical Completion Certificate to GPC for and on behalf of Seller.

#SellerLegalName#

By: _____

#SellerSignatureName#

#SellerSignatureTitle#

Date: _____

Mechanical Completion Certificate

RE: Build Transfer Agreement for 2029–2031 All-Source RFP, dated as of #Date#, by and between Georgia Power Company and #SellerLegalName#, #a/an# #OrgState# #limited liability company# ***OR*** #OtherOrgStructure# ("**BTA**")

GPC to cross through one (1) of the following statements:

1. GPC agrees that Mechanical Completion has been achieved in accordance with Section 12.2 (*Mechanical Completion*) and Exhibit W-1 (*Mechanical Completion Criteria*) of the BTA. This Mechanical Completion Certificate was received by GPC on the date first written above and is effective as of that date.

2. GPC does not agree that Mechanical Completion has been achieved by Seller due to the omissions, liens, or defects listed below and/or the incomplete nature of the specified portions of the Work listed below or on the attached sheet:

   _____
   _____
   _____

3. The person signing below is authorized to sign the Mechanical Completion Certificate for and on behalf of GPC.

Georgia Power Company

By: _____

#Name#

#Title#

Date: _____

EXHIBIT H-2 – FORM OF SUBSTANTIAL COMPLETION CERTIFICATE

Substantial Completion Certificate

RE: Build Transfer Agreement for 2029–2031 All-Source RFP, dated as of #Date#, by and between Georgia Power Company and #SellerLegalName#, #a/an# #OrgState# #limited liability company# ***OR*** #OtherOrgStructure# ("**BTA**")

DATE:

1. The Substantial Completion Certificate is delivered to you pursuant to Section 12.4.1 (*Substantial Completion Certificate*) of the BTA. Capitalized terms used in this Substantial Completion Certificate and not otherwise defined have the meanings specified in the BTA and all section references refer to the BTA.

2. Seller certifies and represents that the following statements are true as of the date of delivery to GPC:

   2.1. Seller has satisfied all of the requirements for the achievement of Substantial Completion as required by 12.4 (*Substantial Completion*) and Exhibit W-2 (*Substantial Completion Criteria*) of the BTA.

   2.2. As required by Section 12.4.1 (*Substantial Completion Certificate*) of the BTA, Seller delivers this Substantial Completion Certificate, completed except for signature by GPC, to GPC's duly authorized representative on the above date.

3. The person signing below is authorized to submit this Substantial Completion Certificate to GPC for and on behalf of Seller.

#SellerLegalName#

By: _____

#SellerSignatureName#

#SellerSignatureTitle#

Date: _____

Substantial Completion

RE: Build Transfer Agreement for 2029–2031 All-Source RFP, dated as of #Date#, by and between Georgia Power Company and #SellerLegalName#, #a/an# #OrgState# #limited liability company# ***OR*** #OtherOrgStructure# ("**BTA**")

GPC to cross through one of the following statements:

1. GPC agrees that Substantial Completion has been achieved in accordance with Section 12.4 (*Substantial Completion*) and Exhibit W-2 (*Substantial Completion Criteria*) of the BTA. This Substantial Completion Certificate was received by GPC on the date first written above and is effective as of that date.

2. GPC does not agree that Substantial Completion has been achieved by Seller due to the omissions, liens, or defects listed below and/or the incomplete nature of the specified portions of the Work listed below or on the attached sheet:

   _____
   _____
   _____

3. The person signing below is authorized to sign the Substantial Completion Certificate for and on behalf of GPC.

Georgia Power Company

By: _____

#Name#

#Title#

Date: _____

EXHIBIT H-3 – FORM OF FINAL COMPLETION CERTIFICATE

Final Completion Certificate

RE: Build Transfer Agreement for 2029–2031 All-Source RFP, dated as of #Date#, by and between Georgia Power Company and #SellerLegalName#, #a/an# #OrgState# #limited liability company# ***OR*** #OtherOrgStructure# ("**BTA**")

DATE:

1. The Final Completion Certificate is delivered to you pursuant to Section 12.6.1 (*Substantial Completion Certificate*) of the BTA. Capitalized terms used in this Final Completion Certificate and not otherwise defined have the meanings specified in the BTA and all section references refer to the BTA.

2. Seller certifies and represents that the following statements are true as of the date of delivery to GPC:

   2.1. Seller has satisfied all of the requirements for the achievement of Final Completion as required by 12.6 (*Final Completion*) and Exhibit W-3 (*Final Completion Criteria*) of the BTA.

   2.2. As required by Section 12.6.1 (*Final Completion Certificate*) of the BTA, Seller delivers this Final Completion Certificate, completed except for signature by GPC, to GPC's duly authorized representative on the above date.

3. The person signing below is authorized to submit this Final Completion Certificate to GPC for and on behalf of Seller.

#SellerLegalName#

By: _____

#SellerSignatureName#

#SellerSignatureTitle#

Date: _____

Final Completion

RE: Build Transfer Agreement for 2029–2031 All-Source RFP, dated as of #Date#, by and between Georgia Power Company and #SellerLegalName#, #a/an# #OrgState# #limited liability company# ***OR*** #OtherOrgStructure# ("**BTA**")

GPC to cross through one (1) of the following statements:

1. GPC agrees that Final Completion has been achieved pursuant to Section 12.6 (*Final Completion*) and Exhibit W-3 (*Final Completion Criteria*) of the BTA. This Final Completion Certificate was received by GPC on the date first written above and is effective as of that date.

2. GPC does not agree that Final Completion has been achieved by Seller due to the omissions, liens, or defects listed below and/or the incomplete nature of the specified portions of the Work listed below or on the attached sheet:

   _____
   _____
   _____

3. The person signing below is authorized to sign the Final Completion Certificate for and on behalf of GPC.

Georgia Power Company

By: _____

#Name#

#Title#

Date: _____

EXHIBIT I – EPC CONTRACT

[To be provided by Seller during BTA finalization]

EXHIBIT J – SUBCONTRACTORS PRE-APPROVED BY GPC

Note to Bidders: Refer to Minimum Technical Requirements for Facility type.

EXHIBIT K – MAJOR SUPPLY AGREEMENTS

[To be provided by Seller during BTA finalization]

EXHIBIT L – MAJOR EQUIPMENT WARRANTIES

[To be provided by Seller during BTA finalization]

EXHIBIT M – PROJECT SAFETY ASSURANCE PROGRAM

[To be provided by Seller during BTA finalization]

EXHIBIT N – PROJECT SCHEDULE

[To be developed during BTA finalization]

EXHIBIT O – CRITICAL MILESTONES AND CRITICAL MILESTONE COMPLETION DATES

[To be developed during BTA finalization]

No.	Critical Milestone	Critical Milestone Completion Date
1.	#TBD#	
2.	Mechanical Completion	
3.	Substantial Completion	
4.	Final Completion	

EXHIBIT P – ADDITIONAL COMPLIANCE REQUIREMENTS

[Note to Bidder: Please see the pdf document titled "GPC Compliance Requirements" available on the IE Website].

For purposes of the Additional Compliance Requirements, references to: (i) "Contractor" means Seller; (ii) Purchaser or Owner means GPC; and (iii) "Contract," "Purchase Order" or "Work Authorization" means this BTA.

EXHIBIT Q – SELLER DELIVERABLES TABLE

[Note to Bidders: This Exhibit Q (Seller Deliverables Table) is provided as an example of the type of deliverables that Seller will likely be required to provide under the BTA. The final Exhibit Q will be finalized as part of RFP due diligence.]

Timing of Delivery	
1	Prior to Issuance of Full Notice to Proceed
2	During Design Review
3	60 Days Prior to mobilization
4	30 Days Prior to Mechanical Completion
5	Prior to Mechanical Completion
6	Prior to Substantial Completion
7	Prior to Final Completion
8	As Required by Agreement/As Soon as Available

Type of Document or Data Source	Timing of First Delivery
Design Drawings, Specifications, and Permits	
Issued for Review-30%	2
Issued for Review-60%	2
Issued for Review-90%	2
Issued for Construction	2
NPDES Permit - including final SWPPP	2
Contractor Permits	8
Certificate of Occupancy	6
Material/Equipment Specifications	2
SCADA/DAS Specifications	2
Excel file for As-Built DC and AC cable schedule	7

Construction Site Management	
Quality Control/Assurance Manual	3
Environmental, Health and Safety Manual	3
Site-Specific Environmental Health and Safety Plan	3
Site-Specific Quality Plan	3
Site-Specific Hazardous Material Handling Plan	3
Site Security Plan	3
Emergency Response Plan	3
Spill Prevention, Control and Countermeasure Plan	3
Fire Protection and Prevention Plan	3
Construction Traffic Management Plan	3
Constructability Plan and Review	3
Productivity Plan	3
Commissioning Plan	8
Daily Force Reports	8
Weekly Progress Reports	8
Monthly Progress Reports	8
RFI Log	8
Incident reports-safety, near miss, other	8
Final QA/QC Plan and Collected Data for Construction Activities	7
Final OSHA 300 Log	7
Final Incident Reports	7
Final First Aid Logs	7
Final Root Cause Analysis Reports	7
Final Near Miss Reports	7

Lists/Spreadsheets

Punch List	6
Spare Parts List	1,6
Module Flash test data	7
Calculations/Studies	
All Geotechnical Studies	2
All Electrical Studies and Calculations	2
Supporting data for Arc Flash Hazard Analysis (Study will be performed by Owner)	6, 8
Plans, Procedures, Programs and Manuals	
Performance Test Procedures	4
Performance Test Reports and all associated files/Commissioning Reports	6
Module Allocation Plan	7, 8
Interconnect Agreement Requirements Test Reports	6
Energy Production, including 8760 and all associated PVSyst files (PAN, OND, PRJ, VC(X), MET, SHD)	2,8
Non-BES Generating Plant Data Documentation	6
PV Plant Controller Test and Commissioning Plan	6
PV System Training Schedule, materials, and aids (including Owner/Operator training)	6
Operating Manual	6
Procedure for the administration of Warranty Claims	6
Final Job Books (including As-Built Drawings)	7
Schedules	
Baseline CPM Schedule	8
Weekly Updated CPM Schedules	8

Notices	
Non-conformance	
Notice of intent to perform examinations or witness…	8
Notice of Mechanical Completion	5
Notices of Intent to commence Performance Testing	8
Notice of Substantial Completion	6
Notice of Final Completion	7
Material Documents	
Equipment Warranties (as applicable)	6
Module	6
Fixed Tilt Racking	6
Single Axis Tracker	6
Inverter	6
Inverter Step-up Transformer	6
Combiner Box	6
Re-combiner box	6
MV Switchgear	6
Meteorological Stations	6
SCADA/DAS System	6
Battery Storage Solution	6
Factory Acceptance Test Documentation	5
Equipment Installation, Operation and Maintenance Manuals	6

EXHIBIT R – FORM OF CHANGE ORDER

[ENTER PROJECT NAME]

CHANGE ORDER NO. _____

Seller: **Title:** **Date:**

CHANGE IN WORK: (Detail) **Amount (Circle Credits)**

This Change Order No. [ ], effective [ ], is issued to amend the Build Transfer Agreement for All-Source Capacity RFP between Georgia Power Company ("**GPC**"), a Georgia corporation, and **#SellerLegalName#** ("**Seller**") dated [ ], as amended ("**BTA**"), as stated below. Capitalized terms used but not defined in this Change Order have the meanings given to them in the BTA.

[INSERT DETAIL OF CHANGE IN WORK]

Total Authorized Amount This Change Order

CHANGE IN WORK START DATE: CHANGE IN WORK END DATE:

_____ _____

This Change Order is not valid until signed by a GPC authorized representative. The Parties agree that, if this Change Order is executed by GPC, then Seller will implement the above-referenced Change. This Change Order constitutes full and final relief to Seller, and an accord and satisfaction between GPC and Seller, for all claims for compensation or schedule adjustments arising out of or relating in any way to the Change(s) described in this Change Order, including all direct, indirect, and impact costs on the unchanged Work. Except as modified by this Change Order, all BTA terms and conditions will remain in full force and effect. This Change Order is executed by each of the Parties' duly authorized representatives. Except as set forth in this Change Order, the Change described in this Change Order will not relieve GPC or Seller of their obligations and liabilities under the BTA.

CONTRACT PRICE HISTORY

Original Purchase Price: $

Total Previous Change Orders: $

This Change Order (Net Amount) $

☐ Firm

☐ Estimate

Adjusted Purchase Price $

Primary Cause of Change in Work (Check One)

☐ GPC-Initiated Change

☐ Change in Law

☐ Seller-Initiated Change

☐ Excusable Event

Could this Change Order Impact Other Contracts?

☐ Yes

☐ No

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

EXHIBIT S – PERFORMANCE GUARANTEES; TESTING AND COMMISSIONING

Note to Bidders: This Exhibit S version is applicable to Combined Cycle and Simple Cycle Facilities. This draft Exhibit S is intended to provide general information to Bidders regarding the Performance Guarantees that Seller must achieve and general performance testing requirements. Bidders should refer to the Minimum Technical Requirements for more detailed information. GPC reserves the modify this Exhibit S and the Minimum Technical Requirements.

PART 1. PERFORMANCE GUARANTEES

1.1. Performance Guarantees. Seller must meet or exceed each of the Performance Guarantees described below, except to the extent Performance Guarantee Liquidated Damages are allowed by Section 1.3 (*Performance Guarantee Liquidated Damages*) and are paid for performance above the Minimum Performance Guarantee but below the Performance Guarantee. [**Note to Bidder: Exhibit A-3 (*Technical Specifications*) will be based on the Minimum Technical Requirements and finalized during RFP due diligence. Refer to Section # of the Minimum Technical Requirements for more information**].

1.1.1. Emissions Guarantee. Seller guarantees that the Facility will meet the emissions requirements stated in TD-02 (*Performance, Emissions, Noise, and Testing Requirements*) Section 2 (*Emissions Requirements*) of Exhibit A-3 (*Technical Specifications*) when tested in accordance with Technical Specifications testing requirements.

1.1.2. Noise Guarantee. Seller guarantees that the Facility will meet the noise requirements stated in TD-02 (*Performance, Emissions, Noise, and Testing Requirements*) Section 3 (*Noise Requirements*) of Exhibit A-3 (*Technical Specifications*) when tested in accordance with Technical Specifications testing requirements.

1.1.3. Capacity Guarantee. Seller guarantees that the #Facility's OR each Unit's# net output will be #GuaranteedAmount# and will meet the requirements stated in TD-02 (*Performance, Emissions, Noise, and Testing Requirements*) Section 1 (*Performance Guarantees*) of Exhibit A-3 (*Technical Specifications*) when tested in accordance with Technical Specifications testing requirements.

1.1.4. Heat Rate Guarantee. Seller guarantees that the #Facility's OR each Unit's# net heat rate will be #GuaranteedAmount# and will meet the requirements stated in TD-02 (*Performance, Emissions, Noise, and Testing Requirements*) Section 1 (*Performance Guarantees*) of Exhibit A-3 (*Technical Specifications*) when tested in accordance with Technical Specifications testing requirements.

1.1.5. Minimum Performance Standards. "**Minimum Performance Standards**" means for #the Facility OR each Unit#: (i) not less than 97% of the Capacity Guarantee for any fuel type; (ii) not greater than 103% of the Heat Rate Guarantee for any fuel type.

1.1.6. Must-Meet Guarantees. Seller must meet the Minimum Performance Guarantees, the Emissions Guarantee, and the Noise Guarantee ("**Must-Meet Guarantees**") as those Performance Guarantees represent absolute and fundamental obligations of Seller under the BTA. Seller's successful achievement of each Must-Meet Guarantee is a condition of Substantial Completion. Seller will have a continuing obligation to adjust and repair the #Facility OR each Unit# until each Must-Meet Guarantee is met.

1.2. Performance Test. Seller must conduct performance testing in accordance with TD-02 (*Performance, Emissions, Noise, and Testing Requirements*) Section 5 (*Demonstration Testing*) of Exhibit A-3 (*Technical Specifications*) to demonstrate Seller's successful achievement of each of the

Performance Guarantees. Seller must ensure that the EPC Contract incorporates these performance testing requirements, which must be followed by the EPC Contractor.

1.3. Performance Guarantee Liquidated Damages. If Seller achieves the Must-Meet Guarantees but does not achieve the Capacity Guarantee or Heat Rate Guarantee, Seller must remedy the shortfall by taking corrective action to achieve the Performance Guarantee or paying to GPC liquidated damages in the applicable amount stated below. [**Note to Bidders: GPC will provide required Performance Guarantee liquidated damages amounts before Competitive Tier notification.**]

1.3.1. Capacity Guarantee Liquidated Damages. $TBD/kW shortfall.

1.3.2. Heat Rate Guarantee Liquidated Damages. $TBD/ Btu/kWH shortfall.

PART 2. COMMISSIONING

[Note to Bidders: Seller and GPC to finalize the Commissioning Plan as part of RFP due diligence. Final testing and commissioning requirements must be incorporated in the EPC Contract and used by EPC Contractor for purposes of commissioning the Facility.]

EXHIBIT S – PERFORMANCE GUARANTEES; TESTING AND COMMISSIONING

Note to Bidders: This Exhibit S version is applicable to ESS Facilities. This draft Exhibit S is intended to provide general information to Bidders regarding the Performance Guarantees that Seller must achieve. Bidders should refer to the Minimum Technical Requirements for more detailed information regarding performance guarantees and testing and commissioning requirements. GPC reserves the modify this Exhibit S and the Minimum Technical Requirements.

PART 1. PERFORMANCE GUARANTEES

1.1. Performance Guarantees. Seller must meet or exceed each of the Performance Guarantees described below, except to the extent Performance Guarantee Liquidated Damages are allowed by Section 1.3 (*Performance Guarantee Liquidated Damages*) and are paid for performance above the Minimum Performance Guarantee but below the Performance Guarantee. [**Note to Bidder: Exhibit A-3 (*Technical Specifications*) will be based on the Minimum Technical Requirements and finalized during RFP due diligence. Refer to Attachment 2 (*BESS Technical Specifications*) of the Minimum Technical Requirements for more information**].

1.1.1. Useable Energy Capacity Guarantee. Seller guarantees that the ESS will have an actual useable energy capacity greater to or equal than #GuaranteedAmount# (MWh) and will meet the requirements of Attachment 2 (*Detail Specifications for Transmission Interconnected Battery Energy Storage Systems*) of Exhibit A-3 (*Technical Specifications*) when tested in accordance with Technical Specifications testing requirements.

1.1.2. Rated Power Guarantee. Seller guarantees that the ESS will have a charge and discharge rate of #GuaranteedAmount# (MW) and will meet the requirements of Attachment 2 (*Detail Specifications for Transmission Interconnected Battery Energy Storage Systems*) of Exhibit A-3 (*Technical Specifications*) when tested in accordance with Technical Specifications testing requirements.

1.1.3. Rated Duration Guarantee. Seller guarantees that the ESS will have a discharge duration of #GuaranteedAmount# and will meet the requirements of Attachment 2 (*Detail Specifications for Transmission Interconnected Battery Energy Storage Systems*) of Exhibit A-3 (*Technical Specifications*) when tested in accordance with Technical Specifications testing requirements.

1.1.4. RTE Guarantee. Seller guarantees that the ESS will have a minimum round-trip efficiency rate of #GuaranteedAmount# (%) when excluding auxiliary power consumption and will meet the requirements of Attachment 2 (*Detail Specifications for Transmission Interconnected Battery Energy Storage Systems*) of Exhibit A-3 (*Technical Specifications*) when tested in accordance with Technical Specifications testing requirements.

1.1.5. Auxiliary Power Guarantee. Seller guarantees that the ESS will have an actual auxiliary power consumption less than or equal to #GuaranteedCurveAmounts# (kW) and will meet the requirements of Attachment 2 (*Detail Specifications for Transmission Interconnected Battery Energy Storage Systems*) of Exhibit A-3 (*Technical Specifications*) when tested in accordance with Technical Specifications testing requirements. [**Note to Bidder: The Auxiliary Power Guarantee will be required only when the RTE Guarantee is exclusive of auxiliary power because the Facility is separately fed auxiliary power.**]

1.1.6. BOP Losses Guarantee. Seller guarantees that the Facility's balance of plant losses will not exceed #GuaranteedAmount# (%) and will meet the requirements of Attachment 2 (*Detail Specifications for Transmission Interconnected Battery Energy Storage Systems*) of Exhibit A-3 (*Technical Specifications*) when tested in accordance with Technical Specifications testing requirements.

1.1.7. Minimum Performance Standards. "**Minimum Performance Standards**" means for the Facility not less than 98% the (i) Rated Duration Guarantee; (ii) Useable Energy Capacity Guarantee; (iii) Auxiliary Power Guarantee; and (iv) Round-Trip Efficiency Guarantee.

1.1.8. Must-Meet Guarantees. Seller must meet the Minimum Performance Standards. The Rated Power Guarantee, and the Balance of Plant Losses Guarantee ("**Must-Meet Guarantees**") as those Performance Guarantees represent absolute and fundamental obligations of Seller under the BTA. Seller's successful achievement of each Must-Meet Guarantee is a condition of Substantial Completion. Seller will have a continuing obligation to adjust and repair the Facility until each Must-Meet Guarantee is met.

1.2. Performance Tests. Seller must conduct performance testing in accordance with Attachment # (*Detail Specifications for Commissioning and Testing of Transmission Connected Battery Energy Storage Systems*) of Exhibit A-3 (*Technical Specifications*) to demonstrate Seller's successful achievement of each of the Performance Guarantees. Seller must ensure that the EPC Contract incorporates these performance testing requirements, which must be followed by the EPC Contractor.

1.3. Performance Guarantee Liquidated Damages. If Seller achieves the Must-Meet Guarantees but does not achieve the Rated Duration Guarantee, Useable Energy Capacity Guarantee, or Round-Trip Efficiency Guarantee, Seller must remedy the deficiency by taking corrective action to achieve the Performance Guarantee or paying to GPC liquidated damages in the applicable amount stated below. Liquidated damages are cumulative and not exclusive of other liquidated damages. [**Note to Bidder: GPC will provide required Performance Guarantee liquidated damages amounts before Competitive Tier notification.**]

1.3.1. Useable Energy Capacity Guarantee Liquidated Damages. $TBD/MWh shortfall.

1.3.2. Rated Duration Guarantee Liquidated Damages. $TBD/hr shortfall.

1.3.3. Auxiliary Power Guarantee Liquidated Damages. $TBD/kW shortfall.

1.3.4. Round-Trip Efficiency Guarantee Liquidated Damages. $TBD/MW shortfall.

PART 2. COMMISSIONING

[Note to Bidders: Bidders should refer to the Minimum Technical Requirements for information regarding testing and commissioning. Seller and GPC to finalize the Commissioning Plan as part of RFP due diligence. Final testing and commissioning requirements must be incorporated in the EPC Contract and used by EPC Contractor for purposes of commissioning the Facility.]

EXHIBIT T – INSURANCE REQUIREMENTS

The following insurance requirements apply to Seller and GPC under the BTA:

General.

(a) Seller must maintain or cause to maintain at its own expense as required under this Agreement, with responsible insurance companies authorized to do business in the State of Georgia, the types and limits of insurance as set forth in Sections 1.2 and 1.4 of this Exhibit T. Such insurances may be procured in whole or in part on a blanket policy basis.

(b) Such insurance companies must have an A.M. Best Insurance financial strength rating of at least "A-" VII or better, or equivalent, or must be of recognized responsibility satisfactory to the Parties.

(c) Capitalized terms used in this Exhibit T and not otherwise defined in the Agreement will have the meanings generally ascribed to them in the commercial insurance industry in the United States.

(d) Seller, at its own cost, may purchase any additional insurance it believes necessary to protect its interests, but these costs cannot be passed on to the other Party.

1.2 Contractor's Insurance.

1.2.1 Workers' Compensation and Employer's Liability Insurance. Seller will maintain workers' compensation insurance and such other forms of insurance which Seller is required to maintain in order to comply with applicable Law and any statutory limits under workers' compensation Laws of the State of Georgia (and any other location in which the Work is to be performed) including USL&H coverage (if any exposure exists), where applicable, and employer's liability (including occupational disease, injury or death) coverage with limits of **One Million Dollars ($1,000,000)** per accident, **One Million Dollars ($1,000,000)** for disease, and **One Million Dollars ($1,000,000)** for each employee, which must cover all of Seller's employees, whether full-time, leased, temporary or casual, who are engaged in the Work. Commercial General Liability Insurance. Seller must maintain Commercial General Liability (or equivalent) insurance written with a combined single limit of **Two Million Dollars (2,000,000)** per occurrence and **Two Million Dollars ($2,000,000)** in the annual aggregate on a per project basis. Defense costs will be provided as an additional benefit and not included within the limits of liability. Such coverage must be written on an "occurrence" basis and must be at least as broad as the Insurance Services Office Commercial General Liability Coverage "occurrence" form. Such insurance must include coverage for bodily injury, products/completed operations, broad form/blanket contractual liability, broad form property damage and personal injury liability, sudden and accidental pollution, premises/operations explosion, independent Contractor liability, and collapse and underground hazards coverage and hostile fire liability.

1.2.2 Business Automobile Liability Insurance. Seller must maintain automobile liability insurance (including coverage for owned, unowned and hired automobiles) covering vehicles used by Contractor in connection with the Work in an amount of **One Million Dollars ($1,000,000)** combined single limit per occurrence for bodily injury and property damage. Such coverage will be at least as broad as the Insurance Services Office Business Auto Coverage form covering Automobile Liability, code 1 "any auto." Contractor's automobile liability insurance coverage must contain appropriate no-fault insurance provisions or other endorsements in accordance with applicable Laws. To the extent the Work involves hauling any Hazardous Materials, coverage must be endorsed in accordance with Section 30 of the Motor Carrier Act of 1980 (Category 2) of the CA 99 48 endorsement.

1.2.3 Umbrella or Excess Liability Insurance. Contractor must maintain umbrella/excess insurance on an "occurrence" basis covering claims in excess of the underlying insurance described in Sections 1.2.1 Employers Liability, 1.2.3 and 1.2.4 of this Exhibit T, in the

amount of **Twenty Five Million Dollars ($25,000,000)** per occurrence on a following-form basis.

1.2.4 Liability Limits. The liability limits under Section 1.2 of this Exhibit T may be met with any combination of primary, excess or umbrella insurance policies.

1.2.5 Professional Liability Insurance. If the Work includes engineering, architectural, design or other professional services, Contractor must secure and maintain, professional liability insurance (errors and omissions) with a minimum single limit of **Five Million Dollars ($5,000,000)**. Such coverage must be in place throughout the performance of the Work and for three (3) years after Final Completion. Such coverage will not exclude bodily injury or property damage from professional errors or omissions.

1.2.6 Contractor's Pollution Liability. Contractor must provide and maintain contractors pollution liability, including pre-existing pollution conditions, covering bodily injury, property damage and pollution cleanup for pollution conditions occurring on and off the Site with a limit of **Five Millian Dollars ($5,000,000)** each claim.

1.2.7 Equipment, Supplies and Materials. All equipment, supplies and materials (a) belonging to Contractor or to any of the Subcontractors or (b) used by or on behalf of Contractor or any of the Subcontractors for its performance under this BTA which is not intended to become a permanent part of the completed Work must be brought to and kept at the Site at the sole cost, risk and expense of Contractor or the applicable Subcontractor, and Owner will not be liable for loss or damage thereto. Should such property be insured, said insurers will waive rights of subrogation against Owner.

1.2.8 Subcontractor's Insurance. All requirements of Section 1.2 (*Contractor's Insurance*) and Section 1.3 (*Endorsements*) or of any other Contract insurance provision must also apply to each Subcontractor (substituting "Subcontractor" for "Contractor" in each provision), unless Company provides an express written waiver. Contractor must require each Subcontractor to provide evidence of its compliance with all Contract insurance provisions and must provide a copy of each Subcontractor's certificate to Company upon request. If a Subcontractor does not have insurance as required by the Contract, Contractor is fully responsible for any shortfall in the Subcontractor's coverage. Contractor must indemnify Persons Indemnified for any Claim against Subcontractor in excess of Subcontractor's policy limits, up to the amount of the policy limits required by Contract.

1.3 Endorsements. The policies of liability insurance to be maintained by Contractor must be written or endorsed to include the following:

(a) With respect to all insurance required herein, Contractor will waive and will cause their insurers to waive for the benefit of GPC and where permitted by Law, all rights of subrogation against GPC, its parent, Affiliates, or their directors, officers, members, managers, as well as their respective employees and/or agents of each.

(b) To provide a severability of interest and cross liability clause on all policies required herein except for workers comp and professional liability.

(c) All required insurance must be primary and not excess to or contributing with any insurance or self-insurance maintained by Owner.

(d) With the exception of the insurance required under Sections 1.2.1 and 1.2.7 of this Exhibit T, to identify Owner, its parent, Affiliates, and their directors, officers, members, managers, as well as the employees and/or agents of each, as additional insureds, for their legal liability arising out of the operations of Contractor. This additional insured status will apply regardless of the enforceability of the indemnity provisions in this Agreement.

(e) With respect to coverage for completed operations under the general liability, pollution liability and professional liability insurance policies, to be in place throughout the performance of the Work and for three (3) years after Final Completion.

(f) With respect to an additional insured, provide that such insurance will not be invalidated by any action or inaction of each such insured and will insure each such insured regardless of any breach or violation of any warranty, declaration or condition contained in such insurance by the primary named insured wherever coverage will apply.

1.4 Builder's All-Risk Insurance; Operational Insurance; Marine Cargo Insurance. Prior to significant accumulation by Contractor or any Subcontractor of insurable values at the Site, but no later than the earlier to occur of Site mobilization and thirty (30) days after the issuance of the Full Notice to Proceed, Contractor must obtain and thereafter at all times during performance of the Work until the Substantial Completion Date, maintain, or cause to be maintained, builder's all-risk insurance at Contractor's sole cost and expense. Such builder's all-risk insurance must insure as additional insureds Owner, Owner Consultant(s) and all Subcontractors, as such parties' interests may appear until the Substantial Completion Date. If requested by Owner, any lenders to Owner with respect to the Project will be named sole loss payees in respect of claims of $1 million or more. Builder's all-risk, or a Marine/Cargo policy must cover all property in the course of transit or construction, including the Work, Plant Hardware, miscellaneous equipment, buildings and structures, machinery, fixtures, furnishings and other properties constituting a part of the Project (other than Plant Hardware properly covered under Contractor's equipment floater), from physical loss or damage caused by perils covered by a builder's all-risk form or equivalent coverage. Such insurance will: (a) include "extended coverage" (including earthquake, flood, collapse, sinkhole, subsidence), (b) include mechanical and electrical breakdown coverage during testing and commissioning, including any Capacity Tests and other operations of the Project prior to Substantial Completion, (c) cover the Project and the Site for removal of debris, (d) include at least $1 million per occurrence limit for pollution clean-up costs and (e) otherwise cover damage to property and other claims arising out of the unloading, lifting, lowering or other handling of property at the Site, in an amount to cover materials and equipment to be used by Contractor in performance of this Agreement. The limit of liability must be the full replacement cost of the Work or the property in relation to the Project, as the case may be, then at risk, including primary cost of the Plant Hardware plus freight. The deductibles must not exceed $250,000, and any required payments of the deductibles for builders all-risk insurance will be the responsibility of Contractor. The builder's all-risk coverage must not contain an exclusion for resultant damage caused by faulty workmanship, design or materials. Such insurance must provide for a waiver of the underwriters' right to subrogation against Owner, Contractor and all Subcontractors.

No later than the earlier to occur of thirty (30) days prior to the loading for shipment of any machinery or equipment intended to become part of the Project and thirty (30) days after the issuance of the Notice to Proceed, Contractor must obtain and thereafter at all times during performance of the Work until the Substantial Completion Date, maintain, or cause to be maintained, cargo insurance (including ocean marine, if applicable) in an amount sufficient to cover claims on a replacement cost basis against physical loss of or damage to any and all machinery and equipment intended to become part of the Project, including primary cost of the Plant Hardware plus freight. Said insurance will commence with the loading of the machinery and equipment, prior to dispatch to the Site from the originating factory, warehouse, or place of storage, and remain in force until completion of unloading within the legal boundaries of the Site. Such insurance must cover all risks of loss or damage including war risk, strikes, riots and civil commotion. Such insurance must include extra/expediting expense coverage and must insure as additional insureds Owner and all Subcontractors. The deductibles must not exceed $250,000, and any required payments of the deductibles for ocean marine/cargo insurance will be the responsibility of Contractor. Such insurance must provide for a waiver of the underwriters' right to subrogation against Owner, Contractor, and all Subcontractors.

1.5 Waiver of Subrogation. Contractor waives, and will cause its insurers to waive by endorsement, all rights of subrogation against the Owner, and all Owner Indemnitees, with respect to any subsequent claim or loss payable or paid under each of the policies required under this Exhibit T, including Builder's Risk.

1.6 Contractor Certificates. For the insurance required by this Exhibit T, Contractor will promptly submit to the Owner Certificates of Insurance, signed by an authorized representative of the insurance carrier, listing the policies, coverages, limits, waiver of subrogation and additional

insureds and certifying that said policies provide primary coverage and will be in effect for the time periods stated in the Certificate. Contractor will notify the Owner in writing at least thirty (30) days prior to the effective date of any cancellation, non renewal or material change in any of the insurance policies. The obligations for Contractor to procure and maintain insurance must not be construed to waive or restrict other obligations of the Contractor or limit the liability of Contractor whether or not same is covered by insurance.

1.7 Proof of Insurance. The Contractor must provide Owner with satisfactory proof of the required insurance coverages prior to its start of any Work at the Site and as a condition precedent to any right to any payment. If requested, and in addition to the insurance certificates required, Contractor will provide Owner with a copy of any insurance policies providing the required coverages within a reasonable time after the issuance by the insurer, including all endorsements. Owner may require proof of the renewal of required insurance as a condition precedent to payment. Contractor will have sole responsibility for the procurement and maintenance of the required insurance coverages, and for insuring that the Subcontractors procure and maintain insurance coverages required of them. Owner will have no liability to any party for the Contractor's, or for a Subcontractor's, failure to procure and maintain required insurance coverages. Contractor will indemnify and hold harmless the Owner and Persons Indemnified with respect to any third party claim arising out of or in any way relating to the failure of a Contractor or Subcontractor to obtain and maintain required insurance coverages.

1.8 Cost of Premium. It is expressly agreed and understood that the cost of premiums and deductibles for insurance required to be maintained by Contractor as set forth in this Exhibit T and all Taxes thereon will be borne by Contractor, and must be endorsed to provide that Owner will have no liability for the payment of any premium thereon; and

1.9 Owner's Right to Provide Insurances. If Contractor fails to provide or maintain any insurance required of it under this BTA, the Owner will have the right, but not the obligation, to provide or maintain any such insurance, and to deduct the cost thereof from any amounts due and payable to the Contractor, or, if there are no such amounts due and payable, the Contractor will reimburse the Owner for such costs on demand. Should any of the policies required to be maintained become unavailable or be cancelled for any reason during the period of the Agreement, the Contractor will immediately procure replacement coverage. The failure of Contractor to procure such replacement coverage which is within the reasonable control of the Contractor (so as to provide continuous coverage) will constitute a material breach under this BTA.

1.10 No Limitation of Liability. The insurance coverages required of Contractor set forth in this Exhibit T will in no way affect, nor are they intended as a limitation of, Contractor's liability with respect to its performance of the Work. Other Terms and Provisions.

1.10.1 Omissions; Errors. It is understood and agreed that the coverages afforded by the insurance coverages set forth in Exhibit T of the Agreement will not be invalidated or affected by any unintentional omissions or errors.

1.10.2 Notification. Contractor must Notify the Owner of any and all incidents giving rise to an insurance claim, and otherwise keep the Owner timely apprised of insurance claim proceedings.

EXHIBIT U – FORM OF DOMESTIC CONTENT CERTIFICATE

[Insert date]

This Domestic Content Certificate (this "**Certificate**") is furnished in accordance with the Build Transfer Agreement by and between Georgia Power Company, a Georgia corporation ("**GPC**") and #SellerName ("**Seller**"), a #State #EntityType dated as of #Month #Day, #Year ("**BTA**").

Seller acknowledges that the items listed on Exhibit A attached to this Certificate are or will be incorporated into the Facility being constructed pursuant to the BTA ("**Project**"). Seller certifies that: (1) all Manufacturing Processes with respect to any Steel or Iron Items incorporated into the Project took place in the United States, except metallurgical processes involving refinement of steel additives; and (2) either: (a) all of the Project Components are United States Manufactured Products; or (b) the sum of the total Direct Cost of the United States Manufactured Products and the United States Components equals or exceeds forty percent (40%) of the total Direct Cost of all Project Components.

For the purposes of this Certificate, except as otherwise expressly provided or unless the context otherwise requires, the following terms have the following meanings.

Code: The Internal Revenue Code of 1986, as amended.

Direct Cost: Direct costs as defined in Treasury Regulations Section 1.263A-1(e)(2)(i) that are paid or incurred (within the meaning of Section 461 of the Code) to produce the Manufactured Product by its manufacturer.

Manufactured: Produced as a result of the Manufacturing Process.

Manufacturing Process: The application of processes to alter the form or function of materials or elements of a product in a manner adding value and transforming those materials and elements so that they represent a new item functionally different from that which would result from mere assembly of the elements or materials.

Manufactured Product: An item produced as a result of the Manufacturing Process.

Manufactured Product Component: Any article, material, or supply, whether or not Manufactured, that is directly incorporated into a Project Component.

Mined: Derived from the extraction of ores or minerals from the ground or from the waste or residue of prior mining.

Non-United States Manufactured Product: A Manufactured Product all or a portion of the Manufacturing Processes of which occurred outside the United States or all or a portion of the Manufactured Product Components of which are of non-United States origin.

Project Component: Any article, material, or supply, that is directly incorporated into the Project that is a Manufactured Product.

Steel or Iron Items: Construction materials made primarily of steel or iron that are structural in function.

United States: The several states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

United States Component: Any Manufactured Product Component of a Non-United States Manufactured Product if such Manufactured Product Component is Mined or Manufactured in the United States.

United States Manufactured Product: A Manufactured Product all of the Manufacturing Processes for which occurred in the United States and all of the Manufactured Project Components of which have been Manufactured in the United States.

Seller acknowledges that this Certificate may be relied on by GPC and the Internal Revenue Service to determine if the Project qualifies for an increase in the energy credit under Section 48 of the Internal Revenue Code of 1986, as amended, (the "Code") or the clean electricity investment credit under Section 48E of the Code, with respect to facilities that satisfy the "domestic content" provisions of Sections 48(a)(12) or 48E(a)(3)(B) of the Code, and certifies that the information is this Certificate is true, correct, and complete to the best of Seller's knowledge and belief.

#SellerLegalName#

By: _____

Name

Printed: _____

Title: _____

Date: _____

Exhibit A

Project Component	Manufacturing Process	Place of Manufacture	QTY

EXHIBIT V – REQUIREMENTS FOR MONTHLY PROGRESS REPORTING

[*Note to Bidders: GPC provides this draft Exhibit V as an example of minimum reporting data points. GPC and Seller will finalize monthly reporting requirements during RFP due diligence.*]

Seller must provide regular progress and schedule reporting in accordance with BTA Section 6.25 (*Monthly Progress Reports*).

The Monthly Progress Report must be organized in accordance with the following Table of Contents:

1. Executive Summary
2. Project Team
   - 2.1. EPC Contractor
   - 2.2. Major Contractors/Suppliers
3. Health, Safety, and Environment
   - 3.1. Workforce Report
   - 3.2. Reportable Incidents
   - 3.3. Environmental Compliance
4. Project Schedule updates and modifications
   - 4.1. Key Milestone Status
   - 4.2. Activities planned for next two weeks
   - 4.3. Procurement Progress and Status Report
   - 4.4. Construction Progress Curves including at a minimum:
     - 4.4.1. Site Grading
     - 4.4.2. Start-up and Testing Progress
   - 4.5. Manufacturing Status Report
5. Quality Control
   - 5.1 Shop Inspection and Testing
   - 5.2 Non-conformance metrics
   - 5.3 Areas of concern and action plans
6. Commercial
   - 6.1. Change Order status
   - 6.2. Payment Status
   - 6.3. Reforecast of project cash-flow through project completion
7. Training
8. Issues and Remedies
9. Deliverables
   - 9.1.1. Current drawing list
   - 9.1.2. Current equipment list
10. Community
11. Photos
12. Any other information reasonably requested by GPC.

EXHIBIT W – COMPLETION CRITERIA

EXHIBIT W-1 – MECHANICAL COMPLETION CRITERIA

Mechanical Completion Criteria

[*Note to Bidders: This Exhibit W-1 version applies to ESS Facilities*].

Unless otherwise defined in this Exhibit W-1 (*Mechanical Completion Criteria*), capitalized terms have the meanings specified or referred to in the BTA and all section references refer to the BTA. Subject to Section 12.2.2 (*GPC's Review of Mechanical Completion Certificate*), "**Mechanical Completion**" will occur when the following criteria have been achieved:

1. Seller completed the design, engineering, procurement, permitting, and construction scopes of the Project to the point where the Facility is ready for initial operation, adjustment, and testing (but has not yet been initially operated), including: (i) the connection of all Project equipment to other applicable equipment as required by way of wiring, controls, and safety systems; (ii) ensuring that all instruments and relays are installed and functional and all required protective and control features are operational; and (iii) submission to GPC of a completed interconnection implementation checklist showing interconnection dates consistent with GPC's required initial synchronization date and the Guaranteed Substantial Completion Date.
2. The Facility is mechanically complete and ready for energization, initial start-up, adjustment, and testing, but the Facility has not achieved Energization and Synchronization;
3. All necessary calibration has been completed in accordance with the applicable manufacturer's standards and guidance, except for items mutually agreed to not be critical to the operation of the Project;
4. Seller has achieved Mechanical Completion by the Guaranteed Mechanical Completion Date, or Seller has paid Mechanical Completion Delay Liquidated Damages in accordance with Section 12.8.1 (*Mechanical Completion Delay Liquidated Damages*);
5. Seller has completed Cold Commissioning of the Facility in accordance with the Technical Specifications, Section 10.2 (*Commissioning and Performance Tests*), and the commissioning requirements in Exhibit S (*Commissioning and Testing*) and the Testing and Commissioning Plan.
6. The telemetry system has been installed and ready for operation by Seller;
7. The telecommunications system has been installed and ready for operation by Seller;
8. Seller has delivered all documents required to be delivered by the Mechanical Completion Date in accordance with Seller Deliverables Table in Exhibit Q (*Seller Deliverables Table*);
9. All quality assurance documentation has been provided to GPC in accordance with the Quality Control/Assurance Manual, and all non-conforming quality assurance issues have been resolved in accordance with the Quality Control/Assurance Manual;
10. Seller has delivered to the Project Site all special tools required by the manufacturers of Project Equipment and materials to operate and maintain the Project;
11. All Permits that are necessary for the siting, construction, and operation of the Project have been obtained (other than Permits that can reasonably be expected to be obtained when needed in the ordinary course of business on commercially reasonable terms and conditions);
12. Neither the Project nor any property that is part of the Project has, in whole or in part (including any circuit), been placed in service, energized, or synchronized to the Electric System; and
13. Seller has delivered all applicable lien waivers and releases required to be provided at Closing in accordance with Section 6.26.2 (*Lien Waivers at the Closing Date*).

EXHIBIT W-1 – MECHANICAL COMPLETION CRITERIA

Mechanical Completion Criteria

[*Note to Bidders: This Exhibit W-1 version applies to CC and CT Facilities*].

Unless otherwise defined in this Exhibit W-1 (*Mechanical Completion Criteria*), capitalized terms have the meanings specified or referred to in the BTA and all section references refer to the BTA. Subject to Section 12.2.2 (*GPC's Review of Mechanical Completion Certificate*), "**Mechanical Completion**" will occur when the following criteria have been achieved:

14. Seller completed the design, engineering, procurement, permitting, and construction scopes of the Project to the point where the Facility is ready for initial operation, adjustment, and testing (but has not yet been initially operated), including: (i) the connection of all Project equipment to other applicable equipment as required by way of wiring, controls, and safety systems; (ii) ensuring that all instruments and relays are installed and functional and all required protective and control features are operational; and (iii) submission to GPC of a completed interconnection implementation checklist showing interconnection dates consistent with GPC's required initial synchronization date and the Guaranteed Substantial Completion Date.
15. The #FacilityOREach Unit# is mechanically complete and ready for synchonization, initial start-up, adjustment, and testing, but the Facility has not achieved Energization and Synchronization;
16. All necessary calibration has been completed in accordance with the applicable manufacturer's standards and guidance, except for items mutually agreed to not be critical to the operation of the Project;
17. Seller has achieved Mechanical Completion by the Guaranteed Mechanical Completion Date, or Seller has paid Mechanical Completion Delay Liquidated Damages in accordance with Section 12.8.1 (*Mechanical Completion Delay Liquidated Damages*);
18. Seller has completed all commissioning of the Facility required before Mechanical Completion and in accordance with the Technical Specifications, Section 10.2 (*Commissioning and Performance Tests*), and the commissioning requirements in Exhibit S (*Commissioning and Testing*) and the Testing and Commissioning Plan.
19. The telemetry system has been installed and ready for operation by Seller;
20. The telecommunications system has been installed and ready for operation by Seller;
21. Seller has delivered all documents required to be delivered by the Mechanical Completion Date in accordance with Seller Deliverables Table in Exhibit Q (*Seller Deliverables Table*);
22. All quality assurance documentation has been provided to GPC in accordance with the Quality Control/Assurance Manual, and all non-conforming quality assurance issues have been resolved in accordance with the Quality Control/Assurance Manual;
23. Seller has delivered to the Project Site all special tools required by the manufacturers of Project Equipment and materials to operate and maintain the Project;
24. All Permits that are necessary for the siting, construction, and operation of the Project have been obtained (other than Permits that can reasonably be expected to be obtained when needed in the ordinary course of business on commercially reasonable terms and conditions);
25. Neither the Project nor any property that is part of the Project has, in whole or in part (including any circuit), been placed in service, energized, or synchronized to the Electric System; and
26. Seller has delivered all applicable lien waivers and releases required to be provided at Closing in accordance with Section 6.26.2 (*Lien Waivers at the Closing Date*).

EXHIBIT W-2 – SUBSTANTIAL COMPLETION CRITERIA

Unless otherwise defined in this Exhibit W-2 (*Substantial Completion Criteria*), capitalized terms have the meanings specified or referred to in the BTA, and all section references refer to the BTA. Subject to Section 12.4.2 (*GPC's Review of Substantial Completion Certificate*), "**Substantial Completion**" will occur when the following criteria have been achieved:

1. The Project has achieved Mechanical Completion;
2. Seller and GPC have mutually agreed on the final Punch List, the value of the Punch List items and on a schedule for completion of the Punch List items in accordance with Section 12.5 (*Punch List Items*);
3. All of the Work has been completed, except for the items on the Punch List;
4. Seller has delivered all documents required to be delivered by the Substantial Completion Date in accordance with the Seller Deliverables Table in Exhibit Q (*Seller Deliverables Table*);
5. Seller has obtained the certificate of occupancy (if applicable), and any other similar applicable Permit (including certificates of inspection, if applicable), necessary to permit beneficial occupancy and usage of the Work and Project;
6. Seller has provided training for GPC's personnel (or other employees or agents of GPC) as required by Section 6.12 (*Training*), in accordance with the EPC Contract, including training (including on-site and classroom) on the interconnection and technical specifications of the Project and operation and maintenance of the Project;
7. The Project is ready for the safe, reliable, normal, and continuous operation in accordance with Prudent Utility Practice and in compliance with all applicable Laws and applicable Permits, and has passed any and all inspections by any Governmental Authority that are required prior to or for commercial operation;
8. Seller has conducted or caused to be conducted the Commissioning Tests and the Performance Tests in accordance with Exhibit A-2 (*Technical Specifications*), the commissioning and test procedures and protocols of Exhibit S (*Testing and Commissioning*) and the other tests, procedures, and protocols as may be developed by the Parties, and while complying with applicable Laws and Permits, the Project has successfully achieved each of the Performance Guarantees pursuant to Exhibit S (*Testing and Commissioning*) in Performance Tests conducted in accordance with this BTA, including the Performance Test Procedures and Exhibit S, as follows
   8.1. the results of the Five Consecutive Day Operations Test demonstrate achievement of the Reliability Guarantee;
   8.2. the results of the Five Day Performance Ratio Test demonstrate achievement of the Guaranteed Performance Ratio;
9. The Project has satisfied all requirements of the Interconnection Agreement for interconnection to the Electric System, including any testing required under the Interconnection Agreement, and the Project has been synchronized to the Electric System, and the Interconnection Agreement has authorized parallel operation;
10. The Project capacity is equal to or greater than the Project Nameplate Capacity;
11. All final inspections of any Governmental Authority have been completed to the extent required to be completed prior to operation or prior to the Substantial Completion Date;
12. Seller has licensed or granted, all Intellectual Property Rights necessary for the necessary for, the ownership, use, operation, or maintenance of the Project in accordance with Section 2.20 (Intellectual Property);
13. Seller has achieved Substantial Completion by the Guaranteed Substantial Completion Date, or Seller has paid Substantial Completion Delay Liquidated Damages in accordance with Section 12.8.2 (*Substantial Completion Delay Liquidated Damages*);
14. Seller has removed all rubbish, debris, and other waste materials (including any and all Subcontractors' wastes) from the Project Site and the Project Site is in a clean, safe, and usable condition;

15. Seller has delivered all applicable lien waivers and releases required to be provided at Substantial Completion in accordance with Section 6.26.2 (*Lien Waivers at the Closing Date*);
16. No Seller Default exists, and no event which, with the passage of time or the giving of notice or both, would be a Seller Default;
17. Permanent site vegetation and site stabilization have been completed; and
18. Substantial Completion" has been achieved under the EPC Contract.

EXHIBIT W-3 – FINAL COMPLETION CRITERIA

Unless otherwise defined in this Exhibit W-3 (*Final Completion Criteria*), capitalized terms have the meanings specified or referred to in the BTA, and all section references refer to the BTA. Subject to Section 12.6.2 (*GPC's Review of Final Completion Certificate*), "**Final Completion**" will occur when the following criteria have been achieved:

1. The Project has achieved Substantial Completion;
2. All items on the Punch List have been completed by Seller;
3. All of Seller's (or EPC Contractor's) equipment, materials, temporary structures or other items of any nature required for execution or completion of the Work, but excluding equipment, materials, appliances, or other items intended to form or forming part of the Work, including the Project Equipment, materials, and the Project have been removed from the Project Site;
4. Seller has provided GPC with both hard and electronic final copies of the Contractor Drawings and Manuals;
5. Seller shall have completed any work required with respect to any claims under the Warranties for which Seller has been given notice prior to completion of the Punch List;
6. The Data Acquisition System (DAS) has been commissioned and is functionally complete;
7. Seller has repaired any damage to the Project Site caused by a Seller Party;
8. No Liens, other than Permitted Liens, are outstanding against the Project;
9. Seller has completed performance of all other Work on the Project; and
10. All Hazardous Substances that a Seller Party brought onto the Project Site or Hazardous Substances that a Seller Party used, stored, or located at the Project Site or any neighboring property have been removed, unless the same have been permanently incorporated into the Project or are necessary for the operation and maintenance of the Project;
11. Seller has complied with all conditions of each Permit and received appropriate closeout documentation from the applicable Governmental Authority that issued such Permit, including the National Pollutant Discharge Elimination System (NPDES) permit, and Seller has received the Notice of Termination (NOT), which has been verified and signed by the applicable Governmental Authority;
12. Seller has paid GPC all liquidated damages due and payable pursuant to the terms of the BTA, or the Parties have agreed in writing on the set-off of the remaining full amount of such liquidated damages against any concurrent payments due to Seller;
13. No Seller Default exists, and no event that, with the passage of time or the giving of notice or both, would be a Seller Default;
14. Final completion has been achieved under the EPC Contract;
15. If applicable, Seller has completed and delivered the Domestic Content Certificate; and
16. Seller has assigned the EPC Contract and the Major Supply Agreements to GPC pursuant to an Assignment Agreement.

EXHIBIT X – ENVIRONMENTAL COMPLIANCE CERTIFICATION

CERTIFICATION OF ENVIRONMENTAL COMPLIANCE

AGREEMENT – Build, Transfer Agreement for 2029–2031 All-Source RFP at #ProjectName# dated as of _____ ___, 20__ between Georgia Power Company ("**GPC**"), and _____ ("**Seller**") (the "**BTA**"). Capitalized terms used herein will have the meaning assigned in the BTA.

The undersigned individual, being the [●][3] of Seller and having responsibilities for [*environmental compliance and reporting*] matters associated with the BTA, certifies to the following:

1. There have been no changes in the design of the Project 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 Project that were obtained (opened) or Governmental Authority prescriptions that were issued since the previous Certification is attached.

3. A list of Permits for the Project 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 Project], including: (i) the Governmental Authority that issued the NOV; (ii) the status of remediation of the violation; and (iii) if remediation has not been completed, the duration anticipated for resolution is attached. Copies of any NOVs are also attached.

5. Attached is a list identifying (by name and address) any adjacent landowner, lessee or neighbor complaints against Seller or the Project, 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 Project 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.

[3] *Certificate to be signed by a duly authorized officer of Seller. Seller must provide written documentation affirming the authority of the individual who attests to this certification.*

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 Y– PWA REQUIREMENTS FOR ESS FACILITIES

1. Definitions. The following terms have the following meanings for purposes of this Exhibit:

   a. "Apprenticeship Requirements" has the meaning set forth in Section 3 of this Exhibit Y.
   b. "Code" means the Internal Revenue Code of 1986, as amended.
   c. "Good Faith Effort Exception" has the meaning set forth in Section 4 of this Exhibit Y.
   d. "IRA Compliance Report" has the meaning set forth in Section 5 of this Exhibit Y.
   e. "IRA Compliance Support Period" means the period beginning on the Effective Date and ending on the 5-year anniversary of the Commissioning Completion Date.
   f. "IRS" means the Internal Revenue Service.
   g. "Job Classification" means the applicable labor classification of Laborers and Mechanics at the Site.
   h. "Labor Hours Requirement" has the meaning set forth in Section 3(a) of this Exhibit Y.
   i. "Laborers and Mechanics" means workers whose duties are manual or physical in nature (including those workers who use tools or who are performing the work of a trade), and includes apprentices, helpers, watchpersons and guards, working forepersons who do not meet the criteria of 29 CFR 541 and devote more than 20% of their time during a work week to mechanic or laborer duties (to the extent of time so spent). The term does not apply to workers whose duties are primarily administrative, executive, or clerical, rather than manual, or persons employed in a bona fide executive, administrative, or professional capacity (as defined in 29 CFR 541).
   j. "Participation Requirement" has the meaning set forth in Section 3(c) of this Exhibit Y.
   k. "Prevailing Wage Rate" means the Davis-Bacon Act prevailing wage paid as most recently determined by the Secretary of Labor, as of the Effective Date and (without derogation of and subject to Seller's rights to relief under the BTA for Changes in Law) as redetermined as of [the Commissioning Start Date] or such other date that applicable construction, alteration, or repair work with respect to the Project begins when the BTA is changed to include additional, substantial construction, alteration, or repair work not within the scope of work of the original contract, or to require work to be performed for an additional time period not originally obligated, or as otherwise required under the PWA Guidance, to Laborers and Mechanics at the Site for the Job Classification, which as of the Effective Date is the rate set forth above.
   l. "Prevailing Wage Requirements" has the meaning set forth in Section 2 of this Exhibit Y.
   m. "Proposed Regulations" means the proposed Treasury regulations issued as Document Number 2023-18514 and published on August 30, 2023, at 88 Federal Register 60018-60054.
   n. "PWA Guidance" means any and all IRS or U.S. Treasury Department guidance, notices, announcements, Treasury Regulations, or other forms of tax Law interpreting or applying the prevailing wage and apprenticeship requirements described in Code Sections 45(b)(7), (8) or 48(a)(10), (11), and IRS Notice 2022-61, and the Proposed Regulations, in each case to the extent applicable to this BTA.
   o. "PWA Requirements" has the meaning set forth in Section 3 of this Exhibit Y.
   p. "PWA Site" means any "construction site" as described in Proposed Regulations Section 1.45-7(d)(6) (provided, that following the issuance of the applicable, final regulations, the definition in such final regulations must govern and apply) and consistent with 29 CFR 5.2.
   q. "PWA Subcontractor" means: (i) the EPC Contractor; and (ii) any Subcontractor at any tier performing work at the PWA Site on behalf of Seller.
   r. "Qualified Apprentice" means an individual who is employed by Seller or by any PWA Subcontractor and who is participating in a registered apprenticeship program, as defined in Proposed Regulation Section 1.45-8(f)(4). The term "participating in a registered apprenticeship program" means the apprentice has entered into a written agreement with a registered apprenticeship program containing the terms and conditions of the employment and training of the apprentice and has been registered as an apprentice with the U.S. Department of Labor's Office of Apprenticeship or a State apprenticeship agency during the time period in which work is performed by the apprentice for the taxpayer, contractor, or subcontractor.
   s. "Ratio Requirement" has the meaning set forth in Section 3(b) of this Exhibit Y.
   t. "Retained Records" has the meaning set forth in Section 7 of this Exhibit Y.

2. Support of Prevailing Wage Requirement. Seller must and must cause its PWA Subcontractors to pay any laborers and mechanics employed by each of them wages at rates not less than the prevailing rates for construction, alteration, or repair of a similar character in the locality in which such Project is located as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31

of title 40, United States Code and Proposed Regulations section 1.45-7(b), and to perform the associated recordkeeping requirements as described in Proposed Regulations Sections 1.45-7(b) and (c) (provided, that following the issuance of the applicable, final regulations, the requirements of such final regulations must govern and apply) or as otherwise required by law, in each case to the extent applicable to work performed at the PWA Site given GPC's stated goal that Seller's payments for such work satisfy the Prevailing Wage Requirements. "Prevailing Wage Requirements" means any applicable IRS or U.S. Treasury Department guidance, notices, announcements, proposed, or final Treasury Regulations, or other forms of tax law interpreting or applying the prevailing wage requirements described in Code sections 45(b)(7), 45Y(g)(9), 48(a)(10), or 48E(d)(3) as applicable, and IRS Notice 2022-61. Updates to any of the prevailing wage-related legal requirements described in this Exhibit (including the IRA guidelines) that increase Seller's cost of compliance or delay Seller's performance with the foregoing after the Effective Date must be a Change in Law for Seller to receive a Change Order under this BTA. The Proposed Regulations must be deemed to be applicable law as of the EWA1 Effective Date for purposes of this BTA.

3. Support of Apprenticeship Requirement. Seller must comply with the "apprenticeship requirements" described in sections 45(b)(8), 48E(d)(4), 45Y(g)(10), and 48(a)(11) of the Internal Revenue Code, IRS Notice 2022-61, and Proposed Regulations sections 1.45-6, 1.45-8, 1.45-12, 1.48-13, 1.48E-3, 1.45Y-3, and 1.45V-3, as applicable (provided, that following the issuance of the applicable, final regulations, the requirements of such final regulations must govern and apply), with respect to the construction, alteration, or repair work performed by Seller (and must require such compliance from any PWA Subcontractor and indemnify GPC for any PWA Subcontractor's failure to comply with such requirement, in each case subject to the and in accordance with the BTA, to the extent GPC is entitled to any Seller indemnification obligation involving the affected non-compliance) including the Labor Hours Requirement, the Ratio Requirement, Participation Requirement, and any associated recordkeeping obligations as defined below ("Apprenticeship Requirements," together with the Prevailing Wage Requirements, the "PWA Requirements").

   a. Labor Hours Requirement. Seller must ensure that, with respect to its performance of Support, not less than the "applicable percentage" (as defined in section 45(b)(8)(A)(ii) of the Internal Revenue Code) of the total labor hours of the construction, alteration, or repair work (including such work performed by any PWA Subcontractor) with respect to affected Support must be performed by qualified apprentices to satisfy the "labor hours requirement" set forth in section 45(b)(8)(A) of the Internal Revenue Code and Proposed Regulations section 1.45-8(b) ("Labor Hours Requirement").

      i. If construction began after December 31, 2022, and before January 1, 2024: 12.5% total labor hours;

      ii. If construction begins after December 31, 2023: 15% total labor hours.

   b. Ratio Requirement. Seller must perform all work done by it, and must require that all PWA Subcontractors perform their work on Seller's behalf (and Seller must indemnify GPC for any PWA Subcontractor's failure to comply with such requirement, in each case subject to, and in accordance with the BTA, to the extent GPC is entitled to any Seller indemnification obligation involving the affected non-compliance), in accordance with the apprentice-to-journeyworker ratios of the U.S. Department of Labor or applicable State apprenticeship agency given GPC's stated goal that Seller's performance of affected Support satisfy the "ratio requirement" as set forth in section 45(b)(8)(B) of the Internal Revenue Code and Proposed Regulations section 1.45-8(c) ("Ratio Requirement").

   c. Participation Requirement. Seller must ensure that, whenever Seller and each PWA Subcontractor employs four or more individuals to perform labor hours at the Site, at least one qualified apprentice must be employed by any of them for such work given GPC's stated goal that Seller's performance of affected Support satisfy the "participation requirement" as set forth in section 45(b)(8)(C) of the Internal Revenue Code and Proposed Regulations section 1.45-8(d) ("Participation Requirement").

4. Good Faith Effort Exception. Seller and the PWA Subcontractors must have the right to use the "good faith effort exception" (without derogation of any other rights or defenses they may have) to satisfy the apprenticeship requirement pursuant to section 45(b)(8)(D)(ii) of the Code and Proposed Regulations section 1.45-8(e)(1) including applicable recordkeeping requirements in Proposed Regulations section 1.45-12(d)(1) ("Good Faith Effort Exception") to comply with the Apprenticeship Requirements to the extent Seller and/or any PWA Subcontractor meet the requirements for such exception.

5. Recordkeeping. Seller must reasonably cooperate with GPC in connection with GPC's efforts to qualify for tax credits under the IRA to the extent involving the PWA Requirements. Seller's cooperation may include, where the IRS has asked GPC to provide additional information regarding its eligibility for tax credits (as evidenced by GPC's notice to Seller of the inquiry, which notice must include the underlying IRS request for information relative to Seller's and any PWA Subcontractor's activities relative to the PWA Requirements), including the documentation set forth in Proposed Regulations section 1.45-12 and 1.48-13 (each, an "IRA Compliance Report"). Seller must provide an IRA Compliance Report upon GPC's request. Each IRA Compliance Report may include information on any one or more of the following, as applicable and as legally required relative to the affected IRS information request and in each case only to the extent requested by the IRS in such request.
   a. Prevailing Wage Requirements Documentation. Each IRA Compliance Report must include information on the wages paid to, the hours worked by, the identifying information of (including the Employee Identifier) ("Identifying Information"), and the work classification of any laborers and mechanics employed by Seller or any PWA Subcontractor, including copies of certified payroll and information showing the minimum prevailing wage rate applicable to each such laborer or mechanic and the basis on which such minimum prevailing wage rate was determined (including whether determined by reference to www.sam.gov), in accordance with the form and manner prescribed in IRS forms and instructions or in publications or guidance published in the Internal Revenue Bulletin.

   b. Apprentice Requirements Documentation. Each IRA Compliance Report must include information on compliance with the Apprenticeship Requirements for the affected Support, including:

      i. Labor Hours Requirement Documentation. Records showing the cumulative total labor hours performed by any individual employed by Seller or any PWA Subcontractor, the Identifying Information of any such individuals who are qualified apprentices, and the cumulative amount of such labor hours performed by each such qualified apprentice, records identifying any applicable registered apprenticeship programs, and relevant correspondence to and from each such registered apprenticeship program (including information related to the applicability Good Faith Effort Exception), including any written requests for the employment of apprentices from any such registered apprenticeship program, any response or acknowledgement of receipt or denial from any such registered apprenticeship program, any contacts with the U.S. Department of Labor's Office of Apprenticeship or a State apprenticeship agency regarding requests for apprentices from a registered apprenticeship program, agreements entered into with any registered apprenticeship programs with respect to the construction, alteration, or repair of the Project, and documents reflecting the standards and requirements of the applicable registered apprenticeship program, including the applicable ratio requirement prescribed by each such registered apprenticeship program;

      ii. Participation Requirement Documentation. Records supporting Seller's or its PWA Subcontractor's assertions that the Participation Requirement was met, including identifying which of Seller and which of each PWA Subcontractor has four or more such individuals and the Identifying Information of such individuals who are qualified apprentices; and

      iii. Ratio Requirement Documentation. Records supporting Seller's or its PWA Subcontractor's assertions that the Ratio Requirement met for each day during the applicable quarter, including showing the daily ratio of apprentices to journeyworkers for each applicable occupation and its corresponding classification and the applicable maximum apprentice-to-journeyworker ratio for each applicable occupation and its corresponding classification.

   c. Good Faith Exception Documentation. If the IRS determines that Seller or any PWA Subcontractor does not satisfy the Apprenticeship Requirements at the PWA Site after making good faith efforts to obtain such qualified apprentices, Seller must inform GPC of such determination, to the extent Seller or such PWA Subcontractors pursued good faith efforts and/or the Good Faith Effort Exception related to same, and provide reasonable documentary evidence concerning such efforts and activities relative to the Good Faith Effort Exception in a manner consistent with Proposed Regulations § 1.45-8(e)(1).

   d. Notwithstanding anything to the contrary, Seller must in no event be required by GPC to share or disclose confidential information, including tax returns, with GPC or any party other than the relevant U.S. Federal taxation authority.

6. Audits. In the event of an IRS audit or to the extent required by a Governmental Authority pursuant to applicable law, and in either case involving Seller's performance of work subject to the PWA Requirements, if GPC notifies Seller of such audit or legal requirement (which notice must include reasonable evidence of such audit or other requirement) and includes with such notice a request for information from Seller regarding such Seller performance and the payment specified in Section 6 above, Seller must, and must cause the PWA Subcontractors to, provide the applicable IRA Compliance Reports. If GPC requests additional information from Seller beyond what is required in the IRA Compliance Reports GPC must pay Seller mutually agreed compensation for the preparation and provision of a report containing the information agreed by the parties in light of GPC's request. Seller's receipt of payment of such agreed compensation must be a condition precedent to its obligation to provide any such additional information.

7. Record Retention. Seller must retain in accordance with its standard practices (i) all records included within the IRA Compliance Report and (ii) all records in its possession or control concerning Seller's performance of its obligations under Section 2 and Section 3 of this Exhibit Y ("Retained Records") for at least 10 years after the Final Completion Date; provided, however, if GPC notifies Seller of an audit or examination that commences before the expiration of the retention period , Seller must, and must include similar requirements in its subcontracts with the PWA Subcontractors, retain records through the final determination with respect to the audit or examination as required by applicable law. The Retained Records must include : the applicable wage determination, classification of work performed, hourly and weekly wage rates and fringes worked in each classification, contact information, and payroll records for all Laborers and Mechanics and, as may be required, apprentices, who performed construction, repair, or alteration work, as well as Seller's or the PWA Subcontractor's request of qualified apprentices from a registered apprenticeship program and the program's denial of such request or non-response to such request, as applicable. Seller agrees to notify, and to cause PWA Subcontractors to notify, GPC at least 45 Business Days in advance of discarding or destroying any information to provide GPC the opportunity to copy or otherwise take possession of the records.

8. Determination of Non-Compliance. GPC must notify Seller in writing promptly after GPC receives any determination by the IRS of non-compliance with the PWA Requirements under the BTA (which notice must include reasonable evidence of such determination). The Parties must reasonably cooperate in connection with any audits or examinations undertaken by a U.S. Federal taxation authority in connection with the payment of prevailing wages by Seller or the PWA Subcontractors for the construction, alteration, or repair of the System, and the hiring by Seller or PWA Subcontractors of qualified apprentices. GPC must provide Seller with a reasonable opportunity to review and comment on any submissions made to the IRS or other relevant Government Authority in respect of such audit or examinations including any determinations by the IRS and must use reasonable efforts to take such comments into account when formulating GPC's responses to the IRS.

9. Cure Payment. If it is finally determined by the applicable Governmental Authority that either Seller or any of its PWA Subcontractors has failed to comply with requirements described in Section 2 and Section 3 of this Exhibit Y, and GPC notifies Seller of the failure, Seller must, and must cause its affected Subcontractors to, promptly (but in no event later than 30 days after receipt of GPC's notice) undertake necessary corrections required to comply with such requirements (including making cure payments or penalty payments as described in this Section 9). Upon GPC's request, Seller must provide GPC with reasonable evidence of any corrections undertaken by Seller and its Subcontractors.

    a. If Seller fails to satisfy the PWA Requirements including due to a failure to comply with the associated documentation and recordkeeping obligations set forth above, Seller must indemnify GPC for such failure as required under the BTA. In connection with such indemnification claim, Seller must provide GPC with reasonable documentation of such failure to pay prevailing wages or meet the apprenticeship requirements and the payment of the correction payment to GPC.

    b. GPC must provide Seller with an invoice documenting any such costs incurred (including any payments made) by GPC for which GPC seeks recovery as part of its indemnification claim, including any corrective payments made by GPC pursuant to sections 45(b)(7)(B)(i)(II) and 45(b)(8)(D)(i)(II) of the Code and Proposed Regulations sections 1.45-7(c)(1)(ii) and 1.45-8(e)(2.

    c. Upon GPC's request where Seller or PWA Subcontractors have paid curative amounts relative to initial failures to comply with the PWA requirements, Seller must provide GPC with reasonable

evidence of such corrective payments paid by Seller and the PWA Subcontractors pursuant to this Exhibit.

d. Despite anything to the contrary, Seller will not be liable to GPC pursuant to claims brought by GPC for matters covered by this Exhibit for an amount greater than the sum of:

   i. penalties assessed against GPC by the applicable Governmental Authority and actually paid by GPC to such authority for failure to comply with the Prevailing Wage Requirements pursuant to section 45(b)(7)(B) of the Code and Proposed Regulations Section 1.45-7(c), or for failure to comply with the Apprenticeship Requirements pursuant to section 45(b)(8)(D) of the Code and Proposed Regulations Section 1.45-8(e)(2); plus

   ii. correction payments owed to any Laborer, Mechanic, or Qualified Apprentice for Seller to satisfy the PWA Requirements; plus

   iii. the amount of back-pay to correct such Seller breach; plus

   iv. any other, non-duplicative amount to which GPC is entitled to under the BTA and relative any Seller's non-compliance with this Exhibit.